

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5372

To amend the Internal Revenue Code of 1986 to treat any business credit attributable to wind, solar, or biomass electricity production and investment in solar energy property as refundable to the extent the taxpayer makes new wind, solar, and other renewable energy investments.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2010

Mr. MEEK of Florida (for himself, Mr. POMEROY, and Mr. NUNES) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to treat any business credit attributable to wind, solar, or biomass electricity production and investment in solar energy property as refundable to the extent the taxpayer makes new wind, solar, and other renewable energy investments.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. WIND, SOLAR, AND BIOMASS PRODUCTION AND**  
2 **SOLAR INVESTMENT CREDITS MADE TEMPO-**  
3 **RARILY REFUNDABLE.**

4 (a) IN GENERAL.—Section 38 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following new subsection:

7 “(e) SPECIAL RULE FOR ELECTRICITY PRODUCED  
8 FROM WIND, SOLAR, AND BIOMASS AND INVESTMENTS  
9 IN SOLAR ENERGY PROPERTY.—

10 “(1) IN GENERAL.—In the case of any specified  
11 energy business credit for any taxable year begin-  
12 ning in 2010 or 2011, the taxpayer may elect to  
13 treat such credit (or any portion thereof) as allowed  
14 for such taxable year under subpart C and not  
15 under this section.

16 “(2) LIMITED TO INVESTMENT IN WIND, SOLAR  
17 AND OTHER RENEWABLES.—The amount of speci-  
18 fied energy business credit with respect to which an  
19 election may be made under paragraph (1) shall not  
20 exceed the basis of any facility described in section  
21 45(d), or property described in section 48(a)(3),  
22 placed in service by the taxpayer during the subse-  
23 quent taxable year.

24 “(3) DEFINITIONS.—For purposes of this sub-  
25 section—

1           “(A) SPECIFIED ENERGY BUSINESS CRED-  
2 IT.—The term ‘specified energy business credit’  
3 means, with respect to any taxable year, the  
4 sum of—

5           “(i) any current year business credit  
6 (determined without regard to this sub-  
7 section) to the extent determined under  
8 section 45(a) or 48(a) with respect to spec-  
9 ified energy property, plus

10           “(ii) any business credit  
11 carryforwards carried to such taxable year  
12 (determined without regard to this sub-  
13 section) to the extent determined under  
14 section 45(a) or 48(a) with respect to spec-  
15 ified energy property .

16           “(B) SPECIFIED ENERGY PROPERTY.—The  
17 term ‘specified energy property’ means any  
18 property described in section 48(a)(3)(A)(i),  
19 any facility described in paragraph (1), (2), or  
20 (3) of section 45(d), or any facility using solar  
21 energy to produce electricity and described in  
22 section 45(d)(4).

23           “(4) SPECIAL RULES.—

24           “(A) GENERAL BUSINESS CREDIT RE-  
25 DUCED.—The credit which would (but for this

1 subsection) be allowed under subsection (a) for  
2 the taxable year shall be reduced by the amount  
3 of credit treated as allowed under subpart C for  
4 the taxable year by reason of paragraph (1).

5 “(B) RECAPTURE.—The Secretary shall,  
6 by regulations, provide for recapturing the ben-  
7 efit of any credit treated as allowed under sub-  
8 part C for a taxable year by reason of para-  
9 graph (1) in the case that the amount of such  
10 credit exceeds the basis of specified energy  
11 property placed in service by the taxpayer dur-  
12 ing the subsequent taxable year.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2009.

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