

111TH CONGRESS  
1ST SESSION

# S. 284

To amend the Internal Revenue Code of 1986 to allow a new refundable credit for equipment used to manufacture solar energy property, to waive the application of the subsidized financing rules to such property, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2009

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a new refundable credit for equipment used to manufacture solar energy property, to waive the application of the subsidized financing rules to such property, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Solar Stimulus for Job  
5 Creation and Energy Independence Act of 2009”.

1 **SEC. 2. REFUNDABLE INVESTMENT CREDIT FOR PROPERTY**  
 2 **USED TO MANUFACTURE SOLAR ENERGY**  
 3 **PROPERTY.**

4 (a) IN GENERAL.—Subparagraph (A) of section  
 5 48(a)(3) of the Internal Revenue Code of 1986 (defining  
 6 energy property) is amended by striking “or” at the end  
 7 of clause (vi), by adding “or” at the end of clause (vii),  
 8 and by inserting after clause (vii) the following new clause:

9 “(viii) property used to manufacture  
 10 equipment described in clause (i) or (ii),”.

11 (b) CREDIT TO BE REFUNDABLE.—

12 (1) IN GENERAL.—Subsection (c) of section 38  
 13 of the Internal Revenue Code of 1986 (relating to  
 14 limitation based on amount of tax) is amended by  
 15 redesignating paragraph (5) as paragraph (6) and  
 16 by inserting after paragraph (4) the following new  
 17 paragraph:

18 “(5) SPECIAL RULES FOR SOLAR ENERGY IN-  
 19 VESTMENT CREDIT.—

20 “(A) IN GENERAL.—In the case of the  
 21 solar energy investment credit—

22 “(i) this section and section 39 shall  
 23 be applied separately with respect to such  
 24 credit,

25 “(ii) in applying paragraph (1) to  
 26 such credit—

1 “(I) the tentative minimum tax  
2 shall be treated as being zero, and

3 “(II) the limitation under para-  
4 graph (1) (as modified by subclause  
5 (I)) shall be reduced by the credit al-  
6 lowed under subsection (a) for the  
7 taxable year (other than the solar en-  
8 ergy investment credit), and

9 “(iii) the amount of the solar energy  
10 investment credit in excess of the limita-  
11 tion under paragraph (1) (as modified by  
12 subclause (II)) shall be treated as a credit  
13 under subpart C.

14 “(B) SOLAR ENERGY INVESTMENT CRED-  
15 IT.—For purposes of this subsection, the term  
16 ‘solar energy investment credit’ means so much  
17 of the energy credit as is attributable to prop-  
18 erty described in clause (viii) of section  
19 48(a)(3)(A).

20 “(C) TERMINATION.—This paragraph shall  
21 not apply to any taxable year ending after De-  
22 cember 31, 2010.”.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Subclause (II) of section  
25 38(c)(2)(A)(ii) of such Code is amended by

1 striking “and the specified credits” and insert-  
 2 ing “the specified credits, and the solar energy  
 3 investment credit”.

4 (B) Subclause (II) of section  
 5 38(c)(3)(A)(ii) of such Code is amended by  
 6 striking “and the specified credits” and insert-  
 7 ing “, the specified credits, and the solar energy  
 8 investment credit”.

9 (C) Subclause (II) of section  
 10 38(c)(4)(A)(ii) of such Code is amended by in-  
 11 serting “and the solar energy investment cred-  
 12 it” after “specified credits”.

13 (D) Paragraph (2) of section 1324(b) of  
 14 title 31, United States Code, is amended by in-  
 15 serting “38(c)(5),” after “36,”.

16 (c) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to taxable years beginning after  
 18 the date of the enactment of this Act.

19 **SEC. 3. EXCEPTION FROM SUBSIDIZED ENERGY FINANCING**  
 20 **RULES FOR SOLAR ENERGY PROPERTY.**

21 (a) IN GENERAL.—Subparagraph (C) of section  
 22 48(a)(4) of the Internal Revenue Code of 1986 (defining  
 23 subsidized energy financing) is amended by adding at the  
 24 end the following new sentence: “Such term shall not in-  
 25 clude any loan described in section 141(c)(2)(D).”

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to property placed in service  
 3 after such date in taxable years ending after such date.

4 **SEC. 4. EXCEPTION FROM PRIVATE ACTIVITY BOND TESTS**  
 5 **FOR FINANCING OF SOLAR ENERGY PROP-**  
 6 **ERTY.**

7 (a) EXCEPTION FROM PRIVATE BUSINESS USE  
 8 TEST.—Paragraph (6) of section 141(b) of the Internal  
 9 Revenue Code of 1986 is amended by adding at the end  
 10 the following new subparagraph:

11 “(C) SOLAR ENERGY PROPERTY.—For  
 12 purposes of subparagraph (A), property de-  
 13 scribed in clause (i) or (ii) of section  
 14 48(a)(3)(A) shall not be treated as used in a  
 15 trade or business.”.

16 (b) EXCEPTION FROM PRIVATE LOAN FINANCING  
 17 TEST.—Paragraph (2) of section 141(c) of the Internal  
 18 Revenue Code of 1986 (relating to exception for tax as-  
 19 sessment, etc., loans) is amended by striking “or” at the  
 20 end of subparagraph (B), by striking the period at the  
 21 end of subparagraph (C) and inserting “, or”, and by add-  
 22 ing at the end the following new subparagraph:

23 “(D) enables the borrower to finance the  
 24 acquisition, construction, and installation of

1           property described in clause (i) or (ii) of section  
2           48(a)(3)(A).”.

3           (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to obligations issued after the date  
5 of the enactment of this Act.

6 **SEC. 5. GOVERNMENT PROCUREMENT OF SOLAR ENERGY.**

7           Section 203 of the Energy Policy Act of 2005 (42  
8 U.S.C. 15852) is amended—

9           (1) by redesignating subsection (d) as sub-  
10          section (e); and

11          (2) by inserting after subsection (c) the fol-  
12          lowing new subsection (d):

13          “(d) CONTRACTS FOR RENEWABLE ENERGY.—Not-  
14 withstanding section 501(b)(1)(B) of title 40, United  
15 States Code, a contract for renewable energy may be made  
16 for a period of not more than 25 years.”.

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