

111TH CONGRESS  
1ST SESSION

# H. R. 546

To amend the Internal Revenue Code of 1986 to treat certain solar energy credits as refundable credits, 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 HOUSE OF REPRESENTATIVES

JANUARY 14, 2009

Mr. THOMPSON of California (for himself and Ms. GIFFORDS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to treat certain solar energy credits as refundable credits, 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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. TEMPORARY REFUNDABILITY OF SOLAR ENERGY**  
5 **CREDIT.**

6 (a) RESIDENTIAL SOLAR ENERGY CREDIT.—Sub-  
7 section (e) of section 25D of the Internal Revenue Code  
8 of 1986 (relating to limitation based on amount of tax;  
9 carryforward of unused credit) is amended by adding at  
10 the end the following new paragraph:

11 “(3) TEMPORARY REFUNDABILITY OF SOLAR  
12 ENERGY CREDIT.—

13 “(A) IN GENERAL.—The aggregate credits  
14 allowed to the taxpayer under subpart C shall  
15 be increased by the credit which would be deter-  
16 mined under paragraphs (1) and (2) of sub-  
17 section (a) for expenditures made during the  
18 taxable year without regard to section 26(a)(2)  
19 or paragraphs (1) of this subsection, as the  
20 case may be. Credits allowed under subpart C  
21 by reason of the preceding sentence shall not be  
22 taken into account in determining the excess  
23 described in paragraph (2).

24 “(B) TERMINATION.—Subparagraph (A)  
25 shall not apply to any taxable year ending after  
26 December 31, 2010.”.

1 (b) BUSINESS SOLAR ENERGY CREDIT.—

2 (1) IN GENERAL.—Subsection (c) of section 38  
3 of such Code (relating to limitation based on amount  
4 of tax) is amended by redesignating paragraph (5)  
5 as paragraph (6) and by inserting after paragraph  
6 (4) the following new paragraph:

7 “(5) SPECIAL RULES FOR SOLAR ENERGY  
8 CREDITS.—

9 “(A) IN GENERAL.—In the case of the  
10 solar energy credits—

11 “(i) this section and section 39 shall  
12 be applied separately with respect to such  
13 credits,

14 “(ii) in applying paragraph (1) to  
15 such credits—

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

18 “(II) the limitation under para-  
19 graph (1) (as modified by subclause  
20 (I)) shall be reduced by the credit al-  
21 lowed under subsection (a) for the  
22 taxable year (other than the solar en-  
23 ergy credits), and

24 “(iii) the amount of the solar energy  
25 credits in excess of the limitation under

1 paragraph (1) (as modified by subclause  
2 (II)) shall be treated as a credit under sub-  
3 part C.

4 “(B) SOLAR ENERGY CREDITS.—For pur-  
5 poses of this subsection, the term ‘solar energy  
6 credits’ means so much of the energy credit as  
7 is attributable to property described in clause  
8 (i) or (ii) of section 48(a)(3)(A).

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

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subclause (II) of section  
14 38(c)(2)(A)(ii) of such Code is amended by  
15 striking “and the specified credits” and insert-  
16 ing “the specified credits, and the solar energy  
17 credits”.

18 (B) Subclause (II) of section  
19 38(c)(3)(A)(ii) of such Code is amended by  
20 striking “and the specified credits” and insert-  
21 ing “, the specified credits, and the solar energy  
22 credits”.

23 (C) Subclause (II) of section  
24 38(c)(4)(A)(ii) of such Code is amended by in-

1           serting “and the solar energy credits” after  
2           “specified credits”.

3           (D) Paragraph (2) of section 1324(b) of  
4           title 31, United States Code, is amended—

5                   (i) by inserting “25D(c)(3),” before  
6                   “35,” and

7                   (ii) by inserting “38(c)(5),” after  
8                   “36,”.

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

12   **SEC. 3. TEMPORARY REFUNDABILITY OF DEPRECIATION**  
13                   **DEDUCTION FOR SOLAR ENERGY PROPERTY.**

14          (a) IN GENERAL.—Subparagraph (A) of section  
15          48(a)(2) of the Internal Revenue Code of 1986 (relating  
16          to energy credit) is amended by striking “and” at the end  
17          of clause (i), by redesignating clause (ii) as clause (iii),  
18          and by inserting after clause (i) the following new clause:

19                   “(ii) at the election of the taxpayer  
20                   for any taxable year ending before January  
21                   1, 2011, 33 $\frac{1}{3}$  percent of the aggregate de-  
22                   ductions which would (but for subpara-  
23                   graph (C)) be allowed for the taxable year  
24                   for property described in clause (i) or (ii)  
25                   of paragraph (3)(A), and”.

1           (b) DENIAL OF DEPRECIATION WHERE CREDIT  
2 ELECTED.—Paragraph (2) of section 48(a) of such Code  
3 is amended by adding at the end the following new sub-  
4 paragraph:

5                       “(C) DENIAL OF DEPRECIATION, ETC.,  
6           WHERE CREDIT ELECTED.—No deduction for  
7           depreciation (or amortization in lieu of depre-  
8           ciation) shall be allowed for the taxable year  
9           with respect to property described in clause (i)  
10          or (ii) of paragraph (3)(A) if the taxpayer  
11          makes the election under subparagraph (A)(ii)  
12          with respect to such property. Notwithstanding  
13          the preceding sentence, deductions not allowed  
14          by the preceding sentence shall be treated as al-  
15          lowed for purposes of applying section 1016.”.

16          (c) CONFORMING AMENDMENT.—Clause (iii) of sec-  
17          tion 48(a)(2) of such Code is amended by striking “clause  
18          (i) does not apply” and inserting “neither clause (i) nor  
19          (ii) apply”.

20          (d) EFFECTIVE DATE.—The amendments made by  
21          this section shall apply to taxable years beginning after  
22          the date of the enactment of this Act.

1 **SEC. 4. EXCEPTION FROM PRIVATE ACTIVITY BOND TESTS**  
2 **FOR FINANCING OF SOLAR ENERGY PROP-**  
3 **ERTY.**

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

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

13 (b) EXCEPTION FROM PRIVATE LOAN FINANCING  
14 TEST.—Paragraph (2) of section 141(c) of such Code (re-  
15 lating to exception for tax assessment, etc., loans) is  
16 amended by striking “or” at the end of subparagraph (B),  
17 by striking the period at the end of subparagraph (C) and  
18 inserting “, or”, and by adding at the end the following  
19 new subparagraph:

20 “(D) enables the borrower to finance the  
21 acquisition, construction, and installation of  
22 property described in clause (i) or (ii) of section  
23 48(a)(3)(A).”.

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

1 **SEC. 5. EXCEPTION FROM SUBSIDIZED ENERGY FINANCING**  
2 **RULES FOR SOLAR ENERGY PROPERTY.**

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

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

11 **SEC. 6. REFUNDABLE INVESTMENT CREDIT FOR PROPERTY**  
12 **USED TO MANUFACTURE SOLAR ENERGY**  
13 **PROPERTY.**

14 (a) IN GENERAL.—Subparagraph (A) of section  
15 48(a)(3) of the Internal Revenue Code of 1986 (defining  
16 energy property) is amended by striking “or” at the end  
17 of clause (vi), by adding “or” at the end of clause (vii),  
18 and by inserting after clause (vii) the following new clause:

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

21 (b) CREDIT TO BE REFUNDABLE.—Section  
22 38(c)(5)(B) of such Code, as added by this Act, is amend-  
23 ed by striking “or (ii)” and inserting “, (ii), or (viii)”.

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



1 **SEC. 7. GOVERNMENT PROCUREMENT OF SOLAR ENERGY.**

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

4 (1) by redesignating subsection (d) as sub-  
5 section (e); and

6 (2) by inserting after subsection (c) the fol-  
7 lowing new subsection (d):

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

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