H.R. 5351
Renewable Energy and Energy Conservation Tax Act of 2008

February 25, 2008

I. INCREASE PRODUCTION OF RENEWABLE ELECTRICITY

Long-term extension and modification of renewable energy production tax credit. The bill extends the placed-in-service date for three years (through December 31, 2011) for certain qualifying facilities: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; and trash combustion facilities. It also includes a new category of qualifying facilities that will benefit from this extended placed-in-service date -- facilities that generate electricity from marine renewables (e.g., waves and tides). The bill would cap the aggregate amount of tax credits that can be earned for these qualifying facilities placed in service after December 31, 2009 to an amount that has a present value equal to 35% of the facility's cost. The bill clarifies the definition of an open-loop biomass facility and the definition of a trash combustion facility. *This proposal is estimated to cost $6.57 billion over ten years.*

Long-term extension and modification of solar energy and fuel cell investment tax credit. The bill extends the 30% investment tax credit for solar energy property and qualified fuel cell property for eight years (through the end of 2016). It also increases the $500 per half kilowatt of capacity cap for qualified fuel cells to $1,500 per half kilowatt of capacity. The bill removes an existing limitation that prevents public utilities from claiming the investment tax credit and allows the energy credit to be used to offset alternative minimum tax (AMT). *This proposal is estimated to cost $621 million over ten years.*

New Clean Renewable Energy Bonds ("CREBs"). The bill authorizes $2 billion of new clean renewable energy bonds for public power providers and electric cooperatives. Sixty percent of the authorization must be used for qualifying projects of public power providers and forty percent must be used for qualifying projects of electric cooperatives. Qualifying projects include facilities that generate electricity from the following resources: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation hydropower; landfill gas; and trash combustion facilities. *This proposal is estimated to cost $640 million over ten years.*

Long-term extension and modification of the residential energy-efficient property credit. The bill would extend the credit for residential solar property for six years (through the end of 2014). The bill would also increase the annual credit cap (currently capped at $2,000) to $4,000. The bill would include residential small wind equipment and geothermal heat pumps as property qualifying for this credit. The bill also allows the credit to be used to offset alternative minimum tax (AMT). *This proposal is estimated to cost approximately $634 million over ten years.*

Sales of electric transmission property. The bill extends the present-law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision allows gain on such sales to be recognized ratably over an 8-year period. The rule applies to sales before January 1, 2010. *This proposal is revenue neutral over 10 years.*

II. INCREASE PRODUCTION OF RENEWABLE FUELS

Cellulosic alcohol production credit. The bill creates a new production tax credit of 50 cents per gallon for cellulosic alcohol produced for use as a fuel in the United States. This credit is in addition to the current 51 cents per gallon ethanol credit and the 10 cents per gallon small producer credit. The credit is available through the end of 2010. *This proposal is estimated to cost $24 million over ten years.*

Extension of biodiesel production tax credit; extension and modification of renewable diesel tax credit. The bill extends for two years (through December 31, 2010) the $1.00 and 50 cent per gallon production tax credits for biodiesel and the small biodiesel producer credit of 10 cents per gallon. The bill also extends for two years (through December 31, 2010) the $1.00 per gallon production tax credit for diesel fuel created from biomass. The bill eliminates the requirement that the diesel fuel must be produced using a thermal depolymerization process. As a result, the credit will be available for any liquid fuel created from biomass without regard to the process used so long as the fuel is usable as a fuel in diesel-powered highway vehicles. The bill also clarifies that the $1 per gallon production credit for renewable diesel is limited to fuel that is produced solely from biomass. Diesel fuel that is created by co-processing biomass with other feedstocks (e.g., petroleum) will be eligible for the 50 cent per gallon tax credit for alternative fuels. *This proposal is estimated to cost $202 million over ten years.*

Extension and increase of alternative refueling stations tax credit. The bill increases the 30% alternative refueling property credit (capped at $30,000) to 50% (capped at $50,000). The credit provides a tax credit to businesses (e.g., gas stations) that install alternative fuel pumps, such as fuel pumps that dispense E85 fuel. The bill also extends this credit through the end of 2010. *This proposal is estimated to cost $156 million over ten years.*

Clarification that fuel credits are designed to provide an incentive for United States production. The bill clarifies that the per gallon tax incentives for biodiesel, renewable diesel and alternative fuels are incentives for the production of fuels in the United States. The bill also clarifies that the per gallon tax incentives for alcohol fuels, biodiesel, renewable diesel and alternative fuels are limited to fuels that are produced for consumption in the United States. This clarification will apply to fuel produced, and sold and used, after December 31, 2008. *This proposal is estimated to raise $68 million over ten years.*

III. REDUCE OUR DEPENDENCE ON FOREIGN OIL

Plug-in hybrid vehicle credit. The bill establishes a new credit for each qualified plug-in hybrid vehicle placed in service during each taxable year by a taxpayer. The base amount of the credit is $4,000. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the credit amount is increased by $200, plus another $200 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 15 kilowatt hours. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter after the quarter in which the manufacturer records 60,000 sales. The credit is reduced in following quarters. The credit is available against the alternative minimum tax (AMT). *This proposal is estimated to cost $1.3 billion over ten years.*

Fringe benefit for bicycle commuters. The bill allows employers to provide employees that commute to work using a bicycle with limited fringe benefits to offset the costs of such commuting (e.g., bicycle storage). *This proposal is estimated to cost $10 million over ten years.*

Modification of depreciation and expensing rules for certain vehicles. The bill would eliminate a loophole in the tax law that provides businesses with tax benefits if they purchase heavy vehicles that are often less fuel efficient (e.g., large sports utility vehicles (SUVs)) rather than lighter, more fuel efficient vehicles. The bill would retain these existing tax benefits for vans that are designed for strictly business use and trucks. The bill would also retain existing tax benefits for heavy vehicles (and extend these tax benefits to lighter, generally more fuel-efficient vehicles) that are used in the following businesses: (1) transporting persons or property for compensation or hire; (2) farming; (3) transporting a substantial amount of equipment, supplies or inventory; and (4) moving or delivering property which requires substantial cargo capacity. *This proposal is estimated to raise $393 million over ten years.*

IV. ENERGY CONSERVATION AND EFFICIENCY

Qualified energy conservation bonds. The bill creates a new category of tax credit bonds for green community programs and initiatives designed to reduce greenhouse gas emissions. There is a national limitation of $3.6 billion which is allocated to States, municipalities and tribal governments. *This proposal is estimated to cost $1.9 billion over ten years.*

Extension and modification of credit for energy-efficiency improvements to existing homes. The bill extends the tax credits for energy-efficient existing homes for two years (through December 31, 2009) and includes energy-efficient biomass fuel stoves as a new class of energy-efficient property eligible for a consumer tax credit of $300. *This proposal is estimated to cost $1.53 billion over ten years.*

Extension of energy-efficient commercial buildings deduction. The bill extends the energy-efficient commercial buildings deduction for five years (through December 31, 2013). *This proposal is estimated to cost $776 million over ten years.*

Modification and extension of energy-efficient appliance credit. The bill would modify the existing energy-efficient appliance credit and extend this credit for three years (through the end of 2010). *This proposal is estimated to cost $323 million over ten years.*

Five-year depreciation for smart meters. The bill would allow electric utilities to depreciate smart electric meters over a five-year period. *This proposal is estimated to cost $1.52 billion over ten years*.

Restructuring of New York Liberty Zone tax credits. The bill would implement a proposal included in the President's FY 2009 Budget to provide the City of New York and the State of New York with tax credits for expenditures made for transportation infrastructure projects connecting with the New York Liberty Zone. *This proposal is estimated to cost $1.83 billion over ten years.*

V. REVENUE PROVISIONS

Denial of section 199 benefits for certain major integrated oil companies (freeze current law section 199 benefits at 6% for oil and natural gas production income of other taxpayers). The bill excludes gross receipts derived from the sale, exchange or other disposition of oil, natural gas, or any primary product thereof from the domestic production deduction for large integrated oil companies. The bill would freeze the domestic production deduction for income of other taxpayers that is with respect to oil, natural gas or any primary product thereof at 6% (which is current law). This is a scaled-back version of the provision proposing outright repeal of section 199 with respect to all oil, natural gas or any primary product thereof that passed the House as part of H.R. 6 (in January 2007) by a vote of 264 to 163 (with 36 House Republicans joining 228 House Democrats in support) and as part of H.R. 2776 (in August 2007) by a vote of 221 to 189 (with 9 House Republicans joining 212 House Democrats in support). *This proposal is estimated to raise $13.57 billion over 10 years.*

Clarification of foreign oil and gas extraction income. The tax code limits the ability of oil and gas companies to claim foreign tax credits with respect to foreign oil and gas extraction income. Because of this limitation, there is a potential for oil and gas companies to manipulate their extraction income in order to achieve beneficial results under U.S. foreign tax credit rules. The bill would eliminate this potential. The bill would require oil and gas companies to use the ascertainable independent market values at the nearest point to the well for which an independent market exists in calculating their foreign oil and gas extraction income ("FOGEI") and foreign oil related income ("FORI"). The bill would also require that where a foreign country collects foreign taxes that are limited in their application to taxpayers engaged in oil or gas activities that oil and gas companies treat these taxes as oil and gas extraction taxes subject to the FOGEI limitation. This identical provision was included in H.R. 2776, which passed the House of Representatives by a vote of 221 to 189 (with 9 House Republicans joining 212 House Democrats in support). *This proposal is estimated to raise $4.08 billion over ten years.*

VI. Other Provisions

Studies

Carbon audit of the tax code. The bill directs the Secretary of the Treasury to request that the National Academy of Sciences undertake a comprehensive review of the tax code to identify the types of specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

Comprehensive study of biofuels. The bill directs the Secretary of the Treasury, in consultation with the Secretary of Agriculture and the Secretary of Energy and the Administrator of the Environmental Protection Agency, to request that the National Academy of Sciences produce an analysis of current scientific findings relating to the future production of biofuels and the domestic effects of a dramatic increase in the production of biofuels.

Labor Standards

Labor standards for certain projects financed with tax credit bonds. The bill provides that the Davis-Bacon labor standards will apply to projects financed with tax credit bonds.