

111TH CONGRESS  
1ST SESSION

# S. 2899

To amend the American Recovery and Reinvestment Act of 2009 and the Internal Revenue Code of 1986 to provide incentives for the development of solar energy.

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2009

Mrs. FEINSTEIN (for herself and Mr. MERKLEY) introduced the following bill;  
which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the American Recovery and Reinvestment Act of 2009 and the Internal Revenue Code of 1986 to provide incentives for the development of solar energy.

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 “Renewable Energy In-  
5 centive Act”.

1 **SEC. 2. EXTENSION OF GRANTS FOR SPECIFIED ENERGY**  
2 **PROPERTY IN LIEU OF TAX CREDITS.**

3 (a) IN GENERAL.—Subsection (a) of section 1603 of  
4 division B of the American Recovery and Reinvestment  
5 Act of 2009 is amended—

6 (1) in paragraph (1), by striking “2009 or  
7 2010” and inserting “2009, 2010, 2011, or 2012”,  
8 and

9 (2) in paragraph (2)—

10 (A) by striking “after 2010” and inserting  
11 “after 2012”, and

12 (B) by striking “2009 or 2010” and in-  
13 serting “2009, 2010, 2011, or 2012”.

14 (b) CONFORMING AMENDMENT.—Subsection (j) of  
15 section 1603 of division B of such Act is amended by strik-  
16 ing “2011” and inserting “2013”.

17 **SEC. 3. EXPANSION OF GRANTS FOR SPECIFIED ENERGY**  
18 **PROPERTY IN LIEU OF TAX CREDITS.**

19 (a) GRANTS ALLOWED FOR CERTAIN GOVERN-  
20 MENTAL UNITS.—Paragraph (1) of section 1603(g) of di-  
21 vision B of the American Recovery and Reinvestment Act  
22 of 2009 is amended by inserting “other than a govern-  
23 mental unit which is a State utility with a service obliga-  
24 tion (as such terms are defined in section 217 of the Fed-  
25 eral Power Act),” after “thereof),”.

1           (b) GRANTS ALLOWED FOR PUBLIC POWER.—Para-  
2 graph (3) section 1603(g) of division B of such Act is  
3 amended by striking “paragraph (4) of section 54(j)” and  
4 inserting “subparagraph (A) or (B) of section 54(j)(4)”.

5           (c) NO GRANTS FOR PROPERTY FOR WHICH CREBS  
6 HAVE BEEN ISSUED.—Section 1603 of division B of such  
7 Act, as amended by section 2, is amended by redesignating  
8 subsections (h), (i), and (j) as subsections (i), (j), and (k),  
9 respectively, and by inserting after subsection (g) the fol-  
10 lowing new subsection:

11           “(h) EXCEPTION FOR CERTAIN PROJECTS.—The  
12 Secretary of the Treasury shall not make any grant under  
13 this section to any governmental unit with respect to any  
14 specified energy property described in subsection (d)(1) if  
15 such entity has issued any bond—

16                   “(1) which is designated as a clean renewable  
17 energy bond under section 54 of the Internal Rev-  
18 enue Code of 1986 or as a new clean renewable en-  
19 ergy bond under section 54C of such Code, and

20                   “(2) the proceeds of which are used for expend-  
21 itures in connection with the same qualified facility  
22 with respect to which such specified energy property  
23 is a part.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to property placed in service after  
 3 the date of the enactment of this Act.

4 **SEC. 4. CREDIT FOR QUALIFIED SOLAR MANUFACTURING**  
 5 **PROJECT PROPERTY.**

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

11 “(viii) qualified solar manufacturing  
 12 project property,”.

13 (b) CREDIT PERCENTAGE.—Subclause (II) of section  
 14 48(a)(2)(A)(i) of such Code is amended by striking “para-  
 15 graph (3)(A)(i)” and inserting “clause (i) or (viii) of para-  
 16 graph (3)(A)”.

17 (c) QUALIFIED SOLAR MANUFACTURING PROP-  
 18 erty.—Section 48(c) of such Code is amended by adding  
 19 at the end the following new paragraph:

20 “(5) QUALIFIED SOLAR MANUFACTURING  
 21 PROJECT PROPERTY.—The term ‘qualified solar  
 22 manufacturing project property’ means any tangible  
 23 personal property (not including a building or its  
 24 structural components) purchased to re-equip, ex-  
 25 pand, or establish a manufacturing facility for the

1 production of property described in subsection  
2 (a)(3)(A)(i), but only if such property is used as an  
3 integral part of the production process. Such term  
4 shall not include any property if such property has  
5 been certified for a credit under section 48C.”.

6 (d) PROPERTY ELIGIBLE FOR GRANT.—Subsection  
7 (d) of section 1603 of division B of the American Recovery  
8 and Reinvestment Act of 2009 is amended by inserting  
9 after paragraph (8) the following new paragraph:

10 “(9) QUALIFIED SOLAR MANUFACTURING  
11 PROJECT PROPERTY.—Any qualified solar manufac-  
12 turing project property (as defined in section  
13 48(c)(5) of such Code).”.

14 (e) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by  
16 subsections (a), (b), and (c) shall apply to periods  
17 after the date of the enactment of this Act, under  
18 rules similar to the rules of section 48(m) of the In-  
19 ternal Revenue Code of 1986 (as in effect on the day  
20 before the date of the enactment of the Revenue  
21 Reconciliation Act of 1990).

22 (2) GRANTS.—The amendment made by sub-  
23 section (d) shall apply to property placed in service  
24 after the date of the enactment of this Act.

1 **SEC. 5. CREDIT FOR HIGH SOLARITY DISTURBED PRIVATE**  
 2 **LAND CONSOLIDATION.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 is amended by adding at the end the following new  
 6 section:

7 **“SEC. 45R. HIGH SOLARITY DISTURBED PRIVATE LAND**  
 8 **CONSOLIDATION CREDIT.**

9 “(a) IN GENERAL.—For purposes of section 38, the  
 10 high solarity disturbed private land consolidation credit  
 11 for any taxable year is an amount equal to 30 percent  
 12 of any amounts paid during the taxable year to purchase  
 13 more than 2 sections of contiguous high solarity disturbed  
 14 private land for the purpose of consolidating the lands into  
 15 a contiguous block suitable for the production of solar en-  
 16 ergy for use in a trade or business.

17 “(b) HIGH SOLARITY DISTURBED PRIVATE LAND.—  
 18 The term ‘high solarity disturbed private land’ means real  
 19 property which—

20 “(1) is located in the United States,

21 “(2) was acquired in units that averaged less  
 22 than 100 contiguous acres from any private person,

23 “(3) is in a location identified on the July 2007  
 24 Concentrating Solar Power Resources Maps pub-  
 25 lished by the National Renewable Energy Labora-  
 26 tory as—

1           “(A) having a solar resource of 7 kwh per  
2           square meter per year or higher, at 3 percent  
3           or less grade, and

4           “(B) outside of a sensitive environmental  
5           or urban area,

6           “(4) was previously disturbed either by residen-  
7           tial or retail development, agriculture, industrial use,  
8           mining, or other mechanical disturbance, and

9           “(5) will be primarily used for generating solar  
10          electricity from property which is described in sec-  
11          tion 48(a)(3)(A)(i) within 5 years of the date of pur-  
12          chase.

13          “(c) REDUCTION IN BASIS.—If a credit is determined  
14          under this section with respect to any property by reason  
15          of expenditures described in subsection (a), the basis of  
16          such property shall be reduced by the amount of the credit  
17          so determined.

18          “(d) PROPERTY USED BY TAX-EXEMPT PERSONS.—  
19          For purposes of this section, rules similar to the rules of  
20          paragraphs (3) and (4) of section 50(b) shall apply.

21          “(e) RECAPTURE IN CASE OF DISPOSITION.—The  
22          Secretary shall provide for the recapture of the amount  
23          of any credit allowed under this section if the property  
24          is not used for the production of solar energy in a trade  
25          or business within 5 years of the date of purchase.”.

1 (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-  
2 tion 38(b) of such Code is amended by striking “plus”  
3 at the end of paragraph (34), by striking the period at  
4 the end of paragraph (35) and inserting “, plus”, and by  
5 adding at the end the following new paragraph:

6 “(36) the high solarity disturbed private land  
7 consolidation credit determined under section  
8 45R(a).”.

9 (c) BASIS ADJUSTMENT.—Section 1016(a) of such  
10 Code is amended by striking “and” at the end of para-  
11 graph (36), by striking the period at the end of paragraph  
12 (37) and inserting “, and”, and by adding at the end the  
13 following:

14 “(38) in the case of a facility with respect to  
15 which a credit was allowed under section 45R, to the  
16 extent provided in section 45R(c).”.

17 (d) CLERICAL AMENDMENT.—The table of sections  
18 for subpart F of part IV subchapter A of chapter 1 of  
19 the Internal Revenue Code of 1986 is amended by insert-  
20 ing after the item relating to section 51 the following new  
21 item:

“Sec. 45R. High solarity disturbed private land consolidation credit.”.

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



1 **SEC. 6. ENERGY CREDIT ALLOWED FOR WATER HEATERS**  
2 **IN POOLS LOCATED ON COMMERCIAL PROP-**  
3 **ERTY.**

4 (a) **IN GENERAL.**—Section 48(a)(3)(A)(i) of the In-  
5 ternal Revenue Code of 1986 is amended by inserting “lo-  
6 cated at a single family residence” after “swimming pool”.

7 (b) **EFFECTIVE DATE.**—The amendment made by  
8 this section shall apply to property placed in service after  
9 the date of the enactment of this Act.

○