

THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
A SUMMARY OF KEY PROVISIONS AFFECTING RENEWABLE ENERGY

1. Long-term Extension and Modification of Renewable Energy Production Tax Credit

The bill extends the placed-in-service date for wind facilities for three (through December 31, 2012). The bill also extends the placed-in-service date for three years (through December 31, 2013) for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; waste-to-energy; and marine renewable facilities.

2. Temporary Election to Claim the Investment Tax Credit in Lieu of the Production Tax Credit

Under current law, facilities that produce electricity from solar facilities are eligible to take a third percent (30%) investment tax credit in the year that the facility is placed in service. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit. The production tax credit is payable over a ten-year period. Because of current market conditions, it is difficult for many renewable projects to find financing due to the uncertain future tax positions of potential investors in these projects. The bill allows facilities to elect to claim the investment tax credit in lieu of the production tax credit.

3. Repeal Subsidized Energy Financing Limitation on the Investment Tax Credit

Under current law, the investment tax credit must be reduced if the property qualifying for the investment tax credit is also financed with industrial development bonds or through any other Federal, State, or local subsidized financing program. The bill repeals this subsidized energy financing limitation on the investment tax credit in order to allow businesses and individuals to qualify for the full amount of the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing.

4. Removal of Dollar Limitations on Certain Energy Credits

Under current law, businesses are allowed to claim a thirty percent (30%) tax credit for qualified small wind energy property (capped at \$4,000). Individuals are allowed to claim a thirty percent (30%) tax credit for qualified solar water heating property (capped at \$2,000), qualified small wind energy property (capped at \$500 per kilowatt of capacity,

up to \$4,000), and qualified geothermal heat pumps (capped at \$2,000). The bill repeals the individual dollar caps. As a result, each of those properties is eligible for an uncapped thirty percent (30%) credit.

5. Clean Renewable Energy Bonds (“CREBs”)

The bill authorizes an additional \$1.6 billion of new clean renewable energy bonds to finance facilities that generate electricity from the following resources: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; marine renewable; and trash combustion facilities. This \$1.6 billion authorization will be subdivided into thirds: 1/3 will be available for qualifying projects of State/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives.

6. Treasury Department Energy Grants in Lieu of Tax Credits

Under current law, taxpayers are allowed to claim a production tax credit for electricity produced by certain renewable energy facilities and an investment tax credit for certain renewable energy property. These tax credits help attract private capital to invest in renewable energy projects. Current economic conditions have severely undermined the effectiveness of these tax credits. As a result, the bill would allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. This grant will operate like the current-law investment tax credit. The Treasury Department will issue a grant in an amount equal to thirty percent (30%) of the cost of the renewable energy facility within sixty days of the facility being placed in service or, if later, within sixty days of receiving an application for such grant.

7. Extension of Bonus Depreciation

Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent (50%) of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill extends this temporary benefit for capital expenditures incurred in 2009.

8. Advanced Energy Investment Credit

The bill establishes a new 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after date of enactment, and may allocate up to \$2.3 billion in credits. Advanced energy property includes technology for the

production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity, and carbon capture and sequestration.