### 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),".

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

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

"(1) which is designated as a clean renewable
energy bond under section 54 of the Internal Revenue Code of 1986 or as a new clean renewable energy bond under section 54C of such Code, and

"(2) the proceeds of which are used for expenditures in connection with the same qualified facility
with respect to which such specified energy property
is a part.".

(d) EFFECTIVE DATE.—The amendments made by
 this section shall apply to property placed in service after
 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 manufacturing12 project property,".

(b) CREDIT PERCENTAGE.—Subclause (II) of section
48(a)(2)(A)(i) of such Code is amended by striking "paragraph (3)(A)(i)" and inserting "clause (i) or (viii) of paragraph (3)(A)".

17 (c) QUALIFIED SOLAR MANUFACTURING PROP18 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, expand, or establish a manufacturing facility for the

production of property described in subsection
 (a)(3)(A)(i), but only if such property is used as an
 integral part of the production process. Such term
 shall not include any property if such property has
 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 manufac12 turing project property (as defined in section
13 48(c)(5) of such Code).".

14 (e) EFFECTIVE DATE.—

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

(2) GRANTS.—The amendment made by subsection (d) shall apply to property placed in service
after the date of the enactment of this Act.

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#### 2 LAND CONSOLIDATION.

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3 (a) IN GENERAL.—Subpart D of part IV of sub4 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.

"(a) IN GENERAL.—For purposes of section 38, the 9 high solarity disturbed private land consolidation credit 10 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 private land for the purpose of consolidating the lands into 14 a contiguous block suitable for the production of solar en-15 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,

"(2) was acquired in units that averaged less
than 100 contiguous acres from any private person,
"(3) is in a location identified on the July 2007
Concentrating Solar Power Resources Maps published by the National Renewable Energy Laboratory 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.".

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(b) CREDIT ALLOWED AS BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking "plus"
at the end of paragraph (34), by striking the period at
the end of paragraph (35) and inserting ", plus", and by
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:

"(38) in the case of a facility with respect to
which a credit was allowed under section 45R, to the
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 insert20 ing after the item relating to section 51 the following new
21 item:

"Sec. 45R. High solarity disturbed private land consolidation credit.".

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

# SEC. 6. ENERGY CREDIT ALLOWED FOR WATER HEATERS IN POOLS LOCATED ON COMMERCIAL PROP ERTY.

4 (a) IN GENERAL.—Section 48(a)(3)(A)(i) of the In5 ternal Revenue Code of 1986 is amended by inserting "lo6 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.

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