The Clean Renewable Energy and Conservation Tax Act of 2007

December 5, 2007

I. Clean Renewable Energy Incentives

Renewable Energy

Long-term extension and modification of renewable energy production tax credit. The bill extends the placed-in-service date for four years (through December 31, 2012) for 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 – 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 qualifying facilities placed in service after December 31, 2008 to an amount that has a present value equal to 35% of the facility's cost. *This proposal is estimated to cost $6.626 billion over 10 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 and the 10% investment tax credit for microturbines 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. The bill would also provide a new 10% investment tax credit for combined heat and power systems. *This proposal is estimated to cost $602 million over 10 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 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 $317 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.*

New Clean Renewable Energy Bonds ("CREBs"). The bill authorizes $2 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 $2 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. *This proposal is estimated to cost $550 million over 10 years.*

CARBON MITIGATION AND COAL

Carbon capture and sequestration (CCS) demonstration projects. The bill would provide $2 billion of tax credits for the creation of advanced coal electricity projects and certain coal gasification projects that demonstrate the greatest potential for carbon capture and sequestration (CCS) technology. Of these $2 billion of incentives, $1.5 billion would be awarded to advanced coal electricity projects and $500 million would be awarded to certain coal gasification projects. These tax credits would be awarded by Treasury through an application process, with the applicants that demonstrate the greatest carbon capture and sequestration percentage of total CO_2 emissions receiving the highest priority. Applications will not be considered unless applicants can demonstrate that either their advanced coal electricity project would capture and sequester at least 65% of the facility's carbon dioxide emissions or that their coal gasification project would capture and sequester at least 75% of the facility's carbon dioxide emissions. Once these credits are awarded, recipients that fail to meet these minimum levels of carbon capture and sequestration would forfeit their tax credits. *This proposal is estimated to cost $1.794 billion over 10 years.*

Accelerated depreciation for CO_2 pipelines. In order to facilitate the creation of infrastructure to transport captured CO_2 to suitable sequestration sites, the bill would allow taxpayers to write-off the cost of CO_2 pipelines that are installed after the date of enactment and before January 1, 2011 using accelerated depreciation over a seven-year period (as opposed to the 15-year period allowed under current law). *This proposal is estimated to cost $50 million over 10 years.*

Solvency for the Black Lung Disability Trust Fund. The bill would enact the President's proposal to bring the Black Lung Disability Trust Fund out of debt. Under current law, an excise tax is imposed on coal at a rate of $1.10 per ton for coal from underground mines and $0.55 per ton for coal from surface mines (aggregate tax per ton capped at 4.4 percent of the amount sold by the producer). Receipts from this tax are deposited in the Black Lung Disability Trust Fund, which is used to pay compensation, medical and survivor benefits to eligible miners and their survivors and to cover costs of program administration. The Trust Fund is permitted to borrow from the general fund any amounts necessary to make authorized expenditures if excise tax receipts do not provide sufficient funding. Reduced rates of excise tax apply after the earlier of December 31, 2013 or the date on which the Black Lung Disability Trust Fund has repaid, with interest, all amounts borrowed from the general fund of the Treasury. The President's Budget proposes that the current excise tax rate should continue to apply beyond 2013 until all amounts borrowed from the general fund of the Treasury have been repaid with interest. After repayment, the reduced excise tax rates of $0.50 per ton for coal from underground mines and $0.25 per ton for coal from surface mines would apply (aggregate tax per ton capped at 2 percent of the amount sold by the producer). The bill would enact the President's proposal. *This proposal is estimated* *to raise $966 million over 10 years.*

Refund of certain coal excise taxes unconstitutionally collected from exporters. The Courts have determined that the Export Clause of the U.S. Constitution applies to the excise tax on exported coal and, therefore, such taxes are subject to a claim for refund. The bill would create a new procedure under which certain coal producers and exporters may claim a refund of these excise taxes that were imposed on coal exported from the United States. Under this procedure, coal producers or exporters that exported coal during the period beginning on or after October 1, 1990 and ending on or before the date of enactment of the bill, may obtain a refund (plus interest) from the Treasury of excise taxes paid on such exported coal and any interest accrued from the date of overpayment. *This proposal is estimated to cost $120 million over 10 years.*

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. *This proposal has no revenue effect.*

II. TRANSPORTATION AND DOMESTIC FUEL SECURITY

BIOFUELS

Cellulosic alcohol production credit. The bill creates a new production tax credit for cellulosic alcohol produced for use as a fuel. The amount of this credit is equal to the difference between $1.01 per gallon and the per gallon ethanol blender tax credit (currently 51 cents per gallon). For example, this credit would be $1.01 per gallon if the ethanol blender credit were to expire and would be 55 cents per gallon if the ethanol blender credit were reduced to 46 cents under a different provision in this bill. The credit may only be claimed on up to 60 million gallons per taxpayer. This credit would be available through the end of 2013. *This proposal is estimated to cost $482 million over 10 years.*

Expansion of allowance for property to produce cellulosic alcohol. Under current law, taxpayers are allowed to immediately write off 50% of the cost of facilities that produce cellulosic ethanol if such facilities are placed in service before January 1, 2013. Consistent with other provisions in the bill that seek to be technology neutral, the bill would allow this write off to be available for the production of other cellulosic alcohols in addition to cellulosic ethanol. *This proposal is estimated to cost $1 million over 10 years.*

Coordination of ethanol blender credit with the renewable fuels standard (RFS). The bill would ensure that the ethanol blender credit takes into account the additional incentive for the use of ethanol that the renewable fuel standard (RFS) provides. Upon the production or importation of 7.5 billion gallons of ethanol in any calendar year, the 51 cent ethanol credit will be reduced to 46 cents per gallon. *This proposal is estimated to raise $854 million over 10 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 diesel fuel created from biomass without regard to the process used so long as the fuel is usable as a fuel in vehicles [or as aviation jet fuel]. The bill also clarifies that the $1 per gallon production credit for renewable diesel is limited to diesel 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. Finally, the bill would stop the practice of "splash-and-dash" by denying the these fuel tax credits where fuel is produced outside the United States for use outside the United States. The credit would continue to be available for imports of foreign-produced biodiesel and exports of U.S.-produced biodiesel. *This proposal is estimated to cost $216 million over 10 years.*

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. *This proposal has no revenue effect.*

ADVANCED TECHNOLOGY MOTOR VEHICLES

Plug-in electric drive vehicle credit. The bill establishes a new credit for each qualified plug-in electric drive vehicle placed in service during each taxable year by a taxpayer. The base amount of the credit is $3,000. 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 calendar quarters. The credit is available against the alternative minimum tax (AMT). *This proposal is estimated to cost $992 million over 10 years.*

Incentives for idling reduction units and advanced insulation for heavy trucks. The bill provides an exemption from the heavy vehicle excise tax for the cost of idling reduction units such as auxiliary power units (APUs), which are designed to eliminate the need for truck engine idling (e.g., to provide heating, air conditioning, or electricity) at vehicle rest stops or other temporary parking locations. The bill would also exempt the installation of advanced insulation, which can reduce the need for energy consumption by transportation vehicles carrying refrigerated cargo. Both of these exemptions are intended to reduce carbon emissions in the transportation sector. *This proposal is estimated to cost $77 million over 10 years.*

Other Transportation Provisions

Restructuring of New York Liberty Zone tax credits. The bill would implement a proposal included in the President's FY 2008 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 $1.106 billion over 10 years.*

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

III. Energy Conservation and Efficiency

Conservation Tax Credit Bonds

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 billion which is allocated to States and municipalities. *This proposal is estimated to cost $864 million over 10 years.*

Qualified Forestry Conservation Bonds. The bill creates a new category of tax credit bonds for qualified forestry projects designed to acquire land subject to native fish habitat conservation plans for conservation purposes. *This proposal is estimated to cost $161 million over 10 years.*

Efficiency

Extension and modification of credit for energy-efficiency improvements to existing homes. The bill extends the tax credits for energy-efficient existing homes for one year (through December 31, 2008) 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 $402 million over 10 years.*

Extension of energy-efficient commercial buildings. The bill extends the energy-efficient commercial buildings deduction for five years (through December 31, 2013). *This proposal is estimated to cost $901 million over 10 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 $344 million over 10 years.*

Seven-year depreciation for smart meters. The bill would allow electric utilities to depreciate smart electric meters over a seven-year period. *This proposal is estimated to cost $1.207 billion over 10 years.*

IV. Other Provisions

Forestry Provisions

One-year enactment of the Timber Revitalization and Economic Enhancement (TREE) Act of 2007. The bill would enact for one-year the provisions of H.R. 1937 and S. 402 to provide a deduction for qualified timber gains and to modernize certain provisions applicable to timber real estate investment trusts (REITs). *This proposal is estimated to cost $435 million over 10 years*.

Other

Income averaging for Exxon Valdez litigation amounts. The bill would allow commercial fishermen and other individuals whose livelihoods were negatively impacted by the 1989 Exxon Valdez oil spill to average any settlement or judgement-related income that they receive in connection with pending litigation in the federal courts over three years for federal tax purposes. The bill would also allow these individuals to use these funds to make contributions to retirement accounts. *This proposal is estimated to cost $215 million over 10 years.*

Reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 and Payment in Lieu of Taxes. The bill would reauthorize the Secure Rural Schools program through 2011. It also adjusts the funding distribution formula to make it more equitable, by taking into account historic payment levels to counties, average income levels in counties and acreage of federal land. Finally, the provision also provides for full funding for the Payment in Lieu of Taxes program for 2009. *This proposal is estimated to cost $1.863 billion over 10 years.*

Offset the cost of increasing the corporate average fuel economy (CAFE) standards. The bill would offset the revenue loss associated with the increase in the corporate average fuel economy (CAFE) standards. *The cost of increasing the CAFE standards has been estimated to cost $2.114 billion over 10 years.*

V. Revenue Provisions

Revenue Provisions That Have Previously Passed the House of Representatives

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 by a vote of 264 to 163 (with 36 House Republicans joining 228 House Democrats in support) and as part of H.R. 2776 by a vote of 221 to 189 (with 9 House Republicans joining 212 House Democrats in support). *This proposal is estimated to raise $9.992 billion over 10 years.*

7-year amortization of geological and geophysical expenditures for certain major integrated oil companies. The bill increases the amortization period for geological and geophysical expenditures (G&G costs) from five years to seven years for large integrated oil companies. This proposal was previously included in H.R. 6, which passed the House of Representatives by a vote of 264 to 163 (with 36 House Republicans joining 228 House Democrats in support), and also 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 $103 million 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 expand the present-law foreign oil and gas extraction income rules to apply to all foreign income from production and other activity related to the sale of oil and gas. This is a scaled-back version of a proposal that was 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 $3.187 billion over 10 years.*

REVENUE PROVISIONS IN THE PRESIDENT'S FY 2008 BUDGET

Basis reporting by brokers on sales of stock. The bill creates mandatory cost basis reporting by brokers for transactions involving publicly traded securities. Covered securities are generally stock, debt, commodities, derivatives and other items as specified by the Treasury Secretary, which are acquired in the account or transferred to the account managed by the broker. The President's FY 2008 Budget recommends that Congress require basis reporting on security sales. The Treasury Department explains that this proposal is necessary because "compliance increases significantly for amounts that a third party reports to the IRS. The potential for non-compliance on sales of securities is considerable under current law, because the taxpayer's basis is not reported to the IRS. Requiring brokers to maintain records of the adjusted basis of securities sold by their customers and report this information to the IRS would increase compliance with capital gains reporting. In addition, such a requirement would provide significant simplification benefits by relieving taxpayers from the often complicated task of calculating adjusted basis to determine gain or loss on the sale of securities." The provision applies to stock acquired after January 1, 2009 and after January 1, 2011 for all other instruments. *This proposal is estimated to raise $4.106 billion over 10 years.*

Extend FUTA taxes for one year. The Federal Unemployment Tax Act ("FUTA") imposes a 6.2 percent gross tax rate on the first $7,000 paid annually by covered employers to each employee. In 1976, Congress passed a temporary surtax of 0.2 percent of taxable wages to be added to the permanent FUTA tax rate. The temporary surtax subsequently has been extended through 2007. The President's FY 2008 Budget proposes extending the FUTA surtax. The Treasury Department states that "extending the surtax will support the continued solvency of the Federal unemployment trust funds and maintain the ability of the unemployment system to adjust to any economic downturns." The bill would enact the President's proposal for one year (through 2008). *This provision is estimated to raise $1.446 billion over 10 years.*

Repeal reduced recovery period for natural gas distribution lines. Under current law, pipelines used by utilities to distribute natural gas (a natural gas distribution line) to their customers placed in service before January 1, 2011, are depreciable over 15 years. A natural gas distribution line placed in service after December 31, 2010 is depreciable over 20 years. The President's FY 2008 Budget proposes repealing the reduced 15 year recovery period so that natural gas distribution lines (regardless of when they are placed in service) will be recovered over a 20 year period. The Treasury Department explains their proposal as follows: "Because the 15-year MACRS recovery period for natural gas distribution lines benefits gas utilities rather than gas producers, it does not significantly add to our nation's energy supplies over what the market would provide if the recovery period were 20 years. Moreover, the 15-year recovery period provides natural gas utilities with an unwarranted advantage over competitors such as electric utilities." The bill would enact the President's proposal. *This proposal has been estimated to raise $506 million over 10 years.*

Increase in penalty for failure to file partnership return. Under current law there is a $50 per partner per month (up to five months) penalty for failure to file a partnership return for a taxable year. The bill would increase that penalty by $30 to $80 per partner per month (up to twelve months). *This proposal is expected to raise $319 million over ten years.*