

BCSE Clean Energy and Tax Components for Inclusion in Comprehensive Energy and Climate Legislation

The Business Council for Sustainable Energy is an industry coalition that includes companies and trade associations representing currently available clean energy technologies in the renewable energy, energy efficiency, and natural gas industries, as well as companies and registries involved in greenhouse gas emission reduction projects.

The Council supports immediate enactment of comprehensive legislation with a framework that provides predictable and market-based approaches to reduce greenhouse gas emissions, and that expands the use of readily available clean energy resources and technologies.

Given the proper regulatory certainty and long-term market signals, clean energy industries stand ready to reinvigorate our nation's manufacturing sector, firmly establish the United States as the global leader in clean energy technologies, and put Americans to work. The market signals to meet these critical objectives need to be established through a set of provisions dealing with energy policy, tax and other incentives, and market-based greenhouse gas regulation.

The following are a list of priorities for energy and tax related provisions of comprehensive energy and climate change legislation to be enacted this year. Please note that as a diverse coalition, not all members endorse or take positions on each policy option listed below.

Policies to Promote Energy Efficiency:

- Residential energy efficiency retrofits and commercial building energy efficiency retrofits, as well as measures to encourage industrial, and manufacturing energy efficiency, should be a key feature of any legislation designed to create jobs and promote economic growth. Congress should enact Home Star (S.3434 and H.R.5019), Building Star (S.3079 and H.R.5476), and Industrial STAR (H.R.4751).
- Congress should enact the energy efficiency proposals to include national building energy performance standards for new residential and commercial construction, requiring federal agencies to enhance efforts towards energy efficient building, a national building retrofit program, industrial energy efficiency, and appliance and equipment efficiency standards. (S.1462, S.3464, Executive Order 13514, H.R.2454, HR.5019, S.3434, H.R.5476, S.3079).
- Congress should establish energy-savings targets for new and existing buildings and should encourage states to adopt energy efficiency programs in the forms of codes, standards, and incentives to achieve these targets and most importantly, to ensure that these targets are met. The objective should be savings of 30% by 2010 and 50% by 2020 and should be accompanied by building owner incentives to support the investments needed to achieve these targets in individual buildings (S.1462).
- Congress should adopt a national target requiring utilities to achieve energy savings through efficiency programs, combined heat and power (CHP) distribution efficiency, or purchase of such savings from others. An aggressive target should go beyond business as usual.
- Legislation should require that energy efficiency definitions and measurements are defined to recognize the overall efficiency of energy use from extraction and generation through use, thereby leveling the playing field among competing technology alternatives. In addition, definitions should recognize and include operational energy efficiency.
- Legislation should allow utilities to utilize energy efficiency as a mechanism to reduce greenhouse gas emissions.

Policies to Promote Peak Demand Reduction and Demand Response

- Congress should require utilities to adopt Peak Demand Reduction targets and report the results to the FERC. The country spends 10 percent of its electric bill to support less than one percent of the peak hours of the year. If we can reduce the peak demands on utilities it can save customers money by not buying power in the most expensive 50 hours of the year as well as delay the need to invest in new infrastructure such as peaking plants and transmission lines. Reducing peak demand is good for the environment too because the oldest, least-efficient power plants are the ones likely to be dispatched to meet those last hours and therefore displaced by demand reductions. (H.R. 2454 Sec. 144).

Clean Energy and Energy Efficiency Tax Incentives:

Congress should enact robust and predictable tax and other financial incentives for clean energy and energy efficiency projects and manufacturing:

Energy Efficiency Tax Legislation

- **S.1637** - The Expanding Building Efficiency Incentives Act of 2009, introduced by Senators Bingaman (NM), Snowe (ME), and Feinstein (CA).
 - Extend the tax credit for new energy efficient homes.
- **S.1639** - The Expanding Industrial Energy Efficiency Incentives Act of 2009, introduced by Senators Bingaman (NM), Snowe (ME), and Feinstein (CA).
 - Provide Credits for Chillers.
 - Expand credits for efficient combined heat and power and waste energy recovery to expand CHP's 10% Investment Tax Credit to 25 megawatts (from 15), remove cap (now 50 MW), and ensure recycled energy projects are eligible (similar to **H.R. 4144**, introduced by Congressman Inslee and **H.R.4455** introduced by Congressman Thompson and Congressman Linder).
- **H.R. 4751** – To provide 30% Investment Tax Credit for highly efficient CHP and recycled energy, introduced by Congressman Tonko (NY).
- **S.1643** - The Cleaner, Secure, Affordable Thermal Energy Act, introduced by Senators Bingaman (NM) and Snowe (ME).
 - Provide tax credit for conversions from oil to high efficiency natural gas appliances.
- **H.R. 5396** - Provide a tax incentive for energy-efficient roof retrofits on commercial buildings, introduced by Congressmen Pascrell (NJ), Larson (CT), Herger (CA), and Heller (NV).
- **S.3626 and H.R.5805** – The Thermal Energy and Efficiency Act introduced by Senators Franken (MN) and Bond (MO), and H.R. 5805 introduced by Congresswoman McCollum ((D-MN).

Renewable Energy Tax Legislation

- **S.1091** – The Storage Technology of Renewable and Green Energy Act of 2009, introduced by Senator Wyden (OR) and **H.R.4210** introduced by Congressman Thompson (CA).
- **S.1090 and H.R.2626** – Provide tax parity for electricity produced from renewable resources (hydropower, marine and hydrokinetic technologies, geothermal power and biomass projects), S.1090 introduced by Senator Wyden (OR) and H.R. 2626 introduced by Congressman Kendrick (FL).
- **S.306 and H.R.1158** – Provide a tax credit for renewable natural gas production, S.306, introduced by Senator Nelson (FL) and H.R.1158, introduced by Congressman Higgins (NY).

- **S.870 and H.R.2528** - Expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass, H.R.2528, introduced by Congressman Meeks, (FL) and S.870, introduced by Senator Lincoln (AR).
- **H.R.4085 and S.2755** - The Solar Manufacturing Jobs Creation Act to add equipment used to manufacture solar energy generating property to the eligible property list of the existing Section 48 commercial solar investment tax credit (ITC), introduced by Congressman Thompson (D-CA) and Senator Menendez (D-NJ).
- **HR 4967** - To allow municipal bond issuing entities to use bonds to pay for renewable purchase power agreements, introduced by Representative Giffords (D-AZ).
- **S.2899 and H.R.5931** – The Renewable Energy Incentive Act - to extend and expand the Treasury's grant in lieu of tax credit program established under section 1603 of the American Recovery and Reinvestment Act (ARRA), introduced by Senator Feinstein (D-CA) and Congresswoman Matsui (CA).
 - Expand eligibility to public utilities.

Fuel Cells and Natural Gas Tax Legislation

- **H.R.5174** – The Fuel Cell Industrial Vehicle Jobs Act to broaden the definition of fuel cell vehicles under section 30(b) of the Internal Revenue Code to include motive applications such as fork trucks, introduced by Congressman Tonko (D-NY).
- **H. R. 3660** - To amend the Internal Revenue Code of 1986 to promote tax parity between the residential and business fuel cell tax credits, introduced by Representatives Wu (OR) and Bono Mack (CA).
- **H.R. 5518**, The Energy Efficient Natural Gas Heat Pump Tax Parity Act to add very high efficiency natural gas heat pumps to eligible technology under section 48 tax credits for business property and under Section 25D for residential customers. This would provide a credit for natural gas-based technologies that is at least as efficient as electric technology that currently receives a credit, introduced by Representative Titus (NV).
- **S.1408 & H.R.1835** to extend the current tax incentives for natural gas as a transportation fuel, introduced by Senator Menendez (NJ) and H.R.1835 introduced by Congressman Boren (OK).
- **H.R.4411** – to extend the 15-year depreciation period for natural gas pipelines, introduced by Congressman Roskam (R-III).

American Recovery and Reinvestment Act (ARRA) Extensions

- Extend for two years the deadline to start construction in the grant in lieu of a tax credit program created in **Section 1603** of the American Recovery and Reinvestment Act (ARRA), or enact an equivalent solution in the tax code.
- Extend for one year the bonus depreciation provisions of the American Recovery and Reinvestment Act (ARRA) allowing investments in renewable energy equipment to depreciate 50% of the basis of the investment in 2010.
- Extend and Fund the **Section 48C** manufacturing tax credit established under the Recovery Act.
- Extend the Build America Bond (BAB) program.

Technical and Other Fixes to the Tax Code

- Make the Investment Tax Credit (26 USC § 48) technology neutral when it comes to solar energy by clarifying that the Investment Tax Credit also covers direct solar energy applications such as solar light pipe technology.
- Provide Investment Tax Credits for oxy-fuel technology implementation in industrial furnaces [aluminum, steel] rewarding significant fuel savings and emission reductions.
- Extend the in-service date for interstate natural gas pipeline projects December 31, 2013 for projects that have been authorized by FERC by July 1, 2011.
- Provide a technical fix to the Hydrogen Infrastructure Tax Credit under 30c of the Internal Revenue Code to allow refueling for material handling equipment to be eligible.
- Modify the 30% Investment Tax Credit for commercial and residential geothermal heat pumps to add natural gas fired heat pumps with higher overall efficiencies (Representative Titus lead).
- Revise the Production Tax Credit for offshore wind and compressed energy storage to ensure that these sources do not lose the Credit when energy has been stored / Remove the wind Production Tax Credit disincentive.
- Lift the volume cap on the Clean Renewable Energy Bond (CREB) program, or provide a significant increase in CREB funding.
- Provide Investment Tax Credit cash grants as incentives for higher capacity/efficient generation from renewables.

Enact a Strong National Renewable Electricity Standard:

- Congress should enact a strong national renewable electricity standard to ensure that a growing percentage of electricity consumed in the United States is derived from renewable energy sources and to deploy a broad range of existing technologies. A renewable electricity standard would enhance the diversity of the nation's energy supply and would help the United States regain global leadership in technology development. The renewable electricity standard should go beyond business as usual and should be more aggressive than what is currently included in the Senate Energy Committee American Clean Energy and Leadership Act (S.14664) or the American Clean Energy and Security Act (H.R.2454).
- Any renewable electricity standard should avoid double counting renewable electricity when a generator has sold renewable electricity to a retail electric supplier under a contract for power from a facility placed in service prior to the enactment of the renewable electricity standard.

Financing and Export Assistance:

- Congress should authorize the establishment of the Energy Independence Trust (EIT) to provide low-cost financing to utilities, local governments and small business to implement efficiency measures, distributed generation of renewable resources, electrification of transit, transmission, small and utility scale renewable projects or retrofit of the transportation industry through natural gas or other alternatives to oil. The EIT would complement the Clean Energy Deployment Administration (S.1464). Congress should also consider measures to provide export assistance to clean technology such as the Clean Energy Technology Manufacturing and Export Assistance Act (H.R.5156); and the International Clean Energy Deployment Administration.

Expanded and Improved infrastructure:

- Congress should facilitate the transition to a smarter, more efficient transmission and distribution grid to allow a broad portfolio of technologies that are clear, more reliable and more agile. An improved and expanded transmission grid would enable access to a wider range of distributed and dispersed resources, including renewable energy and demand response.
- Transmission investments should be guided by market forces that balance the development of remote renewables, with local renewables and distributed generation.
- Speed construction and job creation benefits through better coordination of regulatory processes for hydropower infrastructure and project development on federal lands and a smarter, more efficient process for minimal-impact projects at existing dams and closed-loop pumped storage

Policies to Promote the Use of Clean, Efficient Natural Gas:

- Policies should encourage either the increased utilization of existing natural gas-fueled generators or the development of new natural gas-fueled generators.
- Congress should encourage the use of high-efficiency natural gas-fueled generation as a compliance option for reducing carbon emissions and economic incentives should be provided to encourage the retirement of older high-emitting power plants in exchange for reliance on existing natural gas-fueled generation. Incentives should also be provided for replacing higher-emitting plants with new gas-fueled generation.
- A minimum of 20 percent of all funding focused on carbon capture and storage (CCS) should be concentrated on natural gas, combined-cycle electricity facilities in order to develop the means, methods, and technologies that will help these plants to achieve zero or near zero carbon emissions, and to reflect the diversity of the generation fleet.
- Congress should accelerate the use of natural gas for transportation; doing so will lead to increased economic activity associated with increased production of domestic natural gas, installation of fueling infrastructure and vehicle development.

Research and Development:

- Congress should pass federal legislation to fund natural gas research and development (R&D) so as to reduce emissions and increase efficiency in residential and commercial markets.
- Congress should pass legislation facilitating successful market entry for advanced natural gas technologies, providing for 1) federal agency leadership in deployment of these technologies; and 2) financing mechanisms to ensure credit availability.
- Congress should support advancements in the hydropower industry with increased funding for the Department of Energy Waterpower R&D program.

Electric Vehicle Technology:

Current energy and climate change proposals establish a plan and subsequent pilots for electric vehicle refueling infrastructure in order to meet the deployment needs of connectivity-hungry electric vehicles over the next 15 years. (American Power Act Discussion Draft)

- The BCSE suggests that a new priority be considered requiring that charging infrastructure be “networked” or “Smart Grid ready,” meaning that charging stations can be actively integrated into

grid operations through Smart Charging technologies from Day 1. Smart Charging is seen as a key element that will prevent the need for additional power plants and grid infrastructure and networked charging stations, whether installed in public spaces, workplace or at home, and to improve the integration of infrastructure with grid operations.

- Some BCSE members support a proposal to require at least 1 pilot project to be focused on Smart Charging/networked charging infrastructure.
- BCSE suggests that legislation remain neutral to the infrastructure location (public, workplace, home, etc) and would stress the critical importance of wireless connectivity as an enabler for billing capabilities.
- Questions have also been raised about the total amount of resources to be allocated to a proposed “Clean Vehicle Technology Fund” and the heavy focus on the manufacturing of electric vehicles. It has been suggested that grants also include manufacture of charging stations.
- BCSE would encourage a provision to require the Administrator of the General Services Administration to acquire plug-in electric drive vehicles and the requisite charging infrastructure to be deployed in a range of locations in the Federal fleet, and to provide appropriate funding to pay for incremental costs to purchase or lease plug-in electric drive vehicles and charging infrastructure for Federal fleets.

Greenhouse Gas Emission Reduction Offsets:

The Council supports enactment of comprehensive energy and climate change legislation. While the above mentioned priorities are related to the energy and tax portions of that legislation, the Council would like to reiterate its support for early actors.

- Recognizing the value of offset projects mobilizes capital for some of the most cost-effective reductions in greenhouse gas pollution. BCSE members appreciate the recognition of the economic and environmental contributions of early actors; offsets play an important role in cost-containment and environmental enhancement as a greenhouse gas emission reduction program matures. (American Power Act Discussion Draft, H.R.2454, S.1733).
- To drive projects forward today, clear, uniform program rules and structures that support a robust offset market need to be introduced and communicated. BCSE members support the positive steps forward made in recent legislative vehicles, such as Senator Stabenow’s Clean Energy Partnerships Act, S.2729, compared to previous legislative vehicles related to greenhouse gas emission reduction offsets, including the more developed positive list for eligible domestic offset project types and the strong value directed at offset projects in the early and later years of the program.