

106TH CONGRESS
1ST SESSION

S. 1351

To amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from renewable resources.

IN THE SENATE OF THE UNITED STATES

JULY 12, 1999

Mr. GRASSLEY (for himself, Mr. MURKOWSKI, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from renewable resources.

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. CREDIT FOR ELECTRICITY PRODUCED FROM**
4 **RENEWABLE RESOURCES.**

5 (a) EXTENSION AND MODIFICATION OF PLACED-IN-
6 SERVICE RULES.—Paragraph (3) of section 45(c) of the
7 Internal Revenue Code of 1986 is amended to read as fol-
8 lows:

9 “(3) QUALIFIED FACILITY.—

“(A) WIND FACILITIES.—In the case of a facility using wind to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before July 1, 2004.

“(B) BIOMASS FACILITIES.—In the case of a facility using biomass to produce electricity, the term ‘qualified facility’ means, with respect to any month, any facility owned, leased, or operated by the taxpayer which is originally placed in service before July 1, 2004, if, for such month—

“(i) biomass comprises not less than 75 percent (on a Btu basis) of the average monthly fuel input of the facility for the taxable year which includes such month, or

“(ii) in the case of a facility principally using coal to produce electricity, biomass comprises not more than 25 percent (on a Btu basis) of the average monthly fuel input of the facility for the taxable year which includes such month.

“(C) SPECIAL RULES.—

1 “(i) In the case of a qualified facility
2 described in subparagraph (B)(i)—

3 “(I) the 10-year period referred
4 to in subsection (a) shall be treated as
5 beginning no earlier than the date of
6 the enactment of this paragraph, and

7 “(II) subsection (b)(3) shall not
8 apply to any such facility originally
9 placed in service before January 1,
10 1997.

11 “(ii) In the case of a qualified facility
12 described in subparagraph (B)(ii)—

13 “(I) the 10-year period referred
14 to in subsection (a) shall be treated as
15 beginning no earlier than the date of
16 the enactment of this paragraph, and

17 “(II) the amount of the credit
18 determined under subsection (a) with
19 respect to any project for any taxable
20 year shall be adjusted by multiplying
21 such amount (determined without re-
22 gard to this clause) by 0.59.”.

23 (b) CREDIT NOT TO APPLY TO ELECTRICITY SOLD
24 TO UTILITIES UNDER CERTAIN CONTRACTS.—Section
25 45(b) of the Internal Revenue Code of 1986 (relating to

1 limitations and adjustments) is amended by adding at the
 2 end the following:

3 “(4) CREDIT NOT TO APPLY TO ELECTRICITY
 4 SOLD TO UTILITIES UNDER CERTAIN CONTRACTS.—

5 “(A) IN GENERAL.—The credit determined
 6 under subsection (a) shall not apply to
 7 electricity—

8 “(i) produced at a qualified facility
 9 placed in service by the taxpayer after
 10 June 30, 1999, and

11 “(ii) sold to a utility pursuant to a
 12 contract originally entered into before Jan-
 13 uary 1, 1987 (whether or not amended or
 14 restated after that date).

15 “(B) EXCEPTION.—Subparagraph (A)
 16 shall not apply if—

17 “(i) the prices for energy and capacity
 18 from such facility are established pursuant
 19 to an amendment to the contract referred
 20 to in subparagraph (A)(ii);

21 “(ii) such amendment provides that
 22 the prices set forth in the contract which
 23 exceed avoided cost prices determined at
 24 the time of delivery shall apply only to an-
 25 nual quantities of electricity (prorated for

1 partial years) which do not exceed the
2 greater of—

3 “(I) the average annual quantity
4 of electricity sold to the utility under
5 the contract during calendar years
6 1994, 1995, 1996, 1997, and 1998,
7 or

8 “(II) the estimate of the annual
9 electricity production set forth in the
10 contract, or, if there is no such esti-
11 mate, the greatest annual quantity of
12 electricity sold to the utility under the
13 contract in any of the calendar years
14 1996, 1997, or 1998; and

15 “(iii) such amendment provides that
16 energy and capacity in excess of the limita-
17 tion in clause (ii) may be—

18 “(I) sold to the utility only at
19 prices that do not exceed avoided cost
20 prices determined at the time of deliv-
21 ery, or

22 “(II) sold to a third party subject
23 to a mutually agreed upon advance
24 notice to the utility.

1 For purposes of this subparagraph, avoided cost
 2 prices shall be determined as provided for in 18
 3 CFR 292.304(d)(1) or any successor regula-
 4 tion.”.

5 (c) QUALIFIED FACILITIES INCLUDE ALL BIOMASS
 6 FACILITIES.—

7 (1) IN GENERAL.—Subparagraph (B) of section
 8 45(c)(1) of the Internal Revenue Code of 1986 (de-
 9 fining qualified energy resources) is amended to read
 10 as follows:

11 “(B) biomass.”.

12 (2) BIOMASS DEFINED.—Paragraph (2) of sec-
 13 tion 45(c) of such Code (relating to definitions) is
 14 amended to read as follows:

15 “(2) BIOMASS.—The term ‘biomass’ means—

16 “(A) any organic material from a plant
 17 which is planted exclusively for purposes of
 18 being used at a qualified facility to produce
 19 electricity, or

20 “(B) any solid, nonhazardous, cellulosic
 21 waste material which is segregated from other
 22 waste materials and which is derived from—

23 “(i) any of the following forest-related
 24 resources: mill residues, precommercial

1 thinnings, slash, and brush, but not includ-
2 ing old-growth timber,

3 “(ii) poultry waste,

4 “(iii) urban sources, including waste
5 pallets, crates, and dunnage, manufac-
6 turing and construction wood wastes, and
7 landscape or right-of-way tree trimmings,
8 but not including unsegregated municipal
9 solid waste (garbage) or paper that is com-
10 monly recycled, or

11 “(iv) agriculture sources, including or-
12 chard tree crops, vineyard, grain, legumes,
13 sugar, and other crop by-products or resi-
14 dues.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to electricity produced after the
17 date of the enactment of this Act.

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