

106TH CONGRESS
1ST SESSION

S. 414

To amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 1999

Mr. GRASSLEY (for himself, Mr. JEFFORDS, Mr. CONRAD, Mr. LEAHY, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. WELLSTONE, Mr. CHAFEE, Mr. BREAUX, Mr. GRAHAM, Mr. MACK, Mr. DASCHLE, Mr. DORGAN, and Mr. BURNS) 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 provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

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. 5-YEAR EXTENSION OF CREDIT FOR PRODUC-**
4 **ING ELECTRICITY FROM WIND.**

5 (a) IN GENERAL.—Paragraph (3) of section 45(c) of
6 the Internal Revenue Code of 1986 (defining qualified fa-
7 cility) is amended to read as follows:

1 “(3) QUALIFIED FACILITY.—The term ‘quali-
 2 fied facility’ means any facility owned by the tax-
 3 payer which is originally placed in service—

4 “(A) in the case of a facility using wind to
 5 produce electricity, after December 31, 1993,
 6 and before July 1, 2004, and

7 “(B) in the case of a facility using closed-
 8 loop biomass to produce electricity, after De-
 9 cember 31, 1992, and before July 1, 1999.”.

10 (b) CREDIT NOT TO APPLY TO ELECTRICITY SOLD
 11 TO UTILITIES UNDER CERTAIN CONTRACTS.—Subsection
 12 (b) of section 45 of such Code is amended by adding at
 13 the end the following new paragraph:

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

16 “(A) IN GENERAL.—The credit determined
 17 under subsection (a) shall not apply to
 18 electricity—

19 “(i) produced at a qualified facility
 20 placed in service by the taxpayer after
 21 June 30, 1999, and

22 “(ii) sold to a utility pursuant to a
 23 contract originally entered into before Jan-
 24 uary 1, 1987 (whether or not amended or
 25 restated after that date).

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply if—

3 “(i) the prices for energy and capacity
4 from such facility are established pursuant
5 to an amendment to the contract referred
6 to in subparagraph (A)(ii);

7 “(ii) such amendment provides that
8 the prices set forth in the contract which
9 exceed avoided cost prices determined at
10 the time of delivery shall apply only to an-
11 nual quantities of electricity (prorated for
12 partial years) which do not exceed the
13 greater of—

14 “(I) the average annual quantity
15 of electricity sold to the utility under
16 the contract during calendar years
17 1994, 1995, 1996, 1997, and 1998,
18 or

19 “(II) the estimate of the annual
20 electricity production set forth in the
21 contract, or, if there is no such esti-
22 mate, the greatest annual quantity of
23 electricity sold to the utility under the
24 contract in any of the calendar years
25 1996, 1997, or 1998; and

1 “(iii) such amendment provides that
2 energy and capacity in excess of the limita-
3 tion in clause (ii) may be—

4 “(I) sold to the utility only at
5 prices that do not exceed avoided cost
6 prices determined at the time of deliv-
7 ery, or

8 “(II) sold to a third party subject
9 to a mutually agreed upon advance
10 notice to the utility.

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

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