

107TH CONGRESS
1ST SESSION

H. R. 2606

To provide project assistance, loan guarantees, and tax credits for a coal gasification demonstration project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2001

Mrs. CAPITO introduced the following bill; which was referred to the Committee on Science, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide project assistance, loan guarantees, and tax credits for a coal gasification demonstration project, 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. SHORT TITLE.**

4 This Act may be cited as the “Coal Gasification Com-
5 mercial Demonstration Project Act of 2001”.

6 **SEC. 2. DEMONSTRATION.**

7 (a) PROJECT GRANT.—

1 (1) AUTHORITY.—The Secretary of Energy
2 shall make a grant for a project to demonstrate the
3 commercial viability of a new coal gasification com-
4 bined cycle technology plant.

5 (2) AMOUNT.—A grant made under this sub-
6 section may be in an amount of—

7 (A) \$5,000,000 for design, engineering,
8 and other necessary preconstruction project de-
9 velopment activities; and

10 (B) \$10,000,000 for construction costs (in-
11 cluding engineering, procurement, and associ-
12 ated project development activities).

13 (3) LOCATION.—The demonstration project for
14 which a grant is made under this subsection shall be
15 located in Kanawha County, West Virginia, or any
16 adjacent county.

17 (4) TIMING.—Not later than 30 days after the
18 date of the enactment of this Act, any interested
19 party may submit to the Secretary of Energy a pro-
20 posal to construct and operate a coal gasification
21 plant in West Virginia consistent with this sub-
22 section, and not later than 60 days after the date of
23 the enactment of this Act, the Secretary of Energy
24 shall select the entity to be awarded the grant.

1 (b) ADDITIONAL DEMONSTRATION ASSISTANCE.—

2 There are authorized to be appropriated to the Secretary
3 of Energy for each of fiscal years 2003 and 2004
4 \$20,000,000 for providing assistance to additional
5 projects that demonstrate the commercial viability of coal
6 gasification technology.

7 **SEC. 3. LOAN GUARANTEES.**

8 (a) AUTHORITY.—The Secretary of Energy shall pro-
9 vide loan guarantees for the project receiving a grant
10 under section 2(a).

11 (b) AMOUNT.—The total amount of loans guaranteed
12 under this section shall be 80 percent of the total project
13 costs of the project receiving a grant under section 2(a).
14 For purposes of this subsection, total project costs include
15 the cost of a generally available commercial loan to finance
16 the project.

17 (c) TERMS AND CONDITIONS.—The terms and condi-
18 tions of a loan guarantee under this section shall be estab-
19 lished by negotiation between the Secretary of Energy and
20 representatives of the recipient of the grant under section
21 2(a). The Secretary—

22 (1) shall commence such negotiations not later
23 than 30 days after the selection under section
24 2(a)(5) of an entity to be awarded the grant;

1 (2) shall review the terms and conditions for
2 loan guarantees in section 201(d) of the Geothermal
3 Energy Research, Development, and Demonstration
4 Act of 1974 (30 U.S.C. 1141(d)) in order to facili-
5 tate the funding and long-term success of the
6 project;

7 (3) shall negotiate in good faith and make best
8 efforts to conclude those negotiations within 120
9 days; and

10 (4) if the negotiations are not concluded within
11 120 days, shall agree to referral of the dispute re-
12 garding terms and conditions to binding arbitration
13 (as allowed by Executive Order 12988, February 5,
14 1996) for a period not to exceed 90 days, so that
15 the objectives of this section are fulfilled.

16 (d) DEFINITION.—In this section, the term “loan
17 guarantee” has the meaning given that term in section
18 502(3) of the Federal Credit Reform Act of 1990 (2
19 U.S.C. 661a(3)).

20 **SEC. 4. PROJECT APPROVAL UNDER CLEAN AIR ACT.**

21 All new source review approvals and related permits
22 required under the Clean Air Act and under applicable im-
23 plementation plans under that Act shall be issued for the
24 project receiving a grant under section 2(a) by the permit-
25 ting State agency upon—

1 (1) certification by the permit applicant that
2 emissions of each pollutant regulated under the
3 Clean Air Act will be no greater than the average
4 emission rate identified by the Administrator of the
5 Environmental Protection Agency in the 3 most re-
6 cently permitted new source review permits for coal
7 gasification plants as of June 1, 2001; and

8 (2) certification by the permit applicant, based
9 on modeling using a model approved for such pur-
10 poses by the Administrator and incorporating the
11 most relevant meteorological and air quality data
12 available to the applicant as of June 1, 2001, that
13 the plant will not violate any National Ambient Air
14 Quality Standard nor any Prevention of Deteriora-
15 tion air quality increment.

16 **SEC. 5. INVESTMENT TAX CREDIT.**

17 (a) ALLOWANCE OF QUALIFYING COAL GASIFI-
18 CATION TECHNOLOGY FACILITY CREDIT.—Section 46 of
19 the Internal Revenue Code of 1986 (relating to amount
20 of credit) is amended by striking “and” at the end of para-
21 graph (2), by striking the period at the end of paragraph
22 (3) and inserting “, and”, and by adding at the end the
23 following:

24 “(4) the qualifying coal gasification technology
25 facility credit.”

1 (b) AMOUNT OF QUALIFYING COAL GASIFICATION
 2 TECHNOLOGY FACILITY CREDIT.—Subpart E of part IV
 3 of subchapter A of chapter 1 of the Internal Revenue Code
 4 of 1986 (relating to rules for computing investment credit)
 5 is amended by inserting after section 48 the following:

6 **“SEC. 48A. QUALIFYING COAL GASIFICATION TECHNOLOGY**
 7 **FACILITY CREDIT.**

8 “(a) IN GENERAL.—For purposes of section 46, the
 9 qualifying coal gasification technology facility credit for
 10 any taxable year is an amount equal to 10 percent of the
 11 qualified investment in a qualifying coal gasification tech-
 12 nology facility for such taxable year.

13 “(b) QUALIFYING COAL GASIFICATION TECHNOLOGY
 14 FACILITY.—

15 “(1) IN GENERAL.—For purposes of subsection
 16 (a), the term ‘qualifying coal gasification technology
 17 facility’ means the coal gasification project described
 18 in section 2 of the Coal Gasification Commercial
 19 Demonstration Project Act of 2001.

20 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—
 21 For purposes of paragraph (1), in the case of a fa-
 22 cility which—

23 “(A) is originally placed in service by a
 24 person, and

1 “(B) is sold and leased back by such per-
2 son, or is leased to such person, within 3
3 months after the date such facility was origi-
4 nally placed in service, for a period of not less
5 than 12 years, such facility shall be treated as
6 originally placed in service not earlier than the
7 date on which such property is used under the
8 leaseback (or lease).

9 The preceding sentence shall not apply to any prop-
10 erty if the lessee and lessor of such property make
11 an election under this sentence. Such an election,
12 once made, may be revoked only with the consent of
13 the Secretary.

14 “(c) QUALIFIED INVESTMENT.—For purposes of sub-
15 section (a), the term ‘qualified investment’ means, with
16 respect to any taxable year, the basis of a qualifying coal
17 gasification technology facility placed in service by the tax-
18 payer during such taxable year.

19 “(d) QUALIFIED PROGRESS EXPENDITURES.—

20 “(1) INCREASE IN QUALIFIED INVESTMENT.—

21 In the case of a taxpayer who has made an election
22 under paragraph (5), the amount of the qualified in-
23 vestment of such taxpayer for the taxable year (de-
24 termined under subsection (c) without regard to this
25 section) shall be increased by an amount equal to

1 the aggregate of each qualified progress expenditure
 2 for the taxable year with respect to progress expend-
 3 iture property.

4 “(2) PROGRESS EXPENDITURE PROPERTY DE-
 5 FINED.—For purposes of this subsection, the term
 6 ‘progress expenditure property’ means any property
 7 being constructed by or for the taxpayer and which
 8 it is reasonable to believe will qualify as a qualifying
 9 coal gasification technology facility which is being
 10 constructed by or for the taxpayer when it is placed
 11 in service.

12 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
 13 FINED.—For purposes of this subsection—

14 “(A) SELF-CONSTRUCTED PROPERTY.—In
 15 the case of any self-constructed property, the
 16 term ‘qualified progress expenditures’ means
 17 the amount which, for purposes of this subpart,
 18 is properly chargeable (during such taxable
 19 year) to capital account with respect to such
 20 property.

21 “(B) NONSELF-CONSTRUCTED PROP-
 22 ERTY.—In the case of nonself-constructed prop-
 23 erty, the term ‘qualified progress expenditures’
 24 means the amount paid during the taxable year

1 to another person for the construction of such
2 property.

3 “(4) OTHER DEFINITIONS.—For purposes of
4 this subsection—

5 “(A) SELF-CONSTRUCTED PROPERTY.—
6 The term ‘self-constructed property’ means
7 property for which it is reasonable to believe
8 that more than half of the construction expendi-
9 tures will be made directly by the taxpayer.

10 “(B) NONSELF-CONSTRUCTED PROP-
11 ERTY.—The term ‘nonself-constructed property’
12 means property which is not self-constructed
13 property.

14 “(C) CONSTRUCTION, ETC.—The term
15 ‘construction’ includes reconstruction and erec-
16 tion, and the term ‘constructed’ includes recon-
17 structed and erected.

18 “(D) ONLY CONSTRUCTION OF QUALI-
19 FYING COAL GASIFICATION TECHNOLOGY FACIL-
20 ITY TO BE TAKEN INTO ACCOUNT.—Construc-
21 tion shall be taken into account only if, for pur-
22 poses of this subpart, expenditures therefor are
23 properly chargeable to capital account with re-
24 spect to the property.

1 “(5) ELECTION.—Except as otherwise provided
2 by regulations, an election under this subsection may
3 be made only on or before the due date prescribed
4 by law (including extensions) for filing the tax-
5 payer’s return of the tax imposed by this chapter for
6 the first taxable year in which the taxpayer makes
7 a qualified investment. Such an election shall apply
8 to the taxable year for which made and to all subse-
9 quent taxable years. Such an election, once made,
10 may not be revoked except with the consent of the
11 Secretary.

12 “(e) COORDINATION WITH OTHER CREDITS.—This
13 section shall not apply to any property with respect to
14 which the rehabilitation credit under section 47 or the en-
15 ergy credit under section 48 is allowed unless the taxpayer
16 elects to waive the application of such credit to such prop-
17 erty.

18 “(f) TERMINATION.—This section shall not apply
19 with respect to any qualified investment made more than
20 10 years after the effective date of this section.”

21 (c) RECAPTURE.—Section 50(a) of the Internal Rev-
22 enue Code of 1986 (relating to other special rules) is
23 amended by adding at the end the following:

24 “(6) SPECIAL RULES RELATING TO QUALIFYING
25 COAL GASIFICATION TECHNOLOGY FACILITY.—For

1 purposes of applying this subsection in the case of
2 any credit allowable by reason of section 48A, the
3 following shall apply:

4 “(A) GENERAL RULE.—In lieu of the
5 amount of the increase in tax under paragraph
6 (1), the increase in tax shall be an amount
7 equal to the investment tax credit allowed under
8 section 38 for all prior taxable years with re-
9 spect to a qualifying coal gasification tech-
10 nology facility (as defined by section 48A(b)(1))
11 multiplied by a fraction whose numerator is the
12 number of years remaining to fully depreciate
13 under this title the qualifying coal gasification
14 technology facility disposed of, and whose de-
15 nominator is the total number of years over
16 which such facility would otherwise have been
17 subject to depreciation. For purposes of the
18 preceding sentence, the year of disposition of
19 the qualifying coal gasification technology facil-
20 ity property shall be treated as a year of re-
21 maining depreciation.

22 “(B) PROPERTY CEASES TO QUALIFY FOR
23 PROGRESS EXPENDITURES.—Rules similar to
24 the rules of paragraph (2) shall apply in the
25 case of qualified progress expenditures for a

1 qualifying coal gasification technology facility
2 under section 48A, except that the amount of
3 the increase in tax under subparagraph (A) of
4 this paragraph shall be substituted in lieu of
5 the amount described in such paragraph (2).

6 “(C) APPLICATION OF PARAGRAPH.—This
7 paragraph shall be applied separately with re-
8 spect to the credit allowed under section 38 re-
9 garding a qualifying coal gasification technology
10 facility.”

11 (d) SPECIAL RULE RELATING TO BASIS ADJUST-
12 MENT.—Section 50(c) of the Internal Revenue Code of
13 1986 (relating to basis adjustment for investment credit
14 property) is amended by adding at the end the following:

15 “(6) NONAPPLICATION.—Paragraphs (1) and
16 (2) shall not apply to any qualifying coal gasification
17 technology facility credit under section 48A.”

18 (e) TRANSITIONAL RULE.—Section 39(d) of the In-
19 ternal Revenue Code of 1986 (relating to transitional
20 rules) is amended by adding at the end the following:

21 “(10) NO CARRYBACK OF SECTION 48A CREDIT
22 BEFORE EFFECTIVE DATE.—No portion of the un-
23 used business credit for any taxable year which is
24 attributable to the qualifying coal gasification tech-
25 nology facility credit determined under section 48A

1 may be carried back to a taxable year ending before
2 the date of enactment of section 48A.”

3 (f) TECHNICAL AMENDMENTS.—

4 (1) Section 49(a)(1)(C) of the Internal Revenue
5 Code of 1986 is amended by striking “and” at the
6 end of clause (ii), by striking the period at the end
7 of clause (iii) and inserting “, and”, and by adding
8 at the end the following:

9 “(iv) the portion of the basis of any
10 qualifying coal gasification technology fa-
11 cility attributable to any qualified invest-
12 ment (as defined by section 48A(c)).”

13 (2) Section 50(a)(4) of such Code is amended
14 by striking “and (2)” and inserting “(2), and (6)”.

15 (3) The table of sections for subpart E of part
16 IV of subchapter A of chapter 1 of such Code is
17 amended by adding after the item relating to section
18 48 the following:

“Sec. 48A. Qualifying coal gasification technology facility credit.”

19 (g) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to periods after December 31,
21 2001, under rules similar to the rules of section 48(m)
22 of the Internal Revenue Code of 1986 (as in effect on the
23 day before the date of enactment of the Revenue Reconcili-
24 ation Act of 1990).

1 **SEC. 6. PRODUCTION TAX CREDIT.**

2 (a) CREDIT FOR PRODUCTION FROM QUALIFYING
3 COAL GASIFICATION TECHNOLOGY FACILITY.—Subpart
4 D of part IV of subchapter A of chapter 1 of the Internal
5 Revenue Code of 1986 (relating to business related cred-
6 its), is amended by adding at the end the following:

7 **“SEC. 45E. CREDIT FOR PRODUCTION FROM QUALIFYING**
8 **COAL GASIFICATION TECHNOLOGY FACILITY.**

9 “(a) GENERAL RULE.—For purposes of section 38,
10 the qualifying coal gasification technology facility produc-
11 tion credit of any taxpayer for any taxable year is equal
12 to—

13 “(1) the applicable amount of coal gasification
14 technology production credit, multiplied by

15 “(2) the kilowatt hours of electricity produced
16 by the taxpayer during such taxable year at a quali-
17 fying coal gasification facility.

18 “(b) APPLICABLE AMOUNT.—For purposes of this
19 section, the applicable amount of coal gasification tech-
20 nology facility production credit with respect to production
21 from a qualifying coal gasification technology facility shall
22 be \$0.0125.

23 “(c) INFLATION ADJUSTMENT FACTOR.—For cal-
24 endar years after 2002, the amount in subsection (b) shall
25 be adjusted by multiplying such amount by the inflation
26 adjustment factor for the calendar year in which the

1 amount is applied. If any amount as increased under the
2 preceding sentence is not a multiple of 0.0001 cent, such
3 amount shall be rounded to the nearest multiple of 0.0001
4 cent.

5 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
6 poses of this section—

7 “(1) IN GENERAL.—Any term used in this sec-
8 tion which is also used in section 48A shall have the
9 meaning given such term in section 48A.

10 “(2) INFLATION ADJUSTMENT FACTOR.—The
11 term ‘inflation adjustment factor’ means, with re-
12 spect to a calendar year, a fraction the numerator
13 of which is the GDP implicit price deflator for the
14 preceding calendar year and the denominator of
15 which is the GDP implicit price deflator for the cal-
16 endar year 2001.

17 “(3) GDP IMPLICIT PRICE DEFLATOR.—The
18 term ‘GDP implicit price deflator’ means the most
19 recent revision of the implicit price deflator for the
20 gross domestic product as computed by the Depart-
21 ment of Commerce before March 15 of the calendar
22 year.”

23 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
24 tion 38(b) of the Internal Revenue Code of 1986 is amend-
25 ed by striking “plus” at the end of paragraph (12), by

1 striking the period at the end of paragraph (13) and in-
 2 serting “, plus”, and by adding at the end the following:

3 “(14) the qualifying coal gasification technology
 4 facility production credit determined under section
 5 45E(a).”

6 (c) TRANSITIONAL RULE.—Section 39(d) of the In-
 7 ternal Revenue Code of 1986 (relating to transitional
 8 rules), as amended by section 5, is amended by adding
 9 at the end the following:

10 “(11) NO CARRYBACK OF SECTION 45C CREDIT
 11 BEFORE EFFECTIVE DATE.—No portion of the un-
 12 used business credit for any taxable year which is
 13 attributable to the qualifying coal gasification tech-
 14 nology facility production credit determined under
 15 section 45E may be carried back to a taxable year
 16 ending before the date of enactment of section
 17 45E.”

18 (d) CLERICAL AMENDMENT.—The table of sections
 19 for subpart D of part IV of subchapter A of chapter 1
 20 of the Internal Revenue Code of 1986 is amended by add-
 21 ing at the end the following:

“Sec. 45E. Credit for production from qualifying coal gasification
 technology facility.”

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to production on or after the date
3 of enactment of this Act.

○