

107TH CONGRESS  
1ST SESSION

# S. 249

To amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2001

Mr. REID introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain 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. SHORT TITLE.**

4       This Act may be cited as the “Renewable Energy De-  
5 velopment Incentives Act”.

6 **SEC. 2. EXPANSION OF RENEWABLE RESOURCE CREDIT TO  
7 INCLUDE ALTERNATIVE RESOURCES.**

8       (a) IN GENERAL.—Section 45(c)(1) of the Internal  
9 Revenue Code of 1986 (relating to qualified energy re-  
10 sources) is amended by striking “and” at the end of sub-

1 paragraph (B), by striking the period at the end of sub-  
2 paragraph (C) and inserting “, and”, and by adding at  
3 the end the following:

4                         “(D) alternative resources.”.

5                 (b) DEFINITION OF ALTERNATIVE RESOURCES.—  
6 Section 45(c) of the Internal Revenue Code of 1986 (relat-  
7 ing to definitions) is amended by adding at the end the  
8 following:

9                         “(5) ALTERNATIVE RESOURCES.—

10                         “(A) IN GENERAL.—The term ‘alternative  
11 resources’ means—

12                         “(i) solar,

13                         “(ii) biomass (other than closed loop  
14 biomass),

15                         “(iii) incremental hydropower, and

16                         “(iv) geothermal energy.

17                         “(B) BIOMASS.—The term ‘biomass’  
18 means any solid, nonhazardous, cellulosic waste  
19 material, which is segregated from other waste  
20 materials, and which is derived from—

21                         “(i) any of the following forest-related  
22 resources: mill residues, precommercial  
23 thinnings, slash, and brush, but not includ-  
24 ing old-growth timber or black liquor,

1                         “(ii) agriculture sources, including or-  
2                         chard tree crops, vineyard, grain, legumes,  
3                         sugar, and other crop by-products or resi-  
4                         dues, or

5                         “(iii) waste pallets, crates, and  
6                         dunnage, and landscape or right-of-way  
7                         tree trimmings, but not including—

8                         “(I) unsegregated municipal solid  
9                         waste (garbage), or

10                         “(II) post-consumer wastepaper  
11                         which can be recycled affordably.

12                         “(C) INCREMENTAL HYDROPOWER.—The  
13                         term ‘incremental hydropower’ means additional  
14                         generating capacity achieved from—

15                         “(i) increased efficiency, or

16                         “(ii) additions of new capacity,

17                         at a licensed non-Federal hydroelectric project  
18                         originally placed in service before the date of  
19                         enactment of this paragraph.”.

20                         (c) QUALIFIED FACILITY.—Section 45(c)(3) of the  
21                         Internal Revenue Code of 1986 (defining qualified facility)  
22                         is amended by adding at the end the following:

23                         “(D) ALTERNATIVE RESOURCES FACIL-  
24                         ITY.—In the case of a facility using alternative  
25                         resources to produce electricity, the term ‘quali-

1                         fied facility' means any facility owned by the  
2                         taxpayer which is originally placed in service  
3                         after December 31, 1992.”.

4                         (d) GOVERNMENT-OWNED FACILITY.—The text and  
5                         heading of section 45(d)(6) of the Internal Revenue Code  
6                         of 1986 (relating to credit eligibility in the case of govern-  
7                         ment-owned facilities using poultry waste) is amended by  
8                         inserting “or alternative resources” after “poultry waste”  
9                         each place it appears.

10                         (e) QUALIFIED FACILITIES WITH CO-PRODUC-  
11                         TION.—Section 45(b) of the Internal Revenue Code of  
12                         1986 (relating to limitations and adjustments) is amended  
13                         by adding at the end the following:

14                         “(4) INCREASED CREDIT FOR CO-PRODUCTION  
15                         FACILITIES.—

16                         “(A) IN GENERAL.—In the case of a qual-  
17                         fied facility described in subsection (c)(3)(D)  
18                         which has a co-production facility or a qualified  
19                         facility described in subparagraph (A), (B), or  
20                         (C) of subsection (c)(3) which adds a co-pro-  
21                         duction facility after the date of the enactment  
22                         of this paragraph, the amount in effect under  
23                         subsection (a)(1) for an eligible taxable year of  
24                         a the taxpayer shall (after adjustment under

1                   paragraphs (1), (2), and (3)) be increased by  
2                   .25 cents.

3                   “(B) CO-PRODUCTION FACILITY.—For  
4                   purposes of subparagraph (A), the term ‘co-pro-  
5                   duction facility’ means a facility which—

6                   “(i) enables a qualified facility to  
7                   produce heat, mechanical power, or min-  
8                   erals from qualified energy resources in ad-  
9                   dition to electricity, and

10                   “(ii) produces such energy on a con-  
11                   tinuous basis.

12                   “(C) ELIGIBLE TAXABLE YEAR.—For pur-  
13                   poses of subparagraph (A), the term ‘eligible  
14                   taxable year’ means any taxable year in which  
15                   the amount of gross receipts attributable to the  
16                   co-production facility of a qualified facility are  
17                   at least 10 percent of the amount of gross re-  
18                   ceipts attributable to electricity produced by  
19                   such facility.”.

20                   (f) QUALIFIED FACILITIES LOCATED WITHIN QUALI-  
21                   FIED INDIAN LANDS.—Section 45(b) of the Internal Rev-  
22                   enue Code of 1986 (relating to limitations and adjust-  
23                   ments), as amended by subsection (e), is amended by add-  
24                   ing at the end the following:

1           “(5) INCREASED CREDIT FOR QUALIFIED FA-  
2       CILITY LOCATED WITHIN QUALIFIED INDIAN  
3       LAND.—In the case of a qualified facility described  
4       in subsection (c)(3)(D) which—

5           “(A) is located within—

6               “(i) qualified Indian lands (as defined

7       in section 7871(c)(3)), or

8               “(ii) lands which are held in trust by  
9       a Native Corporation (as defined in section  
10       3(m) of the Alaska Native Claims Settle-  
11       ment Act (43 U.S.C. 1602(m)) for Alaska  
12       Natives, and

13           “(B) is operated with the explicit written  
14       approval of the Indian tribal government or Na-  
15       tive Corporation (as so defined) having jurisdic-  
16       tion over such lands,

17       the amount in effect under subsection (a)(1) for a  
18       taxable year shall (after adjustment under para-  
19       graphs (1), (2), (3), and (4)) be increased by .25  
20       cents.”.

21       (g) EFFECTIVE DATE.—The amendments made by  
22       this section shall apply to electricity and other energy pro-  
23       duced in taxable years beginning after the date of the en-  
24       actment of this Act.

1 **SEC. 2. ADDITIONAL MODIFICATIONS OF RENEWABLE RE-**2 **SOURCE CREDIT.**

3 (a) CREDIT MAY BE TRANSFERRED.—Section 45(d)  
4 of the Internal Revenue Code of 1986 (relating to defini-  
5 tions and special rules) is amended by adding at the end  
6 the following:

7 “(8) CREDIT MAY BE TRANSFERRED.—Nothing  
8 in any law or rule of law shall be construed to limit  
9 the transferability of the credit allowed by this sec-  
10 tion through agreements by the owner of a qualified  
11 facility—

12 “(A) with any organization that purchases  
13 electricity from, or sells electricity for, such fa-  
14 cility, or

15 “(B) if such owner is exempt from tax  
16 under this chapter.”.

17 (b) COORDINATION WITH OTHER CREDITS.—Section  
18 45(d) of the Internal Revenue Code of 1986, as amended  
19 by subsection (a), is amended by adding at the end the  
20 following:

21 “(9) COORDINATION WITH OTHER CREDITS.—  
22 This section shall not apply to any qualified facility  
23 with respect to which the energy credit under section  
24 48 is allowed for the taxable year unless the tax-  
25 payer elects to waive the application of such credit  
26 to such facility.”.

1       (c) EXPANSION TO INCLUDE ANIMAL WASTE.—Section 45 of the Internal Revenue Code of 1986 (relating  
2 to electricity produced from certain renewable resources)  
3 is amended—

5               (1) in the text and headings of subsections (c)  
6 and (d)(6), by inserting “or other animal waste”  
7 after “poultry waste” each place it appears, and  
8               (2) in subsection (c)(4), by inserting “or other  
9 animal” after “poultry”.

10       (d) TREATMENT OF QUALIFIED FACILITIES NOT IN  
11 COMPLIANCE WITH POLLUTION LAWS.—Section 45(c)(3)  
12 of the Internal Revenue Code of 1986 (relating to qualified  
13 facilities), as amended by section 1(c), is amended by  
14 adding at the end the following:

15               “(E) NONCOMPLIANCE WITH POLLUTION  
16 LAWS.—For purposes of this paragraph, a facility which is not in compliance with the applicable  
17 State and Federal pollution prevention, control, and permit requirements for any period of  
18 time shall not be considered to be a qualified  
19 facility during such period.”.

22       (e) CREDIT ALLOWABLE AGAINST REGULAR AND  
23 MINIMUM TAX.—

24               (1) IN GENERAL.—Section 38(c) of the Internal  
25 Revenue Code of 1986 (relating to limitation based

1 on amount of tax) is amended by redesignating  
2 paragraph (3) as paragraph (4) and inserting after  
3 paragraph (2) the following:

4           “(3) SPECIAL RULES FOR RENEWABLE ELEC-  
5           TRICITY PRODUCTION CREDIT.—

6           “(A) IN GENERAL.—In the case of the re-  
7           newable electricity production credit—

8               “(i) this section and section 39 shall  
9               be applied separately with respect to the  
10              credit, and

11               “(ii) in applying paragraph (1) to the  
12              credit—

13               “(I) subparagraphs (A) and (B)  
14              thereof shall not apply, and

15               “(II) the limitation under para-  
16              graph (1) (as modified by subclause  
17              (I)) shall be reduced by the credit al-  
18              lowed under subsection (a) for the  
19              taxable year (other than the renewable  
20              electricity production credit).

21               “(B) RENEWABLE ELECTRICITY PRODUC-  
22              TION CREDIT.—For purposes of this subsection,  
23              the term ‘renewable electricity production cred-  
24              it’ means the credit allowable under subsection  
25              (a) by reason of section 45(a).”.

5 (f) CREDIT MADE PERMANENT.—Section 45 of the  
6 Internal Revenue Code of 1986 is amended by striking  
7 subsection (f).

8        (g) EXPANSION OF QUALIFIED FACILITY DATES.—  
9 Subparagraphs (A), (B), and (C) of section 45(c)(3) of  
10 the Internal Revenue Code of 1986 (relating to qualified  
11 facility) are each amended by striking “, and before Janu-  
12 ary 1, 2002”.

13 (h) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to electricity and other energy pro-  
15 duced in taxable years beginning after the date of the en-  
16 actment of this Act.

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