

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.

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

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 quali-
 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 cepts 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.—Sec-
 2 tion 45 of the Internal Revenue Code of 1986 (relating
 3 to electricity produced from certain renewable resources)
 4 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 quali-
 13 fied 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 facil-
 17 ity which is not in compliance with the applica-
 18 ble State and Federal pollution prevention, con-
 19 trol, and permit requirements for any period of
 20 time shall not be considered to be a qualified
 21 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

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

“(3) SPECIAL RULES FOR RENEWABLE ELECTRICITY PRODUCTION CREDIT.—

“(A) IN GENERAL.—In the case of the renewable electricity production credit—

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

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

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

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the renewable electricity production credit).

“(B) RENEWABLE ELECTRICITY PRODUCTION CREDIT.—For purposes of this subsection, the term ‘renewable electricity production credit’ means the credit allowable under subsection (a) by reason of section 45(a).”.

1 (2) CONFORMING AMENDMENT.—Subclause (II)
 2 of section 38(c)(2)(A)(ii) of such Code is amended
 3 by inserting “or the renewable electricity production
 4 credit” after “employment credit”.

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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