

108TH CONGRESS
2D SESSION

H. R. 5302

To promote the purchase of renewable energy systems, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2004

Mr. BASS (for himself, Mr. UPTON, and Mr. BRADLEY of New Hampshire) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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 promote the purchase of renewable energy systems, 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 “Renewable Energy Se-
5 curity Act of 2004”.

6 **SEC. 2. WEATHERIZATION ASSISTANCE.**

7 Section 415(c) of the Energy Conservation and Pro-
8 duction Act (42 U.S.C. 6865(c)) is amended—

1 (1) in paragraph (1), by striking “in paragraph
2 (3)” and inserting “in paragraphs (3) and (4)”;

3 (2) in paragraph (3), by striking “\$2,500 per
4 dwelling unit average provided in paragraph (1)”
5 and inserting “dwelling unit averages provided in
6 paragraphs (1) and (4)”;

7 (3) by adding at the end the following new
8 paragraphs:

9 “(4) The expenditure of financial assistance provided
10 under this part for labor, weatherization materials, and
11 related matters for a renewable energy system shall not
12 exceed an average of \$3,000 per dwelling unit.

13 “(5)(A) The Secretary, in consultation with the Sec-
14 retary of Housing and Urban Development and other ap-
15 propriate Federal officers, shall by regulations—

16 “(i) establish the criteria which are to be used
17 in prescribing performance and quality standards
18 under paragraph (6)(A)(ii) or in specifying any form
19 of renewable energy under paragraph (6)(A)(i)(I);
20 and

21 “(ii) establish a procedure under which a manu-
22 facturer of an item may request the Secretary to
23 certify that the item will be treated, for purposes of
24 this paragraph, as a renewable energy system.

1 “(B) The Secretary shall make a final determination
2 with respect to any request filed under subparagraph
3 (A)(ii) within 1 year after the filing of the request, to-
4 gether with any information required to be filed with such
5 request under subparagraph (A)(ii).

6 “(C) Each month the Secretary shall publish a report
7 of any request under subparagraph (A)(ii) which has been
8 denied during the preceding month and the reasons for
9 the denial.

10 “(D) The Secretary shall not specify any form of re-
11 newable energy under paragraph (6)(A)(i)(I) unless the
12 Secretary determines that—

13 “(i) there will be a reduction in oil or natural
14 gas consumption as a result of such specification;

15 “(ii) such specification will not result in an in-
16 creased use of any item which is known to be, or
17 reasonably suspected to be, environmentally haz-
18 ardous or a threat to public health or safety; and

19 “(iii) available Federal subsidies do not make
20 such specification unnecessary or inappropriate (in
21 the light of the most advantageous allocation of eco-
22 nomic resources).

23 “(6) In this subsection—

24 “(A) the term ‘renewable energy system’ means
25 a system which—

1 “(i) when installed in connection with a
2 dwelling, transmits or uses—

3 “(I) solar energy, energy derived from
4 the geothermal deposits, energy derived
5 from biomass, or any other form of renew-
6 able energy which the Secretary specifies
7 by regulations, for the purpose of heating
8 or cooling such dwelling or providing hot
9 water or electricity for use within such
10 dwelling; or

11 “(II) wind energy for nonbusiness res-
12 idential purposes;

13 “(ii) meets the performance and quality
14 standards (if any) which have been prescribed
15 by the Secretary by regulations;

16 “(iii) in the case of a combustion rated
17 system, has a thermal efficiency rating of at
18 least 75 percent; and

19 “(iv) in the case of a solar system, has a
20 thermal efficiency rating of at least 15 percent;
21 and

22 “(B) the term ‘biomass’ means any organic
23 matter that is available on a renewable or recurring
24 basis, including agricultural crops and trees, wood
25 and wood wastes and residues, plants (including

1 aquatic plants), grasses, residues, fibers, and animal
2 wastes, municipal wastes, and other waste mate-
3 rials.”.

4 **SEC. 3. DISTRICT HEATING AND COOLING PROGRAMS.**

5 Section 172 of the Energy Policy Act of 1992 (42
6 U.S.C. 13451 note) is amended—

7 (1) in subsection (a)—

8 (A) by striking “and” at the end of para-
9 graph (3);

10 (B) by striking the period at the end of
11 paragraph (4) and inserting “; and”; and

12 (C) by adding at the end the following new
13 paragraph:

14 “(5) evaluate the use of renewable energy sys-
15 tems (as such term is defined in section 415(c) of
16 the Energy Conservation and Production Act (42
17 U.S.C. 6865(c))) in residential buildings.”; and

18 (2) in subsection (b), by striking “this Act” and
19 inserting “the Renewable Energy Security Act of
20 2004”.

21 **SEC. 4. DEFINITION OF BIOMASS.**

22 Section 203(2) of the Biomass Energy and Alcohol
23 Fuels Act of 1980 (42 U.S.C. 8802(2)) is amended to read
24 as follows:

1 “(2) The term ‘biomass’ means any organic
2 matter that is available on a renewable or recurring
3 basis, including agricultural crops and trees, wood
4 and wood wastes and residues, plants (including
5 aquatic plants), grasses, residues, fibers, and animal
6 wastes, municipal wastes, and other waste mate-
7 rials.”.

8 **SEC. 5. CREDIT FOR RESIDENTIAL RENEWABLE ENERGY**
9 **SYSTEMS.**

10 (a) IN GENERAL.—Subpart A of part IV of sub-
11 chapter A of chapter 1 of the Internal Revenue Code of
12 1986 (relating to nonrefundable personal credits) is
13 amended by inserting after the item relating to section
14 25B the following new section:

15 **“SEC. 25C. RESIDENTIAL RENEWABLE ENERGY SYSTEM.**

16 “(a) GENERAL RULE.—In the case of an individual,
17 there shall be allowed as a credit against the tax imposed
18 by this subtitle for the taxable year an amount equal to
19 20 percent of the qualified renewable energy system ex-
20 penditures made by the taxpayer during the taxable year.

21 “(b) LIMITATIONS.—For purposes of subsection
22 (a)—

23 “(1) MAXIMUM CREDIT.—The amount of the
24 credit allowed under subsection (a) for a taxable
25 year shall not exceed \$3,000.

1 “(2) PRIOR EXPENDITURES BY TAXPAYER ON
2 SAME RESIDENCE TAKEN INTO ACCOUNT.—If for
3 any prior year a credit was allowed to the taxpayer
4 under this section with respect to any dwelling unit
5 by reason of qualified renewable energy system ex-
6 penditures, paragraph (1) shall be applied for the
7 taxable year with respect to such dwelling unit by
8 reducing the dollar amount contained therein by the
9 prior year expenditures taken into account under
10 such paragraph.

11 “(3) MINIMUM DOLLAR AMOUNT.—No credit
12 shall be allowed under this section with respect to
13 any return for any taxable year if the amount which
14 would (but for this paragraph) be allowed with re-
15 spect to such return is less than \$10.

16 “(4) LIMITATION BASED ON AMOUNT OF
17 TAX.—The credit allowed under subsection (a) for
18 any taxable year shall not exceed the excess of—

19 “(A) the sum of the regular tax liability
20 (as defined in section 26(b)) plus the tax im-
21 posed by section 55, over

22 “(B) the sum of the credits allowable
23 under this subpart (other than this section and
24 section 23) and section 27 for the taxable year.

1 “(5) CARRYOVER OF UNUSED CREDIT.—If the
2 credit allowable under subsection (a) for any taxable
3 year exceeds the limitation imposed by paragraph
4 (4) for such taxable year, such excess shall be car-
5 ried to the succeeding taxable year and added to the
6 credit allowable under subsection (a) for such tax-
7 able year. No credit may be carried forward under
8 this subsection to any taxable year following the
9 fifth taxable year after the taxable year in which the
10 credit arose. For purposes of the preceding sentence,
11 credits shall be treated as used on a first-in first-out
12 basis.

13 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
14 poses of this section—

15 “(1) QUALIFIED RENEWABLE ENERGY SYSTEM
16 EXPENDITURE.—

17 “(A) IN GENERAL.—The term ‘qualified
18 renewable energy system expenditure’ means an
19 expenditure made by the taxpayer for renewable
20 energy system property installed in connection
21 with a dwelling unit—

22 “(i) which is located in the United
23 States, and

24 “(ii) which is used by the taxpayer as
25 his principal residence.

1 “(B) CERTAIN LABOR AND OTHER COSTS
2 INCLUDED.—The term ‘qualified renewable en-
3 ergy system expenditure’ includes—

4 “(i) expenditures for labor costs prop-
5 erly allocable to the onsite preparation, as-
6 sembly, or original installation of renew-
7 able energy system property, and

8 “(ii) expenditures for an onsite well
9 drilled for any geothermal deposit (as de-
10 fined in section 613(e)(3)), but only if the
11 taxpayer has not elected under section
12 263(c) to deduct any portion of such ex-
13 penditures.

14 “(C) SWIMMING POOL, ETC., USED AS
15 STORAGE MEDIUM.—The term ‘qualified renew-
16 able energy system expenditure’ does not in-
17 clude any expenditure properly allocable to a
18 swimming pool used as an energy storage me-
19 dium or to any other energy storage medium
20 which has a primary function other than the
21 function of such storage.

22 “(D) CERTAIN SOLAR PANELS.—No solar
23 panel installed as a roof (or portion thereof)
24 shall fail to be treated as renewable energy sys-
25 tem property solely because it constitutes a

1 structural component of the dwelling on which
2 it is installed.

3 “(2) RENEWABLE ENERGY SYSTEM PROP-
4 ERTY.—The term ‘renewable energy system prop-
5 erty’ means property—

6 “(A) which constitutes a renewable energy
7 system, as defined by section 415(c)(6) of the
8 Energy Conservation and Production Act (42
9 U.S.C. 6865(c)(6)),

10 “(B) the original use of which begins with
11 the taxpayer, and

12 “(C) which can reasonably be expected to
13 remain in operation for at least 5 years.

14 “(3) EFFECTIVE DATE.—

15 “(A) IN GENERAL.—In the case of any en-
16 ergy system specified under paragraph (2)(A),
17 the credit allowed by subsection (a) shall apply
18 with respect to expenditures which are made on
19 or after the date on which final notice of such
20 specification is published in the Federal Reg-
21 ister.

22 “(B) EXPENDITURES TAKEN INTO AC-
23 COUNT IN FOLLOWING TAXABLE YEARS.—The
24 Secretary may prescribe by regulations that ex-
25 penditures made on or after the date referred

1 to in clause (i) and before the close of the tax-
2 able year in which such date occurs shall be
3 taken into account in the following taxable year.

4 “(4) WHEN EXPENDITURES MADE; AMOUNT OF
5 EXPENDITURES.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), an expenditure with respect
8 to an item shall be treated as made when origi-
9 nal installation of the item is completed.

10 “(B) CONSTRUCTION OR RECONSTRUCTION
11 OF DWELLING.—In the case of qualified renew-
12 able energy system expenditures in connection
13 with the construction or reconstruction of a
14 dwelling, such expenditures shall be treated as
15 made when the original use of the constructed
16 or reconstructed dwelling by the taxpayer be-
17 gins.

18 “(C) AMOUNT.—The amount of any ex-
19 penditure shall be the cost thereof.

20 “(D) ALLOCATION IN CERTAIN CASES.—If
21 less than 80 percent of the use of an item is for
22 nonbusiness residential purposes, only that por-
23 tion of the expenditures for such item which is
24 properly allocable to use for nonbusiness resi-
25 dential purposes shall be taken into account.

1 For purposes of this subparagraph, use for a
2 swimming pool shall be treated as use which is
3 not for residential purposes.

4 “(5) PRINCIPAL RESIDENCE.—The determina-
5 tion of whether or not a dwelling unit is a taxpayer’s
6 principal residence shall be made under principles
7 similar to those applicable to section 121, except
8 that—

9 “(A) no ownership requirement shall be
10 imposed, and

11 “(B) the period for which a dwelling is
12 treated as the principal residence of the tax-
13 payer shall include the 30-day period ending on
14 the first day on which it would (but for this
15 subparagraph) be treated as his principal resi-
16 dence.

17 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
18 ERGY FINANCING.—

19 “(A) REDUCTION OF QUALIFIED EXPENDI-
20 TURES.—For purposes of determining the
21 amount of qualified renewable energy system
22 expenditures made by any individual with re-
23 spect to any dwelling unit, there shall not be
24 taken into account expenditures which are made
25 from subsidized energy financing.

1 “(B) DOLLAR LIMITS REDUCED.—Para-
2 graph (1) of subsection (b) shall be applied with
3 respect to such dwelling unit for any taxable
4 year of such taxpayer by reducing each dollar
5 amount contained in such paragraph (reduced
6 as provided in subsection (b)(3)) by an amount
7 equal to the sum of—

8 “(i) the amount of the expenditures
9 which were made by the taxpayer during
10 such taxable year or any prior taxable year
11 with respect to such dwelling unit and
12 which were not taken into account by rea-
13 son of subparagraph (A), and

14 “(ii) the amount of any Federal,
15 State, or local grant received by the tax-
16 payer during such taxable year or any
17 prior taxable year which was used to make
18 qualified renewable energy system expendi-
19 tures with respect to the dwelling unit and
20 which was not included in the gross income
21 of such taxpayer.

22 “(C) SUBSIDIZED ENERGY FINANCING.—
23 For purposes of subparagraph (A), the term
24 ‘subsidized energy financing’ means financing
25 provided under a Federal, State, or local pro-

1 gram a principal purpose of which is to provide
2 subsidized financing for projects designed to
3 conserve or produce energy.

4 “(d) SPECIAL RULES.—For purposes of this sec-
5 tion—

6 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
7 CUPANCY.—In the case of any dwelling unit which is
8 jointly occupied and used during any calendar year
9 as a principal residence by 2 or more individuals—

10 “(A) the amount of the credit allowable
11 under subsection (a) by reason of qualified re-
12 newable energy system expenditures (as the
13 case may be) made during such calendar year
14 by any of such individuals with respect to such
15 dwelling unit shall be determined by treating all
16 of such individuals as one taxpayer whose tax-
17 able year is such calendar year, and

18 “(B) there shall be allowable with respect
19 to such expenditures to each of such individ-
20 uals, a credit under subsection (a) for the tax-
21 able year in which such calendar year ends in
22 an amount which bears the same ratio to the
23 amount determined under subparagraph (A) as
24 the amount of such expenditures made by such
25 individual during such calendar year bears to

1 the aggregate of such expenditures made by all
2 of such individuals during such calendar year.

3 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
4 HOUSING CORPORATION.—In the case of an indi-
5 vidual who is a tenant-stockholder (as defined in sec-
6 tion 216) in a cooperative housing corporation (as
7 defined in such section), such individual shall be
8 treated as having made his tenant-stockholder’s pro-
9 portionate share (as defined in section 216(b)(3)) of
10 any expenditures of such corporation.

11 “(3) CONDOMINIUMS.—

12 “(A) IN GENERAL.—In the case of an indi-
13 vidual who is a member of a condominium man-
14 agement association with respect to a condo-
15 minium which he owns, such individual shall be
16 treated as having made his proportionate share
17 of any expenditures of such association.

18 “(B) CONDOMINIUM MANAGEMENT ASSO-
19 CIATION.—For purposes of this paragraph, the
20 term ‘condominium management association’
21 means an organization which meets the require-
22 ments of paragraph (1) of section 528(c) (other
23 than subparagraph (E) thereof) with respect to
24 a condominium project substantially all of the
25 units of which are used as residences.

1 “(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

2 “(A) IN GENERAL.—Any expenditure oth-
3 erwise qualifying as a qualified renewable en-
4 ergy system expenditure shall not be treated as
5 failing to so qualify merely because such ex-
6 penditure was made with respect to 2 or more
7 dwelling units.

8 “(B) LIMITS APPLIED SEPARATELY.—In
9 the case of any expenditure described in sub-
10 paragraph (A), the amount of the credit allow-
11 able under subsection (a) shall (subject to para-
12 graph (1)) be computed separately with respect
13 to the amount of the expenditure made by each
14 individual.

15 “(e) BASIS ADJUSTMENTS.—For purposes of this
16 subtitle, if a credit is allowed under this section for any
17 expenditure with respect to any property, the increase in
18 the basis of such property which would (but for this sub-
19 section) result from such expenditure shall be reduced by
20 the amount of the credit so allowed.

21 “(f) TERMINATION.—This section shall not apply to
22 expenditures made after December 31, 2009.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for subpart A of part IV of subchapter A of chapter 1

1 of such Code is amended by inserting after the item relat-
 2 ing to section 25B the following new item:

“Sec. 25C. Residential renewable energy system.”.

3 (c) BASIS ADJUSTMENT.—Section 1016(a) of such
 4 Code is amended by striking “and” at the end of para-
 5 graph (27), by striking the period at the end of paragraph
 6 (28) and inserting “, and”, and by adding at the end the
 7 following new paragraph:

8 “(29) to the extent provided in section
 9 25C(e).”.

10 (d) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 2004.

13 **SEC. 6. CREDIT FOR RENEWABLE ENERGY SYSTEMS**
 14 **PLACED IN SERVICE BY SMALL BUSINESSES.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
 16 chapter A of chapter 1 of the Internal Revenue Code of
 17 1986 (relating to business related credits) is amended by
 18 adding at the end the following new section:

19 **“SEC. 45G. RENEWABLE ENERGY SYSTEMS CREDIT.**

20 “(a) IN GENERAL.—For purposes of section 38, in
 21 the case of an eligible small business, the amount of the
 22 renewable energy systems credit determined under this
 23 section for any taxable year shall be an amount equal to
 24 20 percent of the qualified renewable energy system ex-
 25 penditures for the taxable year.

1 “(b) LIMITATION.—The amount of the credit allowed
2 under subsection (a) for a taxable year shall not exceed
3 \$10,000.

4 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
5 this section, the term ‘eligible small business’ has the
6 meaning given such term by section 44(b).

7 “(d) QUALIFIED RENEWABLE ENERGY SYSTEM EX-
8 PENDITURES.—The term ‘qualified renewable energy sys-
9 tem expenditures’ has the meaning given such term by sec-
10 tion 25C(c)(1), except that ‘commercial property’ shall be
11 substituted for ‘dwelling unit’ each place it appears and
12 subparagraph (A)(ii) thereof shall not apply.

13 “(e) APPLICABLE RULES.—For purposes of this sec-
14 tion, rules similar to the rules of paragraphs (2), (6), and
15 (7) of section 44(d) shall apply.”.

16 (b) CREDIT MADE PART OF GENERAL BUSINESS
17 CREDIT.—Section 38(b) of such Code (relating to current
18 year business credit) is amended by striking “plus” at the
19 end of paragraph (14), by striking the period at the end
20 of paragraph (15) and inserting “, plus”, and by adding
21 at the end the following new paragraph:

22 “(16) the renewable energy systems credit de-
23 termined under section 45G(a).”.

1 (c) LIMITATION ON CARRYBACK.—Section 39(d) of
 2 such Code (relating to transitional rules) is amended by
 3 adding at the end the following new paragraph:

4 “(11) NO CARRYBACK OF RENEWABLE ENERGY
 5 SYSTEMS CREDIT BEFORE EFFECTIVE DATE.—No
 6 portion of the unused business credit for any taxable
 7 year which is attributable to the credit determined
 8 under section 45G may be carried back to any tax-
 9 able year ending on or before the date of the enact-
 10 ment of section 45G.”.

11 (d) CLERICAL AMENDMENT.—The table of sections
 12 for subpart D of part IV of subchapter A of chapter 1
 13 of such Code is amended by adding at the end the fol-
 14 lowing new item:

“Sec. 45G. Renewable energy systems credit.”.

15 (e) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years ending after the
 17 date of the enactment of this Act.

○