

108TH CONGRESS  
1ST SESSION

# S. 944

To enhance national security, environmental quality, and economic stability by increasing the production of clean, domestically produced renewable energy as a fuel source for the national electric system.

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## IN THE SENATE OF THE UNITED STATES

APRIL 29, 2003

Mr. JEFFORDS (for himself, Mr. DURBIN, Mr. REID, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To enhance national security, environmental quality, and economic stability by increasing the production of clean, domestically produced renewable energy as a fuel source for the national electric system.

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 In-  
5        vestment Act of 2003.”

6        **SEC. 2. DEFINITIONS.**

7        In this Act:

8                (1) BIOMASS.—

1 (A) IN GENERAL.—The term “biomass”  
2 means—

3 (i) organic material from a plant that  
4 is planted for the purpose of being used to  
5 produce energy;

6 (ii) nonhazardous, cellulosic or agri-  
7 cultural waste material that is segregated  
8 from other waste materials and is derived  
9 from—

10 (I) a forest-related resource, in-  
11 cluding—

12 (aa) mill and harvesting res-  
13 idue;

14 (bb) precommercial  
15 thinnings;

16 (cc) slash; and

17 (dd) brush;

18 (II) an agricultural resource, in-  
19 cluding—

20 (aa) orchard tree crops;

21 (bb) vineyards;

22 (cc) grains;

23 (dd) legumes;

24 (ee) sugar; and

1 (ff) other crop byproducts or  
2 residues; or

3 (III) miscellaneous waste such  
4 as—

5 (aa) waste pallet;

6 (bb) crate; and

7 (cc) landscape or right-of-  
8 way tree trimmings; and

9 (iii) animal waste that is converted to  
10 a fuel rather than directly combusted, the  
11 residue of which is converted to a biologi-  
12 cal fertilizer, oil, or activated carbon.

13 (B) EXCLUSIONS.—The term “biomass”  
14 does not include—

15 (i) incineration of municipal solid  
16 waste;

17 (ii) recyclable postconsumer waste  
18 paper;

19 (iii) painted, treated, or pressurized  
20 wood;

21 (iv) wood contaminated with plastic or  
22 metal; or

23 (v) tires.

24 (2) DISTRIBUTED GENERATION.—The term  
25 “distributed generation” means reduced electricity

1 consumption from the electric grid due to use by a  
2 customer of renewable energy generated at a cus-  
3 tomer site.

4 (3) INCREMENTAL HYDROPOWER.—The term  
5 “incremental hydropower” means additional genera-  
6 tion achieved from increased efficiency after January  
7 1, 2003, at a hydroelectric dam that was placed in  
8 service before January 1, 2003.

9 (4) LANDFILL GAS.—The term “landfill gas”  
10 means gas generated from the decomposition of  
11 household solid waste, commercial solid waste, or in-  
12 dustrial solid waste disposed of in a municipal solid  
13 waste landfill unit (as those terms are defined in  
14 regulations promulgated under subtitle D of the  
15 Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

16 (5) RENEWABLE ENERGY.—The term “renew-  
17 able energy” means electricity generated from—

18 (A) a renewable energy source; or

19 (B) hydrogen that is produced from a re-  
20 newable energy source.

21 (6) RENEWABLE ENERGY SOURCE.—The term  
22 “renewable energy source” means—

23 (A) wind;

24 (B) ocean waves;

25 (C) biomass;

- 1 (D) solar sources;
- 2 (E) landfill gas;
- 3 (F) incremental hydropower; or
- 4 (G) a geothermal source.

5 (7) RETAIL ELECTRIC SUPPLIER.—The term  
6 “retail electric supplier”, with respect to any cal-  
7 endar year, means a person or entity that—

- 8 (A) sells retail electricity to consumers;
- 9 and

10 (B) sold not less than 500,000 megawatt-  
11 hours of electric energy to consumers for pur-  
12 poses other than resale during the preceding  
13 calendar year.

14 (8) SECRETARY.—The term “Secretary” means  
15 the Secretary of Energy.

16 **SEC. 3. RENEWABLE ENERGY GENERATION STANDARDS.**

17 (a) RENEWABLE ENERGY CREDITS.—

18 (1) IN GENERAL.—For each calendar year be-  
19 ginning in calendar year 2006, each retail electric  
20 supplier shall submit to the Secretary, not later than  
21 April 30 of each year, renewable energy credits in an  
22 amount equal to the required annual percentage of  
23 the retail electric supplier’s total amount of kilowatt-  
24 hours of nonhydropower electricity sold to consumers  
25 during the previous calendar year.

1           (2) CARRYOVER OF RENEWABLE ENERGY CRED-  
 2           ITS.—A renewable energy credit for any year that is  
 3           not used to satisfy the minimum requirement for  
 4           that year may be carried over for use within the  
 5           next 2 years.

6           (b) REQUIRED ANNUAL PERCENTAGE.—Of the total  
 7           amount of nonhydropower electricity sold by each retail  
 8           electric supplier during a calendar year, the amount gen-  
 9           erated by renewable energy sources shall be not less than  
 10          the percentage specified below:

<b>Calendar year:</b>	<b>Percentage of Renewable energy each year:</b>
2006–2009 .....	5
2010–2014 .....	10
2015–2019 .....	15
2020 and subsequent years .....	20.

11          (c) SUBMISSION OF RENEWABLE ENERGY CRED-  
 12          ITS.—

13           (1) IN GENERAL.—To meet the requirements  
 14          under subsection (a), a retail electric supplier shall  
 15          submit to the Secretary—

16           (A) renewable energy credits issued to the  
 17          retail electric supplier under subsection (e);

18           (B) renewable energy credits obtained by  
 19          purchase or exchange under subsection (f);

20           (C) renewable energy credits purchased  
 21          from the United States under subsection (g); or

1 (D) any combination of renewable energy  
 2 credits obtained under subsections (e), (f), and  
 3 (g).

4 (2) NO DOUBLE COUNTING.—A renewable en-  
 5 ergy credit may be counted toward compliance with  
 6 subsection (a) only once.

7 (d) RENEWABLE ENERGY CREDIT PROGRAM.—Not  
 8 later than 1 year after the date of enactment of this Act,  
 9 the Secretary shall establish a program to issue, monitor  
 10 the sale or exchange of, and track renewable energy cred-  
 11 its.

12 (e) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

13 (1) APPLICATION.—

14 (A) IN GENERAL.—Under the program es-  
 15 tablished under subsection (d), an entity that  
 16 generates electric energy through the use of a  
 17 renewable energy resource may apply to the  
 18 Secretary for the issuance of renewable energy  
 19 credits.

20 (B) CONTENTS.—An application under  
 21 subparagraph (A) shall indicate—

22 (i) the type of renewable energy re-  
 23 source used to produce the electric energy;

24 (ii) the State in which the electric en-  
 25 ergy was produced; and

1 (iii) any other information that the  
2 Secretary determines to be appropriate.

3 (2) ISSUANCES.—

4 (A) IN GENERAL.—Except as provided in  
5 subparagraph (C), the Secretary shall issue to  
6 an entity applying under this subsection 1 re-  
7 newable energy credit for each kilowatt-hour of  
8 renewable energy generated in any State from  
9 the date of enactment of this Act and in each  
10 subsequent calendar year.

11 (B) VESTING.—A renewable energy credit  
12 will vest with the owner of the system or facility  
13 that generates the renewable energy unless the  
14 owner explicitly transfers the renewable energy  
15 credit.

16 (C) AMOUNT.—The Secretary shall issue 3  
17 renewable energy credits for each kilowatt-hour  
18 of distributed generation.

19 (3) ELIGIBILITY.—

20 (A) IN GENERAL.—To be eligible for a re-  
21 newable energy credit, the unit of electricity  
22 generated through the use of a renewable en-  
23 ergy resource shall be sold for retail consump-  
24 tion or used by the generator.

1 (B) ENERGY GENERATED FROM A COM-  
2 BINATION OF SOURCES.—If both a renewable  
3 energy resource and a nonrenewable energy re-  
4 source are used to generate the electric energy,  
5 the Secretary shall issue renewable energy cred-  
6 its based on the proportion of the renewable en-  
7 ergy resource used.

8 (C) IDENTIFICATION OF TYPE AND  
9 DATE.—The Secretary shall identify renewable  
10 energy credits by the type and date of genera-  
11 tion.

12 (4) SALE UNDER CONTRACT UNDER PURPA.—  
13 In a case in which a generator sells electric energy  
14 generated through the use of a renewable energy re-  
15 source to a retail electric supplier under a contract  
16 subject to section 210 of the Public Utilities Regu-  
17 latory Policies Act of 1978 (16 U.S.C. 824a-3), the  
18 retail electric supplier shall be treated as the gener-  
19 ator of the electric energy for the purposes of this  
20 Act for the duration of the contract.

21 (f) SALE OR EXCHANGE OF RENEWABLE ENERGY  
22 CREDITS.—

23 (1) IN GENERAL.—A renewable energy credit  
24 may be sold or exchanged by the entity issued the

1 renewable energy credit or by any other entity that  
2 acquires the renewable energy credit.

3 (2) MANNER OF SALE.—A renewable energy  
4 credit may be sold or exchanged in any manner not  
5 in conflict with existing law, including on the spot  
6 market or by contractual arrangements of any dura-  
7 tion.

8 (g) PURCHASE FROM THE UNITED STATES.—

9 (1) IN GENERAL.—The Secretary shall offer re-  
10 newable energy credits for sale at the lesser of 3  
11 cents per kilowatt-hour or 110 percent of the aver-  
12 age market value of renewable energy credits for the  
13 applicable compliance period.

14 (2) ADJUSTMENT FOR INFLATION.—On Janu-  
15 ary 1 of each year following calendar year 2006, the  
16 Secretary shall adjust for inflation the price charged  
17 per renewable energy credit for the calendar year.

18 (h) STATE PROGRAMS.—Nothing in this section pre-  
19 cludes any State from requiring additional renewable en-  
20 ergy generation in the State under any renewable energy  
21 program conducted by the State not in conflict with this  
22 Act.

23 (i) CONSUMER ALLOCATION.—

24 (1) RATES.—The rates charged to classes of  
25 consumers by a retail electric supplier shall reflect a

1 proportional percentage of the cost of generating or  
2 acquiring the required annual percentage of renew-  
3 able energy under subsection (a).

4 (2) REPRESENTATIONS TO CUSTOMERS.—A re-  
5 tail electric supplier shall not represent to any cus-  
6 tomer or prospective customer that any product con-  
7 tains more than the percentage of eligible resources  
8 if the additional amount of eligible resources is being  
9 used to satisfy the renewable generation requirement  
10 under subsection (a).

11 (j) ENFORCEMENT.—

12 (1) IN GENERAL.—A retail electric supplier that  
13 does not submit renewable energy credits as required  
14 under subsection (a) shall be liable for the payment  
15 of a civil penalty.

16 (2) AMOUNT.—The amount of a civil penalty  
17 under paragraph (1) shall be calculated on the basis  
18 of the number of renewable energy credits not sub-  
19 mitted, multiplied by the lesser of 4.5 cents or 300  
20 percent of the average market value of renewable en-  
21 ergy credits for the compliance period.

22 (k) INFORMATION COLLECTION.—The Secretary may  
23 collect the information necessary to verify and audit—

1           (1) the annual electric energy generation and  
2           renewable energy generation of any entity applying  
3           for renewable energy credits under this section;

4           (2) the validity of renewable energy credits sub-  
5           mitted by a retail electric supplier to the Secretary;  
6           and

7           (3) the quantity of electricity sales of all retail  
8           electric suppliers.

9           (1) VOLUNTARY PARTICIPATION.—The Secretary may  
10          issue a renewable energy credit under subsection (e) to  
11          any entity not subject to the requirements of this Act only  
12          if the entity applying for the renewable energy credit  
13          meets the terms and conditions of this Act to the same  
14          extent as entities subject to this Act.

15          **SEC. 4. STATE RENEWABLE ENERGY GRANT PROGRAM.**

16          (a) DISTRIBUTION OF AMOUNTS.—The Secretary  
17          shall distribute amounts received from sales under sub-  
18          section 3(h) and from amounts received under subsection  
19          3(k) to States to be used for the purposes of this section.

20          (b) PROGRAM.—

21                  (1) IN GENERAL.—Not later than 1 year after  
22                  the date of enactment of this Act, the Secretary  
23                  shall establish a program to promote State renew-  
24                  able energy production and use.

1           (2) USE OF FUNDS.—The Secretary shall make  
2 funds available under this section to State energy  
3 agencies for grant programs for—

4                   (A) renewable energy research and devel-  
5 opment;

6                   (B) loan guarantees to encourage construc-  
7 tion of renewable energy facilities;

8                   (C) consumer rebate or other programs to  
9 offset costs of small residential or small com-  
10 mercial renewable energy systems including  
11 solar hot water; or

12                   (D) promotion of distributed generation.

13       (c) PREFERENCE.—In allocating funds under the  
14 program, the Secretary shall give preference to—

15                   (1) States that have a disproportionately small  
16 share of economically sustainable renewable energy  
17 generation capacity; and

18                   (2) State grant programs that are most likely  
19 to stimulate or enhance innovative renewable energy  
20 technologies.

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