

111TH CONGRESS  
1ST SESSION

# H. R. 2885

To amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources and the investment energy credit to include ocean thermal energy conversion projects.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2009

Mr. FALEOMAVAEGA (for himself, Ms. BORDALLO, Mrs. CHRISTENSEN, Mr. PIERLUISI, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Ways and Means

---

## A BILL

To amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources and the investment energy credit to include ocean thermal energy conversion projects.

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 “Ocean Thermal Energy  
5 Tax and Energy Credits Act of 2009”.

6 **SEC. 2. ELECTRICITY PRODUCED FROM CERTAIN RENEW-**  
7 **ABLE RESOURCES.**

8 (a) OCEAN THERMAL ENERGY.—

1           (1) IN GENERAL.—Section 45(c)(1) of the In-  
2           ternal Revenue Code of 1986 is amended by striking  
3           “and” at the end of subparagraph (H), by striking  
4           the period at the end of subparagraph (I) and in-  
5           serting “, and”, and by adding at the end the fol-  
6           lowing new subparagraph:

7                     “(J) ocean thermal energy conversion.”.

8           (2) OCEAN THERMAL ENERGY CONVERSION.—  
9           Section 45(c) of such Code is amended by adding at  
10          the end the following new paragraph:

11                   “(11) OCEAN THERMAL ENERGY CONVER-  
12           SION.—The term ‘ocean thermal energy conversion’  
13           includes energy or water, or both, from ocean ther-  
14           mal resources, including ocean thermal-cooling for  
15           community air conditioning.”.

16          (3) QUALIFIED FACILITY.—Section 45(d) of  
17          such Code is amended by adding at the end the fol-  
18          lowing new paragraph:

19                   “(10) QUALIFIED OCEAN THERMAL ENERGY  
20           CONVERSION FACILITY.—In the case of a facility  
21           using ocean thermal energy to produce electricity,  
22           the term ‘qualified facility’ means any facility owned  
23           by the taxpayer which is originally placed in service  
24           after December 31, 1993, and before January 1,  
25           2015.”.

1       (b) PRODUCTION IN THE CERTAIN TERRITORIES  
2 TAKEN INTO ACCOUNT.—Section 45(e)(1) of such Code  
3 is amended by striking “or” at the end of subparagraph  
4 (A), by striking the period at the end of subparagraph  
5 (B) and inserting a comma, and by adding at the end the  
6 following new subparagraph:

7               “(C) in the case of sales with respect to  
8 electricity the production of which is attrib-  
9 utable to ocean thermal energy conversion—

10               “(i) Guam, American Samoa, Com-  
11 monwealth of the Northern Marianas Is-  
12 lands, United States Virgin Islands, or  
13 Puerto Rico, including all territorial wa-  
14 ters, seabed and subsoil of submarine  
15 areas thereof,

16               “(ii) Republic of the Marshall Islands,  
17 Federated States of Micronesia, or Repub-  
18 lic of Palau, including all territorial waters,  
19 seabed and subsoil of submarine areas  
20 thereof, or

21               “(iii) any United States Government  
22 installation worldwide, including military  
23 bases, embassies and other facilities,  
24 whether owned or leased by the United  
25 States Government, including all areas set

1                   forth in section 638 (all territorial waters,  
2                   seabed and subsoil of submarine areas ad-  
3                   jacent to such installations).”.

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to property placed in service after  
6 the date of the enactment of this Act.

7 **SEC. 3. ENERGY INVESTMENT CREDIT.**

8           (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
9 nal Revenue Code of 1986 is amended by striking “or”  
10 at the end of clause (vi), by inserting “or” at the end of  
11 clause (vii), and by inserting after clause (vii) the fol-  
12 lowing new clause:

13                   “(viii) equipment which uses ocean  
14                   thermal energy to generate electricity, or  
15                   to cool (or provide cold water for use in)  
16                   a structure, or to produce fresh water,”.

17           (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply to property placed in service  
19 after the date of the enactment of this Act.

○