

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4668

To amend the Internal Revenue Code of 1986 to expand the renewable resources production tax credit to include additional forms of renewable energy, and to expand the investment tax credit to include equipment used to produce electricity from renewable resources.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2002

Mr. HUNTER (for himself and Mr. UDALL of Colorado) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to expand the renewable resources production tax credit to include additional forms of renewable energy, and to expand the investment tax credit to include equipment used to produce electricity from 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 Fuel Equity  
5 Act”.

1 **SEC. 2. EXPANSION OF RENEWABLE RESOURCES CREDIT.**

2 (a) IN GENERAL.—Section 45(c)(1) of the Internal  
3 Revenue Code of 1986 (relating to qualified energy re-  
4 sources) is amended by striking “and” at the end of sub-  
5 paragraph (B), by striking the period at the end of the  
6 subparagraph (C) and inserting a comma, and by adding  
7 at the end the following new subparagraphs:

8 “(D) geothermal energy,

9 “(E) solar energy,

10 “(F) incremental hydropower, and

11 “(G) biomass (other than closed-loop bio-  
12 mass).”

13 (b) EXTENSION AND MODIFICATION OF PLACED-IN-  
14 SERVICE RULES WITH RESPECT TO BIOMASS FACILI-  
15 TIES.—

16 (1) IN GENERAL.—Paragraph (3) of section  
17 45(c) of the Internal Revenue Code of 1986 (defin-  
18 ing qualified facility) is amended—

19 (A) by striking subparagraph (B) and in-  
20 serting the following new subparagraph:

21 “(B) CLOSED-LOOP BIOMASS FACILITY.—

22 In the case of a facility using closed-loop bio-  
23 mass to produce electricity, the term ‘qualified  
24 facility’ means any facility—

1 “(i) owned by the taxpayer which is  
2 originally placed in service after December  
3 31, 1992, and before January 1, 2007, or

4 “(ii) owned by the taxpayer which is  
5 originally placed in service on or before  
6 December 31, 1992, and modified to use  
7 closed-loop biomass to co-fire with coal be-  
8 fore January 1, 2007.”,

9 (B) by striking “2004” in subparagraph  
10 (C) and inserting “2007”, and

11 (C) by adding at the end the following new  
12 subparagraph:

13 “(D) BIOMASS FACILITY.—In the case of a  
14 facility using biomass (other than closed-loop  
15 biomass) to produce electricity, the term ‘quali-  
16 fied facility’ means any facility owned by the  
17 taxpayer which is originally placed in service be-  
18 fore January 1, 2007.”.

19 (2) DEFINITION.—Subsection (c) of section 45  
20 of such Code (relating to definitions) is amended by  
21 adding at the end the following new paragraph:

22 “(5) BIOMASS.—The term ‘biomass’ means any  
23 solid, nonhazardous, cellulosic waste material which  
24 is segregated from other waste materials and which  
25 is derived from—

1           “(A) any of the following forest-related re-  
2           sources: mill residues, precommercial thinnings,  
3           slash, and brush, but not including old-growth  
4           timber,

5           “(B) solid wood waste materials, including  
6           waste pallets, crates, dunnage, manufacturing  
7           and construction wood wastes (other than pres-  
8           sure-treated, chemically-treated, or painted  
9           wood wastes), and landscape or right-of-way  
10          tree trimmings, but not including municipal  
11          solid waste (garbage), gas derived from the bio-  
12          degradation of solid waste, or paper that is  
13          commonly recycled, or

14          “(C) agriculture sources, including orchard  
15          tree crops, vineyard, grain, legumes, sugar, and  
16          other crop by-products or residues.”.

17          (3) SPECIAL RULES.—Subsection (d) of section  
18          45 of such Code (relating to definitions and special  
19          rules) is amended by adding at the end the following  
20          new paragraph:

21                 “(8) SPECIAL RULES WITH RESPECT TO BIO-  
22          MASS.—In the case of a qualified facility described  
23          in subparagraph (B)(ii) or (D) of subsection  
24          (c)(3)—

1           “(A) the 10-year period referred to in sub-  
2           section (a) shall be treated as beginning no ear-  
3           lier than the date of the enactment of this para-  
4           graph,

5           “(B) subsection (b)(3) shall not apply to  
6           any such facility originally placed in service be-  
7           fore January 1, 1997, and

8           “(C) if such a facility is leased and the op-  
9           erator thereof is the lessee, such lessee (and not  
10          the owner) shall be treated for purposes of this  
11          section as owning such facility.”

12          (c) QUALIFIED FACILITY TO INCLUDE GEO-  
13          THERMAL, SOLAR ENERGY, AND INCREMENTAL HYDRO-  
14          POWER FACILITY.—

15               (1) IN GENERAL.—Paragraph (3) of section  
16               45(c) of such Code, as amended by subsection (b),  
17               is amended by inserting after subparagraph (D) the  
18               following new subparagraphs:

19               “(E) GEOTHERMAL FACILITY.—In the case  
20               of a facility using geothermal energy to produce  
21               electricity, the term ‘qualified facility’ means—

22                       “(i) any facility owned by the tax-  
23                       payer which is originally placed in service  
24                       after December 31, 2001, or

1           “(ii) any facility owned by the tax-  
2           payer which is originally placed in service  
3           before January 1, 2002, but only to the ex-  
4           tent of its incremental geothermal produc-  
5           tion.

6           “(F) SOLAR ENERGY FACILITY.—In the  
7           case of a facility using solar energy to produce  
8           electricity, the term ‘qualified facility’ means—

9                   “(i) any facility owned by the tax-  
10                  payer which is originally placed in service  
11                  after December 31, 2001, or

12                   “(ii) any facility owned by the tax-  
13                  payer which is originally placed in service  
14                  before January 1, 2002, and modified on  
15                  or after such date with additional gener-  
16                  ating capacity.

17           In the case of a facility referred to in clause  
18           (ii), the credit under subsection (a) applies only  
19           to the production from the additional gener-  
20           ating capacity.

21           “(G) INCREMENTAL HYDROPOWER FACIL-  
22           ITY.—In the case of a facility using incremental  
23           hydropower to produce electricity, the term  
24           ‘qualified facility’ means any facility owned by

1 the taxpayer that achieves additional generation  
2 from—

3 “(i) increased efficiency, or

4 “(ii) additions of new capacity,

5 at a non-Federal hydroelectric project originally  
6 placed in service before the date of enactment  
7 of this subparagraph.”.

8 (2) SPECIAL RULE.—Subsection (d) of section  
9 45 of such Code (relating to definitions and special  
10 rules), as amended by subsection (b)(3), is amended  
11 by adding at the end the following new paragraph:

12 “(9) DEFINITION AND SPECIAL RULE WITH RE-  
13 SPECT TO INCREMENTAL GEOTHERMAL PRODUC-  
14 TION.—

15 “(A) IN GENERAL.—The term ‘incremental  
16 geothermal production’ means for any taxable  
17 year the excess of—

18 “(i) the total kilowatt hours of elec-  
19 tricity produced from a geothermal facility  
20 described in subsection (c)(3)(E)(ii), over

21 “(ii) the average annual kilowatt  
22 hours produced at such facility for five of  
23 the previous seven calendar years prior to  
24 the date of the enactment of this para-  
25 graph after eliminating the highest and

1 lowest kilowatt hour production years in  
2 such seven-year period.

3 “(B) SPECIAL RULE.—A facility described  
4 in subsection (c)(3)(E)(ii) which was placed in  
5 service seven years or longer prior to the date  
6 of the enactment of this paragraph shall, com-  
7 mencing with the year of such enactment, re-  
8 duce the amount calculated under subparagraph  
9 (A)(ii) each year, on a cumulative basis, by the  
10 average decrease in annual kilowatt hour pro-  
11 duction for the seven-year period described in  
12 subparagraph (A)(ii) with such cumulative sum  
13 not to exceed 30 percent.”.

14 (d) COORDINATION WITH OTHER CREDITS.—Sub-  
15 section (d) of section 45 of such Code (relating to defini-  
16 tions and special rules), as amended by subsection (c)(2),  
17 is amended by adding at the end the following:

18 “(10) COORDINATION WITH OTHER CREDITS.—  
19 This section shall not apply to any qualified facility  
20 with respect to which a credit under any other sec-  
21 tion is allowed for the taxable year unless the tax-  
22 payer elects to waive application of such credit to  
23 such facility.”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to electricity sold after December  
3 31, 2001.

4 **SEC. 3. EXPANSION OF INVESTMENT TAX CREDIT TO IN-**  
5 **CLUDE EQUIPMENT USED TO PRODUCE**  
6 **ELECTRICITY FROM CERTAIN RENEWABLE**  
7 **RESOURCES.**

8 (a) IN GENERAL.—Subparagraph (A) of section  
9 48(a)(3) of the Internal Revenue Code of 1986 (relating  
10 to energy credit reforestation credit) is amended by strik-  
11 ing “or” at the end of clause (i), inserting “or” at the  
12 end of clause (ii), and adding at the end the following new  
13 clause:

14 “(iii) equipment used to produce elec-  
15 tricity from a qualified facility (as defined  
16 in section 45).”.

17 (b) INCREASED CREDIT FOR CERTAIN EQUIP-  
18 MENT.—Paragraph (2) of section 48(a) is amended—

19 (1) by redesignating subparagraph (B) as sub-  
20 paragraph (C),

21 (2) in subparagraph (A), by striking “The” and  
22 inserting “Except as provided in subparagraph (B),  
23 the”, and

24 (3) by inserting after subparagraph (A) the fol-  
25 lowing new subparagraph:

1           “(B) INCREASED PERCENTAGE FOR CER-  
2           TAIN EQUIPMENT.—In the case of energy prop-  
3           erty having a total installed electrical gener-  
4           ating capacity of less than 1 megawatt and  
5           placed in service before January 1, 2007, the  
6           energy percentage is 20 percent.”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to equipment placed in service  
9           after December 31, 2001.

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