

108TH CONGRESS
1ST SESSION

S. 359

To amend the Internal Revenue Code of 1986 to modify the credit for the production of electricity to include electricity produced from municipal solid waste.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2003

Mrs. LINCOLN (for herself and Mr. AKAKA) 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 modify the credit for the production of electricity to include electricity produced from municipal solid waste.

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 “Waste to Energy Utili-
5 zation Act of 2003”.

6 **SEC. 2. CREDIT FOR ELECTRICITY PRODUCED FROM MU-**
7 **NICIPAL SOLID WASTE.**

8 (a) IN GENERAL.—Section 45(c)(1) of the Internal
9 Revenue Code of 1986 (defining qualified energy re-

1 sources) is amended by striking “and” at the end of sub-
 2 paragraph (B), by striking the period at the end of sub-
 3 paragraph (C) and inserting “, and”, and by adding at
 4 the end the following new subparagraph:

5 “(D) municipal solid waste.”.

6 (b) QUALIFIED FACILITY.—Section 45(c)(3) of the
 7 Internal Revenue Code of 1986 (relating to qualified facil-
 8 ity) is amended by adding at the end the following new
 9 subparagraph:

10 “(D) MUNICIPAL SOLID WASTE FACIL-
 11 ITY.—

12 “(i) IN GENERAL.—In the case of a
 13 facility or unit using municipal solid waste
 14 to produce electricity, the term ‘qualified
 15 facility’ means—

16 “(I) any facility owned by the
 17 taxpayer which is originally placed in
 18 service on or after date of the enact-
 19 ment of this subparagraph and before
 20 January 1, 2008, or

21 “(II) any unit owned by the tax-
 22 payer which is originally placed in
 23 service and added to another facility
 24 on or after such date of enactment
 25 and before January 1, 2008.

1 “(ii) SPECIAL RULE.—In the case of a
2 qualified facility described in clause (i)(II),
3 the 10-year period referred to in subsection
4 (a) shall be treated as beginning no earlier
5 than the date of the enactment of this sub-
6 paragraph.

7 “(iii) CREDIT ELIGIBILITY.—In the
8 case of any qualified facility described in
9 clause (i), if the owner of such facility is
10 not the producer of the electricity, the per-
11 son eligible for the credit allowable under
12 subsection (a) is the lessee or the operator
13 of such facility.”.

14 (c) DEFINITION.—Section 45(c) of the Internal Rev-
15 enue Code of 1986 is amended by adding at the end the
16 following new paragraph:

17 “(5) MUNICIPAL SOLID WASTE.—The term
18 ‘municipal solid waste’ has the meaning given the
19 term ‘solid waste’ under section 2(27) of the Solid
20 Waste Disposal Act (42 U.S.C. 6903).”.

21 (d) NO CREDIT FOR CERTAIN PRODUCTION.—Sec-
22 tion 45(d) of the Internal Revenue Code of 1986 (relating
23 to definitions and special rules) is amended by adding at
24 the end the following new paragraph:

1 “(8) OPERATIONS INCONSISTENT WITH SOLID
2 WASTE DISPOSAL ACT.—In the case of a qualified fa-
3 cility described in subsection (c)(3)(D), subsection
4 (a) shall not apply to electricity produced at such fa-
5 cility during any taxable year if, during a portion of
6 such year, there is a certification in effect by the
7 Administrator of the Environmental Protection
8 Agency that such facility was permitted in a manner
9 inconsistent with section 4003(d) of the Solid Waste
10 Disposal Act (42 U.S.C. 6943(d)).”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to electricity sold after the date
13 of the enactment of this Act, in taxable years ending after
14 such date.

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