

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

# H. R. 5926

To provide for the energy independence of the United States.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Ms. BERKLEY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Resources, Energy and Commerce, and Science, 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

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## A BILL

To provide for the energy independence of the United States.

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 “Freedom through Re-  
5        newable Energy Expansion (FREE) Act”.

6        **SEC. 2. REPEAL OF NUCLEAR SUBSIDIES.**

7        (a)    NEXT    GENERATION    NUCLEAR    PLANT  
8        PROJECT.—Subtitle C of title VI of the Energy Policy Act  
9        of 2005 (42 U.S.C. 16021 et. seq.) and the items relating

1 thereto in the table of contents in section 1(b) of that Act  
2 are repealed.

3 (b) STANDBY SUPPORT FOR CERTAIN NUCLEAR  
4 PLANT DELAYS.—Section 638 of the Energy Policy Act  
5 of 2005 (42 U.S.C. 16014) and the item relating thereto  
6 in the table of contents in section 1(b) of that Act are  
7 repealed.

8 (c) REPEAL OF CREDIT FOR PRODUCTION FROM AD-  
9 VANCED NUCLEAR POWER FACILITIES.—

10 (1) IN GENERAL.—Subparagraph (B) of section  
11 45J(d)(1) of the Internal Revenue Code of 1986 (re-  
12 lating to advanced nuclear power facility) is amend-  
13 ed by striking “January 1, 2021” and inserting “the  
14 date of the enactment of the Freedom through Re-  
15 newable Energy Expansion (FREE) Act”.

16 (2) EFFECTIVE DATE.—The amendment made  
17 by paragraph (1) shall apply to property placed in  
18 service after the date of the enactment of this Act.

19 **SEC. 3. REPEAL OF CERTAIN TAX SUBSIDIES FOR THE OIL**  
20 **AND GAS INDUSTRY.**

21 (a) REPEAL OF ELECTION TO EXPENSE CERTAIN  
22 REFINERIES.—

23 (1) IN GENERAL.—Subparagraph (B) of section  
24 179C(c)(1) of the Internal Revenue Code of 1986  
25 (relating to qualified refinery property) is amended

1 by striking “January 1, 2012” and inserting “the  
2 date of the enactment of the Freedom through Re-  
3 newable Energy Expansion (FREE) Act”.

4 (2) EFFECTIVE DATE.—The amendment made  
5 by paragraph (1) shall apply to property placed in  
6 service after the date of the enactment of this Act.

7 (b) REPEAL OF TREATMENT OF NATURAL GAS DIS-  
8 TRIBUTION LINES AS 15-YEAR PROPERTY.—

9 (1) IN GENERAL.—Clause (viii) of section  
10 168(e)(3)(E) of such Code (relating to 15-year prop-  
11 erty) is amended by striking “January 1, 2011” and  
12 inserting “the Freedom through Renewable Energy  
13 Expansion (FREE) Act”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) shall apply to property placed in  
16 service after the date of the enactment of this Act.

17 (c) REPEAL OF TREATMENT OF NATURAL GAS  
18 GATHERING LINES AS 7-YEAR PROPERTY.—

19 (1) IN GENERAL.—Clause (iv) of section  
20 168(e)(3)(C) of such Code (relating to 7-year prop-  
21 erty) is amended by inserting “and which is placed  
22 in service before the date of the enactment of the  
23 Freedom through Renewable Energy Expansion  
24 (FREE) Act” after “April 11, 2005,”.

1           (2) EFFECTIVE DATE.—The amendment made  
2           by paragraph (1) shall apply to property placed in  
3           service after the date of the enactment of this Act.

4           (d) REPEAL OF NEW RULE FOR DETERMINING  
5           SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUC-  
6           TION.—

7           (1) IN GENERAL.—Paragraph (4) of section  
8           613A(d) of such Code (relating to certain refiners  
9           excluded) is amended to read as follows:

10           “(4) CERTAIN REFINERS EXCLUDED.—If the  
11           taxpayer or a related person engages in the refining  
12           of crude oil, subsection (c) shall not apply to such  
13           taxpayer if on any day during the taxable year the  
14           refinery runs of the taxpayer and such person exceed  
15           50,000 barrels.”.

16           (2) EFFECTIVE DATE.—The amendment made  
17           by paragraph (1) shall apply to taxable years begin-  
18           ning after the date of the enactment of this Act.

19           (e) REPEAL OF AMORTIZATION OF GEOLOGICAL AND  
20           GEOPHYSICAL EXPENDITURES.—

21           (1) IN GENERAL.—Section 167 of such Code  
22           (relating to depreciation) is amended by striking  
23           subsection (h) and redesignating subsection (i) as  
24           subsection (h).

1           (2) CONFORMING AMENDMENT.—Section  
2           263A(c)(3) of such Code is amended by striking  
3           “167(h),”.

4           (3) EFFECTIVE DATE.—The amendments made  
5           by this subsection shall apply to amounts paid or in-  
6           curred after the date of the enactment of this Act.

7 **SEC. 4. REPEAL OF CERTAIN PROVISIONS OF THE ENERGY**  
8                           **POLICY ACT OF 2005 AND OTHER LAWS PRO-**  
9                           **VIDING INCENTIVES FOR OIL AND GAS PRO-**  
10                          **DUCTION FROM FEDERAL LANDS.**

11          (a) REPEALS.—The following provisions of the En-  
12          ergy Policy Act of 2005, and the items relating thereto  
13          in the table of contents in section 1(b) of that Act, are  
14          repealed:

15               (1) Section 343 (relating to marginal property  
16               production incentives).

17               (2) Section 344 (relating to incentives for nat-  
18               ural gas production from deep wells in the shallow  
19               waters of the Gulf of Mexico).

20               (3) Section 345 (relating to royalty relief for  
21               deep water production).

22               (4) Section 357 (relating to comprehensive in-  
23               ventory of OCS oil and natural gas resources).

1           (5) Section 362 (relating to management of  
2       Federal oil and gas leasing programs, including ex-  
3       pediting leases and permit applications).

4           (6) Section 965 (relating to oil and gas re-  
5       search programs).

6           (7) Section 966 (relating to low-volume oil and  
7       gas reservoir research program).

8           (8) Subtitle J of title IX (relating to ultra-deep-  
9       water and unconventional natural gas and other pe-  
10      troleum resources).

11       (b) REPEAL OF ALASKA OFFSHORE ROYALTY SUS-  
12      PENSION.—Section 8(a)(3)(B) of the Outer Continental  
13      Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended  
14      by striking “and in the Planning Areas offshore Alaska”.

15       (c) REPEAL OF ROYALTY SUSPENSION WITH RE-  
16      SPECT TO NATIONAL PETROLEUM RESERVE IN ALAS-  
17      KA.—Section 107 of the Naval Petroleum Reserves Pro-  
18      duction Act of 1976 (as amended by section 347(b)(11)  
19      of the Energy Policy Act of 2005 (119 Stat. 706)) is  
20      amended by repealing subsection (k).

21       (d) CONFORMING AMENDMENT.—Section 961(c) of  
22      the Energy Policy Act of 2005 (42 U.S.C. 16291(c)) is  
23      amended by striking paragraph (3) and redesignating  
24      paragraph (4) as paragraph (3).

1 **SEC. 5. REQUIREMENT TO SUSPEND ROYALTY RELIEF.**

2 (a) REQUIREMENT TO SUSPEND.—The President  
3 shall suspend the application of any provision of Federal  
4 law under which any person is given relief from any re-  
5 quirement to pay royalty for production oil or natural gas  
6 from Federal lands (including submerge lands), for pro-  
7 duction occurring in any period with respect to which—

8 (1) in the case of production of oil, the average  
9 price of crude oil in the United States over the most  
10 recent 4 consecutive weeks is greater than \$40 per  
11 barrel, or such lesser amount as applies for such  
12 purpose under the lease under which such produc-  
13 tion occurs; and

14 (2) in the case of production of natural gas, the  
15 average wellhead price of natural gas in the United  
16 States over the most recent 4 consecutive weeks is  
17 greater than \$5 per thousand cubic feet, or such  
18 lesser amount as applies for such purpose under the  
19 lease under which such production occurs.

20 (b) DETERMINATION OF MARKET PRICE.—The  
21 President shall determine average prices for purposes of  
22 subsection (a) based on the most recent data reported by  
23 the Energy Information Administration of the Depart-  
24 ment of Energy.

1 **SEC. 6. AVERAGE FUEL ECONOMY STANDARDS.**

2 (a) IN GENERAL.—Section 32902 of title 49, United  
3 States Code, is amended—

4 (1) in subsection (c)—

5 (A) by striking “(1) Subject to paragraph  
6 (2) of this subsection, the” and inserting  
7 “The”; and

8 (B) by striking paragraph (2); and

9 (2) by redesignating subsections (i) and (j) as  
10 subsections (j) and (k), respectively, and by inserting  
11 after subsection (h) the following:

12 “(i) STANDARDS FOR MODEL YEARS AFTER 2008.—  
13 The Secretary of Transportation shall prescribe by regula-  
14 tion average fuel economy standards for passenger auto-  
15 mobiles manufactured by a manufacturer in model years  
16 after model year 2008, that shall—

17 “(1) ensure that the average fuel economy  
18 achieved by passenger automobiles manufactured by  
19 a manufacturer in model years after 2015 is no less  
20 than 33 miles per gallon;

21 “(2) ensure that improvements to fuel economy  
22 standards do not degrade the safety of passenger  
23 automobiles manufactured by a manufacturer; and

24 “(3) maximize the retention of jobs in the auto-  
25 mobile manufacturing sector of the United States.”.



1 (b) CONFORMING AMENDMENTS.—Section 32902 of  
2 title 49, United States Code, is further amended—

3 (1) in subsection (g)(2), by striking “(and sub-  
4 mit the amendment to Congress when required  
5 under subsection (c)(2) of this section)”;

6 (2) in subsection (k) (as so redesignated) by  
7 striking “or (g)” and inserting “(g), or (i)”.

8 **SEC. 7. RENEWABLE ELECTRICITY PRODUCTION CREDIT.**

9 (a) IN GENERAL.—Section 45(d) of the Internal Rev-  
10 enue Code of 1986 (relating to qualified facilities) is  
11 amended by striking “January 1, 2008” each place it ap-  
12 pears in paragraphs (1), (2), (3), (4), (5), (6), and (7)  
13 and inserting “January 1, 2012”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 subsection (a) shall apply to property placed in service  
16 after the date of the enactment of this Act.

17 **SEC. 8. EXTENSION AND MODIFICATION OF INVESTMENT**  
18 **TAX CREDIT WITH RESPECT TO SOLAR EN-**  
19 **ERGY PROPERTY, QUALIFIED FUEL CELL**  
20 **PROPERTY, AND GEOTHERMAL PROPERTY.**

21 (a) SOLAR ENERGY PROPERTY.—Paragraphs  
22 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal  
23 Revenue Code of 1986 are each amended by striking  
24 “January 1, 2008” and inserting “January 1, 2016”.

1 (b) ELIGIBLE FUEL CELL PROPERTY.—Paragraph  
2 (1)(E) of section 48(e) of such Code is amended by strik-  
3 ing “December 31, 2007” and inserting “December 31,  
4 2015”.

5 (c) GEOTHERMAL PROPERTY.—Paragraph (2)(A)(i)  
6 of section 48(a) of such Code is amended by striking  
7 “and” at the end of subclause (II) and by adding at the  
8 end the following new subclause:

9 “(IV) energy property described  
10 in paragraph (3)(A)(iii) but only with  
11 respect to periods ending before Janu-  
12 ary 1, 2016, and”.

13 (d) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to property placed in service after  
15 the date of the enactment of this Act.

16 **SEC. 9. EXTENSION OF CREDIT FOR RESIDENTIAL ENERGY**  
17 **EFFICIENT PROPERTY.**

18 (a) EXTENSION.—Subsection (g) of section 25D of  
19 the Internal Revenue Code of 1986 (relating to termi-  
20 nation) is amended by striking “December 31, 2007” and  
21 inserting “December 31, 2015”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to property placed in service after  
24 the date of the enactment of this Act.

1 **SEC. 10. CREDIT FOR WIND ENERGY PROPERTY INSTALLED**  
2 **IN RESIDENCES AND BUSINESSES.**

3 (a) IN GENERAL.—Subpart B of part IV of sub-  
4 chapter A of chapter 1 of the Internal Revenue Code of  
5 1986 is amended by inserting after section 30C the fol-  
6 lowing new section:

7 **“SEC. 30D. WIND ENERGY PROPERTY.**

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
9 lowed as a credit against the tax imposed by this chapter  
10 for the taxable year an amount equal to 30 percent (10  
11 percent after December 31, 2015) of the amount paid or  
12 incurred by the taxpayer for qualified wind energy prop-  
13 erty placed in service or installed during such taxable year.

14 “(b) LIMITATION.—No credit shall be allowed under  
15 subsection (a) unless at least 50 percent of the energy pro-  
16 duced annually by the qualified wind energy property is  
17 consumed on the site on which the property is placed in  
18 service or installed.

19 “(c) QUALIFIED WIND ENERGY PROPERTY.—For  
20 purposes of this section, the term qualified wind energy  
21 property means a qualifying wind turbine if—

22 “(1) such turbine is placed in service or in-  
23 stalled on or in connection with property located in  
24 the United States,

25 “(2) in the case of an individual, the property  
26 on or in connection with which such turbine is in-

1 stalled is a dwelling unit which is located in the  
2 United States,

3 “(3) the original use of such turbine commences  
4 with the taxpayer, and

5 “(4) such turbine carries at least a 5-year lim-  
6 ited warranty covering defects in design, material, or  
7 workmanship, and, for property that is not installed  
8 by the taxpayer, at least a 5-year limited warranty  
9 covering defects in installation.

10 “(d) OTHER DEFINITIONS.—For purposes of this  
11 section:

12 “(1) QUALIFYING WIND TURBINE.—The term  
13 qualifying wind turbine means a wind turbine of 100  
14 kilowatts of rated capacity or less which meets the  
15 latest performance rating standards published by the  
16 American Wind Energy Association and which is  
17 used to generate electricity.

18 “(2) PRINCIPAL RESIDENCE.—The term prin-  
19 cipal residence shall have the same meaning as when  
20 used in section 121.

21 “(e) LIMITATION BASED ON AMOUNT OF TAX.—

22 “(1) IN GENERAL.—The credit allowed under  
23 subsection (a) for any taxable year shall not exceed  
24 the excess of—

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

4           “(B) the sum of the credits allowable  
5           under this part (other than under this section  
6           and subpart C thereof, relating to refundable  
7           credits) and section 1397E.

8           “(2) CARRYOVER OF UNUSED CREDIT.—If the  
9           credit allowable under subsection (a) exceeds the  
10          limitation imposed by paragraph (1) for such taxable  
11          year, such excess shall be carried to the succeeding  
12          taxable year and added to the credit allowable under  
13          subsection (a) for such taxable year.

14          “(f) SPECIAL RULES.—For purposes of this section:

15               “(1) TENANT-STOCKHOLDER IN COOPERATIVE  
16               HOUSING CORPORATION.—In the case of an indi-  
17               vidual who is a tenant-stockholder (as defined in sec-  
18               tion 216(b)(2)) in a cooperative housing corporation  
19               (as defined in section 216(b)(1)), such individual  
20               shall be treated as having paid his tenant-stock-  
21               holder’s proportionate share (as defined in section  
22               216(b)(3)) of any expenditures paid or incurred for  
23               qualified wind energy property by such corporation,  
24               and such credit shall be allocated appropriately to  
25               such individual.

1           “(2) CONDOMINIUMS.—

2                   “(A) IN GENERAL.—In the case of an indi-  
3           vidual who is a member of a condominium man-  
4           agement association with respect to a condo-  
5           minium which he owns, such individual shall be  
6           treated as having paid his proportionate share  
7           of expenditures paid or incurred for qualified  
8           wind energy property by such association, and  
9           such credit shall be allocated appropriately to  
10          such individual.

11                   “(B) CONDOMINIUM MANAGEMENT ASSO-  
12          CIATION.—For purposes of this paragraph, the  
13          term condominium management association  
14          means an organization which meets the require-  
15          ments of section 528(c)(2) with respect to a  
16          condominium project of which substantially all  
17          of the units are used by individuals as resi-  
18          dences.

19                   “(g) BASIS ADJUSTMENT.—For purposes of this sub-  
20          title, if a credit is allowed under this section for any ex-  
21          penditure with respect to a residence or other property,  
22          the basis of such residence or other property shall be re-  
23          duced by the amount of the credit so allowed.

1       “(h) APPLICATION OF CREDIT.—The credit allowed  
2 under this section shall apply to property placed in service  
3 or installed after December 31, 2005.”.

4       (b) CONFORMING AMENDMENT.—Subsection (a) of  
5 section 1016 of such Code (relating to general rule for  
6 adjustments to basis) is amended by striking “and” at the  
7 end of paragraph (36), by striking the period at the end  
8 of paragraph (37) and inserting “, and”, and by adding  
9 at the end the following new paragraph:

10               “(38) in the case of a residence or other prop-  
11 erty with respect to which a credit was allowed  
12 under section 30D, to the extent provided in section  
13 30D(g).”.

14       (c) CLERICAL AMENDMENT.—The table of sections  
15 for subpart B of part IV of subchapter A of chapter 1  
16 of such Code is amended by inserting after the item relat-  
17 ing to section 30C the following new item:

“Sec. 30D. Wind energy property.”.

18       (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years ending after De-  
20 cember 31, 2005.

21 **SEC. 11. GEOTHERMAL RESEARCH.**

22       There are authorized to be appropriated to the Sec-  
23 retary of Energy \$32,500,000 for geothermal research.

1 **SEC. 12. RENEWABLE PORTFOLIO STANDARD.**

2 Title VI of the Public Utility Regulatory Policies Act  
 3 of 1978 (16 U.S.C. 2601 et seq.) is amended by adding  
 4 at the end the following:

5 **“SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

6 “(a) RENEWABLE ENERGY REQUIREMENT.—

7 “(1) IN GENERAL.—Each electric utility that  
 8 sells electricity to electric consumers shall obtain a  
 9 percentage of the base amount of electricity it sells  
 10 to electric consumers in any calendar year from new  
 11 renewable energy or existing renewable energy. The  
 12 percentage obtained in a calendar year shall not be  
 13 less than the amount specified in the following table:

<b>“Calendar year:</b>	<b>Minimum annual percentage:</b>
2007 through 2008 .....	5.0
2009 through 2010 .....	8.0
2011 through 2012 .....	11.0
2013 through 2014 .....	15.0
2015 and thereafter .....	20.0.

14 “(2) MEANS OF COMPLIANCE.—An electric util-  
 15 ity shall meet the requirements of paragraph (1)  
 16 by—

17 “(A) generating electric energy using new  
 18 renewable energy or existing renewable energy;

19 “(B) purchasing electric energy generated  
 20 by new renewable energy or existing renewable  
 21 energy;



1           “(C) purchasing renewable energy credits  
2           issued under subsection (b); or

3           “(D) a combination of the foregoing.

4           “(b) RENEWABLE ENERGY CREDIT TRADING PRO-  
5 GRAM.—Not later than January 1, 2007, the Secretary  
6 shall establish a renewable energy credit trading program  
7 to permit an electric utility that does not generate or pur-  
8 chase enough electric energy from renewable energy to  
9 meet its obligations under subsection (a)(1) to satisfy such  
10 requirements by purchasing sufficient renewable energy  
11 credits.

12          “(c) ENFORCEMENT.—

13           “(1) CIVIL PENALTIES.—Any electric utility  
14 that fails to meet the renewable energy requirements  
15 of subsection (a) shall be subject to a civil penalty.

16           “(2) AMOUNT OF PENALTY.—The amount of  
17 the civil penalty shall be determined by multiplying  
18 the number of kilowatt-hours of electric energy sold  
19 to electric consumers in violation of subsection (a)  
20 by the greater of 1.5 cents (adjusted for inflation  
21 under subsection (f)) or 200 percent of the average  
22 market value of renewable energy credits during the  
23 year in which the violation occurred.

24           “(3) MITIGATION OR WAIVER.—The Secretary  
25 may mitigate or waive a civil penalty under this sub-

1 section if the electric utility was unable to comply  
2 with subsection (a) for reasons outside of the rea-  
3 sonable control of the utility. The Secretary shall re-  
4 duce the amount of any penalty determined under  
5 paragraph (2) by an amount paid by the electric  
6 utility to a State for failure to comply with the re-  
7 quirement of a State renewable energy program if  
8 the State requirement is greater than the applicable  
9 requirement of subsection (a).

10 “(4) PROCEDURE FOR ASSESSING PENALTY.—

11 The Secretary shall assess a civil penalty under this  
12 subsection in accordance with the procedures pre-  
13 scribed by section 333(d) of the Energy Policy and  
14 Conservation Act (42 U.S.C. 6303(d)).

15 “(d) RULES.—The Secretary shall issue rules imple-  
16 menting this section not later than 1 year after the date  
17 of enactment of this section.

18 “(e) EXEMPTIONS.—This section shall not apply in  
19 any calendar year to an electric utility—

20 “(1) that sold less than 4,000,000 megawatt-  
21 hours of electric energy to electric consumers during  
22 the preceding calendar year; or

23 “(2) in Hawaii.

24 “(f) INFLATION ADJUSTMENT.—Not later than De-  
25 cember 31 of each year beginning in 2008, the Secretary

1 shall adjust for inflation the amount of the civil penalty  
2 per kilowatt-hour under subsection (c)(2).

3 “(g) STATE PROGRAMS.—Nothing in this section  
4 shall diminish any authority of a State or political subdivi-  
5 sion thereof to adopt or enforce any law or regulation re-  
6 specting renewable energy, but, except as provided in sub-  
7 section (c)(3), no such law or regulation shall relieve any  
8 person of any requirement otherwise applicable under this  
9 section. The Secretary, in consultation with States having  
10 such renewable energy programs, shall, to the maximum  
11 extent practicable, facilitate coordination between the Fed-  
12 eral program and State programs.

13 “(h) DEFINITIONS.—For purposes of this section:

14 “(1) BASE AMOUNT OF ELECTRICITY.—The  
15 term ‘base amount of electricity’ means the total  
16 amount of electricity sold by an electric utility to  
17 electric consumers in a calendar year, excluding—

18 “(A) electricity generated by a hydro-  
19 electric facility (including a pumped storage fa-  
20 cility but excluding incremental hydropower);  
21 and

22 “(B) electricity generated through the in-  
23 cineration of municipal solid waste.

1           “(2) DISTRIBUTED GENERATION FACILITY.—  
2           The term ‘distributed generation facility’ means a  
3           facility at a customer site.

4           “(3) EXISTING RENEWABLE ENERGY.—The  
5           term ‘existing renewable energy’ means, except as  
6           provided in paragraph (7)(B), electric energy gen-  
7           erated at a facility (including a distributed genera-  
8           tion facility) placed in service prior to the date of  
9           enactment of this section from solar, wind, or geo-  
10          thermal energy; ocean energy; biomass (as defined in  
11          section 203(a) of the Energy Policy Act of 2005); or  
12          landfill gas.

13          “(4) GEOTHERMAL ENERGY.—The term ‘geo-  
14          thermal energy’ means energy derived from a geo-  
15          thermal deposit (within the meaning of section  
16          613(e)(2) of the Internal Revenue Code of 1986).

17          “(5) INCREMENTAL GEOTHERMAL PRODUC-  
18          TION.—

19                 “(A) IN GENERAL.—The term ‘incremental  
20                 geothermal production’ means for any year the  
21                 excess of—

22                         “(i) the total kilowatt hours of elec-  
23                         tricity produced from a facility (including a  
24                         distributed generation facility) using geo-  
25                         thermal energy, over

1           “(ii) the average annual kilowatt  
2           hours produced at such facility for 5 of the  
3           previous 7 calendar years before the date  
4           of enactment of this section after elimi-  
5           nating the highest and the lowest kilowatt  
6           hour production years in such 7-year pe-  
7           riod.

8           “(B) SPECIAL RULE.—A facility described  
9           in subparagraph (A) which was placed in serv-  
10          ice at least 7 years before the date of enactment  
11          of this section shall commencing with the year  
12          in which such date of enactment occurs, reduce  
13          the amount calculated under subparagraph  
14          (A)(ii) each year, on a cumulative basis, by the  
15          average percentage decrease in the annual kilo-  
16          watt hour production for the 7-year period de-  
17          scribed in subparagraph (A)(ii) with such cu-  
18          mulative sum not to exceed 30 percent.

19          “(6) INCREMENTAL HYDROPOWER.—The term  
20          ‘incremental hydropower’ means additional energy  
21          generated as a result of efficiency improvements or  
22          capacity additions made on or after the date of en-  
23          actment of this section or the effective date of an ex-  
24          isting applicable State renewable portfolio standard  
25          program at a hydroelectric facility that was placed

1 in service before that date. The term does not in-  
2 clude additional energy generated as a result of  
3 operational changes not directly associated with effi-  
4 ciency improvements or capacity additions. Effi-  
5 ciency improvements and capacity additions shall be  
6 measured on the basis of the same water flow infor-  
7 mation used to determine a historic average annual  
8 generation baseline for the hydroelectric facility and  
9 certified by the Secretary or the Federal Energy  
10 Regulatory Commission.

11 “(7) NEW RENEWABLE ENERGY.—The term  
12 ‘new renewable energy’ means—

13 “(A) electric energy generated at a facility  
14 (including a distributed generation facility)  
15 placed in service on or after January 1, 2003,  
16 from—

17 “(i) solar, wind, or geothermal energy  
18 or ocean energy;

19 “(ii) biomass (as defined in section  
20 203(a) of the Energy Policy Act of 2005);

21 “(iii) landfill gas; or

22 “(iv) incremental hydropower; and

23 “(B) for electric energy generated at a fa-  
24 cility (including a distributed generation facil-

1           ity) placed in service prior to the date of enact-  
2           ment of this section—

3                   “(i) the additional energy above the  
4                   average generation in the 3 years pre-  
5                   ceding the date of enactment of this sec-  
6                   tion at the facility from—

7                           “(I) solar or wind energy or  
8                           ocean energy;

9                           “(II) biomass (as defined in sec-  
10                          tion 203(a) of the Energy Policy Act  
11                          of 2005);

12                           “(III) landfill gas; or

13                           “(IV) incremental hydropower.

14                          “(ii) the incremental geothermal pro-  
15                          duction.

16                          “(8) OCEAN ENERGY.—The term ‘ocean energy’  
17                          includes current, wave, tidal, and thermal energy.

18                          “(i) SUNSET.—This section expires on December 31,  
19                          2030.”.

20   **SEC. 13. FEDERAL ENERGY PURCHASE REQUIREMENT.**

21           Section 203(a) of the Energy Policy Act of 2005 (42  
22   U.S.C. 15852(a)) is amended—

23                   (1) by striking “seek to ensure that, to the ex-  
24                   tent economically feasible and technically prac-  
25                   ticable” and inserting “ensure that”;

1           (2) in paragraph (1), by striking “3 percent in  
2           fiscal years 2007 through 2009” and inserting “5  
3           percent in fiscal years 2007 through 2010”;

4           (3) in paragraph (2), by striking “5 percent in  
5           fiscal years 2010 through 2012” and inserting “11  
6           percent in fiscal years 2011 through 2014”; and

7           (4) in paragraph (3), by striking “7.5 percent  
8           in fiscal year 2013” and inserting “20 percent in  
9           fiscal year 2015”.

10 **SEC. 14. SCHOOL RENEWABLE ENERGY USE.**

11           The Secretary of Energy shall establish a program  
12 to make grants to local schools and school districts to pro-  
13 mote and facilitate the use of renewable energy sources  
14 in school facilities.

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