

109TH CONGRESS
1ST SESSION

S. 427

To amend the Public Utility Regulatory Policies Act of 1978 to provide
for a Federal renewable portfolio standard.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mr. JEFFORDS (for himself, Ms. SNOWE, Ms. CANTWELL, Mrs. FEINSTEIN,
Mr. DURBIN, Mr. KENNEDY, Mr. REED, Mr. KERRY, Mr. DODD, Mrs.
BOXER, and Mr. LAUTENBERG) introduced the following bill; which was
read twice and referred to the Committee on Energy and Natural Re-
sources

A BILL

To amend the Public Utility Regulatory Policies Act of 1978
to provide for a Federal renewable portfolio standard.

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 2005”.

6 **SEC. 2. RENEWABLE PORTFOLIO STANDARD.**

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

1 **“SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) BIOMASS.—

4 “(A) IN GENERAL.—The term ‘biomass’
5 means—

6 “(i) organic material from a plant
7 that is planted for the purpose of being
8 used to produce energy;

9 “(ii) nonhazardous, cellulosic or agri-
10 cultural waste material that is segregated
11 from other waste materials and is derived
12 from—

13 “(I) a forest-related resource, in-
14 cluding—

15 “(aa) mill and harvesting
16 residue;

17 “(bb) precommercial
18 thinnings;

19 “(cc) slash; and

20 “(dd) brush;

21 “(II) agricultural resources, in-
22 cluding—

23 “(aa) orchard tree crops;

24 “(bb) vineyards;

25 “(cc) grains;

26 “(dd) legumes;

- 1 “(ee) sugar; and
2 “(ff) other crop by-products
3 or residues; or
4 “(III) miscellaneous waste such
5 as—
6 “(aa) waste pallet;
7 “(bb) crate; and
8 “(cc) landscape or right-of-
9 way tree trimmings; and
10 “(iii) animal waste that is converted
11 to a fuel rather than directly combusted,
12 the residue of which is converted to a bio-
13 logical fertilizer, oil, or activated carbon.
14 “(B) EXCLUSIONS.—The term ‘biomass’
15 shall not include—
16 “(i) municipal solid waste that is in-
17 cinerated;
18 “(ii) recyclable post-consumer waste
19 paper;
20 “(iii) painted, treated, or pressurized
21 wood;
22 “(iv) wood contaminated with plastics
23 or metals; or
24 “(v) tires.

1 “(2) DISTRIBUTED GENERATION.—The term
2 ‘distributed generation’ means reduced electricity
3 consumption from the electric grid due to use by a
4 customer of renewable energy generated at a cus-
5 tomer site.

6 “(3) INCREMENTAL HYDROPOWER.—The term
7 ‘incremental hydropower’ means additional genera-
8 tion achieved from increased efficiency after January
9 1, 2005, at a hydroelectric dam that was placed in
10 service before January 1, 2005.

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

18 “(5) RENEWABLE ENERGY.—The term ‘renew-
19 able energy’ means electricity generated from

20 “(A) a renewable energy source; or

21 “(B) hydrogen that is produced from a re-
22 newable energy source.

23 “(6) RENEWABLE ENERGY SOURCE.—The term
24 ‘renewable energy source’ means—

25 “(A) wind;

- 1 “(B) ocean waves;
2 “(C) biomass;
3 “(D) solar;
4 “(E) landfill gas;
5 “(F) incremental hydropower; or
6 “(G) geothermal.

7 “(7) RETAIL ELECTRIC SUPPLIER.—The term
8 ‘retail electric supplier’ means a person or entity
9 that sells retail electricity to consumers, and which
10 sold not less than 500,000 megawatt-hours of elec-
11 tric energy to consumers for purposes other than re-
12 sale during the preceding calendar year.

13 “(8) SECRETARY.—The term ‘Secretary’ means
14 the Secretary of Energy.

15 “(b) RENEWABLE ENERGY REQUIREMENTS.—

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

1 “(2) CARRYOVER.—A renewable energy credit
 2 for any year that is not used to satisfy the minimum
 3 requirement for that year may be carried over for
 4 use within the next two years.

5 “(c) REQUIRED ANNUAL PERCENTAGE.—Of the total
 6 amount of non-hydropower (excluding incremental hydro-
 7 power) electricity sold by each retail electric supplier dur-
 8 ing a calendar year, the amount generated by renewable
 9 energy sources shall be not less than the percentage speci-
 10 fied below:

“Calendar years:	Percentage of Renewable energy Each year:
2006–2009	5
2010–2014	10
2015–2019	15
2020 and subsequent years	20.

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

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

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

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

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

1 “(D) any combination of credits under
2 subsections (f), (g) or (h).

3 “(2) PROHIBITION ON DOUBLE COUNTING.—A
4 credit may be counted toward compliance with sub-
5 section (b) only once.

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

11 “(f) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

12 “(1) IN GENERAL.—Under the program estab-
13 lished in subsection (e), an entity that generates
14 electric energy through the use of a renewable en-
15 ergy resource may apply to the Secretary for the
16 issuance of renewable energy credits.

17 “(2) APPLICATION.—An application for the
18 issuance of renewable energy credits shall indicate—

19 “(A) the type of renewable energy resource
20 used to produce the electric energy;

21 “(B) the State in which the electric energy
22 was produced; and

23 “(C) any other information the Secretary
24 determines appropriate.

1 “(3) CREDIT VALUE.—Except as provided in
2 subparagraph (4), the Secretary shall issue to an en-
3 tity applying under this subsection 1 renewable en-
4 ergy credit for each kilowatt-hour of renewable en-
5 ergy generated in any State from the date of enact-
6 ment of this Act and in each subsequent calendar
7 year.

8 “(4) CREDIT VALUE FOR DISTRIBUTED GEN-
9 ERATION.—The Secretary shall issue 3 renewable
10 energy credits for each kilowatt-hour of distributed
11 generation.

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

16 “(6) CREDIT ELIGIBILITY.—To be eligible for a
17 renewable energy credit, the unit of electricity gen-
18 erated through the use of a renewable energy re-
19 source shall be sold for retail consumption or used
20 by the generator. If both a renewable energy re-
21 source and a non-renewable energy resource are
22 used to generate the electric energy, the Secretary
23 shall issue renewable energy credits based on the
24 proportion of the renewable energy resource used.

1 “(7) IDENTIFYING CREDITS.—The Secretary
2 shall identify renewable energy credits by the type
3 and date of generation.

4 “(8) SALE UNDER PURPA CONTRACT.—When a
5 generator sells electric energy generated through the
6 use of a renewable energy resource to a retail elec-
7 tric supplier under a contract subject to section 210
8 of the Public Utilities Regulatory Policies Act of
9 1978 (16 U.S.C. 824a-3), the retail electric supplier
10 is treated as the generator of the electric energy for
11 the purposes of this Act for the duration of the con-
12 tract.

13 “(g) SALE OR EXCHANGE OF RENEWABLE ENERGY
14 CREDITS.—A renewable energy credit may be sold or ex-
15 changed by the entity issued the renewable energy credit
16 or by any other entity that acquires the renewable energy
17 credit. Credits may be sold or exchanged in any manner
18 not in conflict with existing law, including on the spot
19 market or by contractual arrangements of any duration.

20 “(h) PURCHASE FROM THE UNITED STATES.—The
21 Secretary shall offer renewable energy credits for sale at
22 the lesser of three cents per kilowatt-hour or 110 percent
23 of the average market value of credits for the applicable
24 compliance period. On January 1 of each year following

1 calendar year 2006, the Secretary shall adjust for inflation
2 the price charged per credit for such calendar year.

3 “(i) STATE PROGRAMS.—Nothing in this section shall
4 preclude any State from requiring additional renewable
5 energy generation in the State under any renewable en-
6 ergy program conducted by the State.

7 “(j) CONSUMER ALLOCATION.—The rates charged to
8 classes of consumers by a retail electric supplier shall re-
9 flect a proportional percentage of the cost of generating
10 or acquiring the required annual percentage of renewable
11 energy under subsection (b). A retail electric supplier shall
12 not represent to any customer or prospective customer
13 that any product contains more than the percentage of
14 eligible resources if the additional amount of eligible re-
15 sources is being used to satisfy the renewable generation
16 requirement under subsection (b).

17 “(k) ENFORCEMENT.—A retail electric supplier that
18 does not submit renewable energy credits as required
19 under subsection (b) shall be liable for the payment of a
20 civil penalty. That penalty shall be calculated on the basis
21 of the number of renewable energy credits not submitted,
22 multiplied by the lesser of 4.5 cents or 300 percent of the
23 average market value of credits for the compliance period.

1 “(1) INFORMATION COLLECTION.—The Secretary
2 may collect the information necessary to verify and
3 audit—

4 “(1) the annual electric energy generation and
5 renewable energy generation of any entity applying
6 for renewable energy credits under this section;

7 “(2) the validity of renewable energy credits
8 submitted by a retail electric supplier to the Sec-
9 retary; and

10 “(3) the quantity of electricity sales of all retail
11 electric suppliers.

12 “(m) VOLUNTARY PARTICIPATION.—The Secretary
13 may issue a renewable energy credit pursuant to sub-
14 section (f) to any entity not subject to the requirements
15 of this Act only if the entity applying for such credit meets
16 the terms and conditions of this Act to the same extent
17 as entities subject to this Act.

18 “(n) STATE RENEWABLE ENERGY GRANT PRO-
19 GRAM.—

20 “(1) DISTRIBUTION TO STATES.—The Sec-
21 retary shall distribute amounts received from sales
22 under subsection (h) and from amounts received
23 under subsection (k) to States to be used for the
24 purposes of this section.

25 “(2) REGIONAL EQUITY PROGRAM.—

1 “(A) ESTABLISHMENT OF PROGRAM.—
2 Within 1 year from the date of enactment of
3 this Act, the Secretary shall establish a pro-
4 gram to promote renewable energy production
5 and use consistent with the purposes of this
6 section.

7 “(B) ELIGIBILITY.—The Secretary shall
8 make funds available under this section to State
9 energy agencies for grant programs for—

10 “(i) renewable energy research and
11 development;

12 “(ii) loan guarantees to encourage
13 construction of renewable energy facilities;

14 “(iii) consumer rebate or other pro-
15 grams to offset costs of small residential or
16 small commercial renewable energy sys-
17 tems including solar hot water; or

18 “(iv) promoting distributed genera-
19 tion.

20 “(3) ALLOCATION PREFERENCES.—In allo-
21 cating funds under the program, the Secretary shall
22 give preference to—

23 “(A) States in regions which have a dis-
24 proportionately small share of economically sus-

1 tainable renewable energy generation capacity;
2 and

3 “(B) State grant programs most likely to
4 stimulate or enhance innovative renewable en-
5 ergy technologies.”.

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