

108TH CONGRESS
1ST SESSION

S. 358

To amend the Internal Revenue Code of 1986 to modify the credit for the production of fuel from nonconventional sources and the credit for the production of electricity to include landfill gas.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2003

Mrs. LINCOLN 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 fuel from nonconventional sources and the credit for the production of electricity to include landfill gas.

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. CREDIT FOR PRODUCING FUEL FROM LAND-**
4 **FILL GAS.**

5 (a) IN GENERAL.—Section 29 of the Internal Rev-
6 enue Code of 1986 (relating to credit for producing fuel
7 from a nonconventional source) is amended by adding at
8 the end the following new subsection:

1 “(h) EXTENSION AND MODIFICATION FOR FACILI-
 2 TIES PRODUCING QUALIFIED FUELS FROM LANDFILL
 3 GAS.—

4 “(1) IN GENERAL.—In the case of a facility for
 5 producing qualified fuel from landfill gas which is
 6 placed in service after June 30, 1998, and before
 7 January 1, 2008, this section shall apply to fuel pro-
 8 duced at such facility during the 5-year period be-
 9 ginning on the later of—

10 “(A) the date such facility was placed in
 11 service, or

12 “(B) the date of the enactment of this sub-
 13 section.

14 “(2) REDUCTION OF CREDIT FOR PRODUCTION
 15 FROM CERTAIN LANDFILL GAS FACILITIES.—In the
 16 case of a facility to which paragraph (1) applies
 17 which is located at a landfill which is required pur-
 18 suant to 40 CFR 60.752(b)(2) or 40 CFR 60.33c to
 19 install and operate a collection and control system
 20 which captures gas generated within the landfill,
 21 subsection (a)(1) shall be applied to gas so captured
 22 by substituting ‘\$2’ for ‘\$3’ for the taxable year dur-
 23 ing which such system is required to be installed and
 24 operated.

1 “(3) SPECIAL RULES.—In determining the
2 amount of credit allowable under this section solely
3 by reason of this subsection—

4 “(A) DAILY LIMIT.—The amount of quali-
5 fied fuels sold during any taxable year which
6 may be taken into account by reason of this
7 subsection with respect to any facility shall not
8 exceed an average barrel-of-oil equivalent of
9 200,000 cubic feet of natural gas per day. Days
10 before the date the facility is placed in service
11 shall not be taken into account in determining
12 such average.

13 “(B) EXTENSION PERIOD TO COMMENCE
14 WITH UNADJUSTED CREDIT AMOUNT.—In the
15 case of fuels sold after 2003, subparagraph (B)
16 of subsection (d)(2) shall be applied by sub-
17 stituting ‘2003’ for ‘1979’.”.

18 (b) ADDITIONAL DEFINITION.—Section 29(d) of the
19 Internal Revenue Code of 1986 (relating to other defini-
20 tions and special rules) is amended by adding at the end
21 the following new paragraph:

22 “(9) LANDFILL GAS FACILITY.—

23 “(A) IN GENERAL.—A facility for pro-
24 ducing qualified fuel from landfill gas, placed in
25 service before, on, or after the date of the en-

actment of this paragraph, includes all wells, pipes, and other gas collection equipment installed as part of the facility over the life of the landfill, including any modifications or expansions thereof, after the facility is first placed in service.

“(B) LANDFILL GAS.—The term ‘landfill gas’ means gas derived from the biodegradation of municipal solid waste.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act.

SEC. 2. EXTENSION AND EXPANSION OF CREDIT FOR PRODUCTION OF ELECTRICITY TO PRODUCTION FROM LANDFILL GAS.

(a) IN GENERAL.—Section 45(c)(1) of the Internal Revenue Code of 1986 (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) landfill gas.”.

(b) QUALIFIED FACILITY.—Section 45(c)(3) of the Internal Revenue Code of 1986 (relating to qualified facil-

1 ity) is amended by adding at the end the following new
 2 subparagraph:

3 “(D) LANDFILL GAS FACILITY.—In the
 4 case of a facility using landfill gas to produce
 5 electricity, the term ‘qualified facility’ means
 6 any such facility owned by the taxpayer which
 7 is originally placed in service before January 1,
 8 2008.”.

9 (c) SPECIAL RULES AND DEFINITIONS.—

10 (1) REDUCED CREDIT FOR CERTAIN
 11 PREEFFECTIVE DATE FACILITIES.—Section 45(d) of
 12 the Internal Revenue Code of 1986 (relating to defi-
 13 nitions and special rules) is amended by adding at
 14 the end the following new paragraph:

15 “(8) REDUCED CREDIT FOR CERTAIN
 16 PREEFFECTIVE DATE FACILITIES.—In the case of
 17 any facility described in subparagraph (D) of para-
 18 graph (3) which is placed in service before the date
 19 of the enactment of this subparagraph—

20 “(A) subsection (a)(1) shall be applied by
 21 substituting ‘1.0 cents’ for ‘1.5 cents’, and

22 “(B) the 5-year period beginning on the
 23 date of the enactment of this paragraph shall
 24 be substituted in lieu of the 10-year period in
 25 subsection (a)(2)(A)(ii).”.

1 (2) COORDINATION WITH SECTION 29.—Section
 2 45(c)(3) of such Code (relating to qualified facility),
 3 as amended by subsection (b), is amended by adding
 4 at the end the following new subparagraph:

5 “(E) COORDINATION WITH SECTION 29.—
 6 The term ‘qualified facility’ shall not include
 7 any facility the production from which is taken
 8 into account in determining any credit under
 9 section 29 for the taxable year or any prior tax-
 10 able year.”.

11 (3) LANDFILL GAS.—Section 45(c) of such
 12 Code is amended by adding at the end the following
 13 new paragraph:

14 “(5) LANDFILL GAS.—The term ‘landfill gas’
 15 means gas derived from the biodegradation of mu-
 16 nicipal solid waste.”.

17 (d) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to electricity sold after the date
 19 of the enactment of this Act.

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