

109TH CONGRESS  
1ST SESSION

# H. R. 381

To clarify congressional approval of certain State energy production tax practices.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2005

Mr. GILLMOR introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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 clarify congressional approval of certain State energy production tax practices.

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. ENERGY PRODUCTION INCENTIVES.**

4       (a) IN GENERAL.—A State may provide to any enti-  
5       ty—

6               (1) a credit against any tax or fee owed to the  
7       State under a State law, or

8               (2) any other tax incentive,

1 determined by the State to be appropriate, in the amount  
2 calculated under and in accordance with a formula deter-  
3 mined by the State, for production described in subsection  
4 (b) in the State by the entity that receives such credit or  
5 such incentive.

6 (b) ELIGIBLE ENTITIES.—Subsection (a) shall apply  
7 with respect to the production in the State of—

8 (1) electricity from coal mined in the State and  
9 used in a facility, if such production meets all appli-  
10 cable Federal and State laws and if such facility  
11 uses scrubbers or other forms of clean coal tech-  
12 nology,

13 (2) electricity from a renewable source such as  
14 wind, solar, or biomass, or

15 (3) ethanol.

16 **SEC. 2. EFFECT ON INTERSTATE COMMERCE.**

17 Any action taken by a State in accordance with this  
18 Act with respect to a tax or fee payable, or incentive appli-  
19 cable, for any period beginning after the date of the enact-  
20 ment of this Act shall—

21 (1) be considered to be a reasonable regulation  
22 of commerce, and

23 (2) not be considered to impose an undue bur-  
24 den on interstate commerce or to otherwise impair,

- 1       restrain, or discriminate, against interstate com-
- 2       merce.

