

107TH CONGRESS
1ST SESSION

H. R. 2000

To encourage the use of agricultural products in producing renewable energy.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2001

Mr. NUSSLE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Agriculture and Government Reform, 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

A BILL

To encourage the use of agricultural products in producing renewable energy.

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
5 from Agricultural Products (REAP) Act”.

1 **SEC. 2. CREDIT FOR ELECTRICITY PRODUCED FROM BIO-**
2 **MASS.**

3 (a) EXTENSION AND MODIFICATION OF PLACED-IN-
4 SERVICE RULES.—Paragraph (3) of section 45(c) of the
5 Internal Revenue Code of 1986 is amended—

6 (1) by striking subparagraph (B) and inserting
7 the following new subparagraph:

8 “(B) CLOSED-LOOP BIOMASS FACILITY.—
9 In the case of a facility using closed-loop bio-
10 mass to produce electricity, the term ‘qualified
11 facility’ means any facility—

12 “(i) owned by the taxpayer which is
13 originally placed in service after December
14 31, 1992, and before January 1, 2007, or

15 “(ii) owned by the taxpayer which is
16 originally placed in service on or before
17 December 31, 1992, and modified to use
18 closed-loop biomass to co-fire with coal be-
19 fore January 1, 2007.”,

20 (2) by striking “2002” in subparagraph (C)
21 and inserting “2007”, and

22 (3) by adding at the end the following new sub-
23 paragraphs:

24 “(D) BIOMASS FACILITIES.—In the case of
25 a facility using biomass (other than closed-loop
26 biomass) to produce electricity, the term ‘quali-

1 fied facility’ means any facility owned by the
2 taxpayer which is originally placed in service be-
3 fore January 1, 2007.

4 “(E) SPECIAL RULES.—In the case of a
5 qualified facility described in subparagraph
6 (B)(ii) or (D)—

7 “(i) the 10-year period referred to in
8 subsection (a) shall be treated as beginning
9 no earlier than the date of the enactment
10 of this subparagraph,

11 “(ii) subsection (b)(3) shall not apply
12 to any such facility originally placed in
13 service before January 1, 1997, and

14 “(iii) if such a facility is leased and
15 the operator thereof is the lessee, such les-
16 see (and not the owner) shall be treated
17 for purposes of this section as owning such
18 facility.”.

19 (b) BIOMASS FACILITIES.—

20 (1) IN GENERAL.—Section 45(e)(1) of such Act
21 (defining qualified energy resources) is amended—

22 (A) by striking “and” at the end of sub-
23 paragraph (B),

24 (B) by striking the period at the end of
25 subparagraph (C) and inserting “, and”, and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(D) biomass (other than closed-loop bio-
4 mass).”.

5 (2) BIOMASS DEFINED.—Section 45(c) of such
6 Code (relating to definitions) is amended by adding
7 at the end the following new paragraph:

8 “(5) BIOMASS.—The term ‘biomass’ means any
9 solid, nonhazardous, cellulosic waste material which
10 is segregated from other waste materials and which
11 is derived from—

12 “(A) any of the following forest-related re-
13 sources: mill residues, precommercial thinnings,
14 slash, and brush, but not including old-growth
15 timber,

16 “(B) solid wood waste materials, including
17 waste pallets, crates, dunnage, manufacturing
18 and construction wood wastes (other than pres-
19 sure-treated, chemically treated, or painted
20 wood wastes), and landscape or right-of-way
21 tree trimmings, but not including municipal
22 solid waste (garbage), gas derived from the bio-
23 degradation of solid waste, or paper that is
24 commonly recycled, or

1 “(C) agriculture sources, including orchard
2 tree crops, vineyard, grain, legumes, sugar, and
3 other crop by-products or residues.”.

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

7 **SEC. 3. CREDIT FOR ELECTRICITY PRODUCED FROM AGRI-**
8 **CULTURAL AND ANIMAL WASTE.**

9 (a) IN GENERAL.—Paragraph (1) of section 45(c) of
10 the Internal Revenue Code of 1986, as amended by section
11 2, is amended by striking “and” at the end of subpara-
12 graph (C), by striking the period at the end of subpara-
13 graph (D) and inserting “, and”, and by adding at the
14 end the following new subparagraph:

15 “(E) agricultural and animal waste.”.

16 (b) AGRICULTURAL AND ANIMAL WASTE.—Section
17 45(c) of such Code (relating to definitions) is amended
18 by adding at the end the following new paragraph:

19 “(6) AGRICULTURAL AND ANIMAL WASTE.—
20 The term ‘agricultural and animal waste’ means all
21 waste heat, steam, and fuels produced from the con-
22 version of agricultural and animal wastes, including
23 byproducts, packaging, and any materials associated
24 with the processing, feeding, selling, transporting,
25 and disposal of agricultural and animal products or

1 wastes, including wood shavings, straw, rice hulls,
2 and other bedding for the disposition of manure.”.

3 (c) AGRICULTURAL AND ANIMAL WASTE FACILI-
4 TIES.—Paragraph (3) of section 45(c) of such Code is
5 amended by adding at the end the following new subpara-
6 graph:

7 “(F) AGRICULTURAL AND ANIMAL WASTE
8 FACILITIES.—In the case of a facility using ag-
9 ricultural and animal waste to produce elec-
10 tricity, the term ‘qualified facility’ means any
11 facility owned by the taxpayer which is origi-
12 nally placed in service after December 31,
13 1992, and before January 1, 2005.”.

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

17 **SEC. 4. REDUCTION OF MOTOR FUEL EXCISE TAX ON BIO-**
18 **DIESEL MIXTURES.**

19 (a) IN GENERAL.—Section 4081 of the Internal Rev-
20 enue Code of 1986 is amended by adding at the end the
21 following new subsection:

22 “(f) BIODIESEL MIXTURES.—Under regulations pre-
23 scribed by the Secretary—

24 “(1) IN GENERAL.—The rate of tax under sub-
25 section (a) shall be 3 cents per gallon less than the

1 otherwise applicable rate in the case of the removal
2 or entry of a qualified biodiesel mixture.

3 “(2) TAX PRIOR TO MIXING.—In the case of the
4 removal or entry of diesel fuel for use in producing
5 at the time of such removal or entry a qualified bio-
6 diesel mixture, the rate of tax under subsection (a)
7 shall be the 3.06 cents per gallon less than the oth-
8 erwise applicable rate.

9 “(3) QUALIFIED BIODIESEL MIXTURE.—For
10 purposes of this subsection, the term ‘qualified bio-
11 diesel mixture’ means any mixture of diesel fuel and
12 biodiesel (as defined in section 312(f) of the Energy
13 Policy Act of 1992) if at least 2 percent of such
14 mixture is biodiesel (as so defined).

15 “(5) CERTAIN RULES TO APPLY.—Rules similar
16 to the rules of paragraphs (6) and (7) of subsection
17 (c) shall apply for purposes of this subsection.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 4041 of such Code is amended by
20 adding at the end the following new subsection:

21 “(n) BIODIESEL MIXTURES.—Under regulations pre-
22 scribed by the Secretary, in the case of the sale or use
23 of a qualified biodiesel mixture (as defined in section
24 4081(f)), the rates under paragraphs (1) and (2) of sub-

1 section (a) shall be 3 cents per gallon less than the other-
2 wise applicable rates.”.

3 (2) Section 6427 of such Code is amended by
4 redesignating subsection (p) as subsection (q) and
5 by inserting after subsection (o) the following new
6 subsection:

7 “(p) BIODIESEL MIXTURES.—Except as provided in
8 subsection (k), if any diesel fuel on which tax was imposed
9 by section 4081 at a rate not determined under section
10 4081(f) is used by any person in producing a qualified
11 biodiesel mixture (as defined in section 4081(f)) which is
12 sold or used in such person’s trade or business, the Sec-
13 retary shall pay (without interest) to such person an
14 amount equal to 3.06 cents per gallon with respect to such
15 fuel.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on January 1, 2002.

18 (d) HIGHWAY TRUST FUND HELD HARMLESS.—
19 There are hereby transferred (from time to time) from the
20 funds of the Commodity Credit Corporation amounts
21 equivalent to the reductions that would occur (but for this
22 subsection) in the receipts of the Highway Trust Fund
23 by reason of the amendments made by this section.

1 **SEC. 5. HARVESTING OF SWITCH GRASS ON CONSERVATION**
2 **RESERVE ACREAGE FOR USE IN ENERGY**
3 **PRODUCTION.**

4 Section 1232(a)(7)(A) of the Food Security Act of
5 1985 (16 U.S.C. 3832(a)(7)(A)) is amended—

6 (1) by striking “and” at the end of clause (i);

7 and

8 (2) by inserting after clause (ii) the following
9 new clause:

10 “(iii) harvesting of switch grass on
11 such land when the purpose of the har-
12 vesting is to provide biomass for energy
13 production, and such commercial use of
14 the harvested grass shall be permitted
15 without reduction in rental payments
16 under the contact; and”.

17 **SEC. 6. USE OF BIODIESEL FUEL IN FEDERAL VEHICLES.**

18 Federal agencies shall use biodiesel fuel to operate
19 any Federal vehicle that uses diesel fuel, unless the cost
20 of doing so is prohibitive.

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