

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.

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## 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

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## 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-

1 actment of this paragraph, includes all wells,  
 2 pipes, and other gas collection equipment in-  
 3 stalled as part of the facility over the life of the  
 4 landfill, including any modifications or expan-  
 5 sions thereof, after the facility is first placed in  
 6 service.

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

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

13 **SEC. 2. EXTENSION AND EXPANSION OF CREDIT FOR PRO-**  
 14 **DUCTION OF ELECTRICITY TO PRODUCTION**  
 15 **FROM LANDFILL GAS.**

16 (a) IN GENERAL.—Section 45(c)(1) of the Internal  
 17 Revenue Code of 1986 (defining qualified energy re-  
 18 sources) is amended by striking “and” at the end of sub-  
 19 paragraph (B), by striking the period at the end of sub-  
 20 paragraph (C) and inserting “, and”, and by adding at  
 21 the end the following new subparagraph:

22 “(D) landfill gas.”.

23 (b) QUALIFIED FACILITY.—Section 45(c)(3) of the  
 24 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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