

108TH CONGRESS
1ST SESSION

S. 759

To amend the Internal Revenue Code of 1986 to provide a tax credit for individuals and businesses for the installation of certain wind energy property.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2003

Mr. DURBIN (for himself, Mr. ALLARD, Mr. CONRAD, Mr. HARKIN, Mr. JOHNSON, Mr. LEAHY, Mr. DORGAN, and Mr. JEFFORDS) 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 provide a tax credit for individuals and businesses for the installation of certain wind energy property.

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 “Residential, Farm,
5 Ranch, and Small Business Wind Energy Systems Act of
6 2003” or the “Small Wind Energy Systems Act of 2003”.

1 **SEC. 2. CREDIT FOR RESIDENTIAL WIND ENERGY PROP-**
 2 **ERTY.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to nonrefundable personal credits) is
 6 amended by inserting after section 25B the following new
 7 section:

8 **“SEC. 25C. RESIDENTIAL SMALL WIND ENERGY SYSTEMS.**

9 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 10 dividual, there shall be allowed as a credit against the tax
 11 imposed by this chapter for the taxable year an amount
 12 equal to 30 percent of the qualified wind energy property
 13 expenditures made by the taxpayer during such year.

14 “(b) LIMITATIONS.—

15 “(1) MAXIMUM CREDIT.—The credit allowed
 16 under subsection (a) shall not exceed \$1,000 for
 17 each kilowatt of capacity.

18 “(2) SAFETY CERTIFICATIONS.—No credit shall
 19 be allowed under this section for an item of property
 20 unless such property meets appropriate fire and elec-
 21 tric code requirements.

22 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
 23 credit allowable under subsection (a) exceeds the limita-
 24 tion imposed by section 26(a) for such taxable year re-
 25 duced by the sum of the credits allowable under this sub-
 26 part (other than this section), such excess shall be carried

1 to the succeeding taxable year and added to the credit al-
2 lowable under subsection (a) for such succeeding taxable
3 year.

4 “(d) QUALIFIED WIND ENERGY PROPERTY EXPEND-
5 ITURE.—For purposes of this section—

6 “(1) QUALIFIED WIND ENERGY PROPERTY EX-
7 PENDITURE DEFINED.—

8 “(A) IN GENERAL.—The term ‘qualified
9 wind energy property expenditure’ means an ex-
10 penditure for qualified wind energy property in-
11 stalled on or in connection with a dwelling unit
12 located in the United States and used as a resi-
13 dence by the taxpayer, including all necessary
14 installation fees and charges.

15 “(B) QUALIFIED WIND ENERGY PROP-
16 erty.—The term ‘qualified wind energy prop-
17 erty’ means a qualifying wind turbine—

18 “(i) the original use of which com-
19 mences with the taxpayer, and

20 “(ii) which carries at least a 5-year
21 limited warranty covering defects in de-
22 sign, material, or workmanship, and, for
23 any qualifying wind turbine that is not in-
24 stalled by the taxpayer, at least a 5-year

1 limited warranty covering defects in instal-
2 lation.

3 “(C) QUALIFYING WIND TURBINE.—The
4 term ‘qualifying wind turbine’ means a wind
5 turbine of 75 kilowatts of rated capacity or less
6 which at the time of manufacture and not more
7 than one year from the date of purchase meets
8 the latest performance rating standards pub-
9 lished by the American Wind Energy Associa-
10 tion or the International Electrotechnical Com-
11 mission and which is used to generate elec-
12 tricity.

13 “(2) LABOR COSTS.—Expenditures for labor
14 costs properly allocable to the onsite preparation, as-
15 sembly, or original installation of qualified wind en-
16 ergy property and for piping or wiring to inter-
17 connect such property to the dwelling unit or to the
18 local energy grid shall be taken into account for pur-
19 poses of this section.

20 “(3) SWIMMING POOLS, ETC., USED AS STOR-
21 AGE MEDIUM.—Expenditures which are properly al-
22 locable to a swimming pool, hot tub, or any other
23 energy storage medium which has a function other
24 than the function of storage shall not be taken into
25 account for purposes of this section.

1 “(e) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
4 CUPANCY.—In the case of any dwelling unit which is
5 jointly occupied and used during any calendar year
6 as a residence by 2 or more individuals the following
7 shall apply:

8 “(A) The amount of the credit allowable,
9 under subsection (a) by reason of expenditures
10 (as the case may be) made during such cal-
11 endar year by any of such individuals with re-
12 spect to such dwelling unit shall be determined
13 by treating all of such individuals as 1 taxpayer
14 whose taxable year is such calendar year.

15 “(B) There shall be allowable, with respect
16 to such expenditures to each of such individ-
17 uals, a credit under subsection (a) for the tax-
18 able year in which such calendar year ends in
19 an amount which bears the same ratio to the
20 amount determined under subparagraph (A) as
21 the amount of such expenditures made by such
22 individual during such calendar year bears to
23 the aggregate of such expenditures made by all
24 of such individuals during such calendar year.

1 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
2 HOUSING CORPORATION.—In the case of an indi-
3 vidual who is a tenant-stockholder (as defined in sec-
4 tion 216) in a cooperative housing corporation (as
5 defined in such section), such individual shall be
6 treated as having made his tenant-stockholder’s pro-
7 portionate share (as defined in section 216(b)(3)) of
8 any expenditures of such corporation.

9 “(3) CONDOMINIUMS.—

10 “(A) IN GENERAL.—In the case of an indi-
11 vidual who is a member of a condominium man-
12 agement association with respect to a condo-
13 minium which the individual owns, such indi-
14 vidual shall be treated as having made the indi-
15 vidual’s proportionate share of any expenditures
16 of such association.

17 “(B) CONDOMINIUM MANAGEMENT ASSO-
18 CIATION.—For purposes of this paragraph, the
19 term ‘condominium management association’
20 means an organization which meets the require-
21 ments of paragraph (1) of section 528(c) (other
22 than subparagraph (E) thereof) with respect to
23 a condominium project substantially all of the
24 units of which are used as residences.

1 “(4) ALLOCATION IN CERTAIN CASES.—If less
2 than 80 percent of the use of a qualified wind en-
3 ergy property is for nonbusiness purposes and for
4 generation of energy to be sold to others, only that
5 portion of the expenditures for such property which
6 is properly allocable to use for nonbusiness purposes
7 and for generation of energy to be sold to others
8 shall be taken into account.

9 “(5) WHEN EXPENDITURE MADE; AMOUNT OF
10 EXPENDITURE.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), an expenditure with respect
13 to any qualified wind energy property shall be
14 treated as made when the original installation
15 of such property is completed and the property
16 has begun to be used to generate energy.

17 “(B) EXPENDITURES PART OF BUILDING
18 CONSTRUCTION.—In the case of an expenditure
19 in connection with the construction or recon-
20 struction of a structure, such expenditure shall
21 be treated as made when the original use of the
22 constructed or reconstructed structure by the
23 taxpayer begins.

24 “(C) AMOUNT.—The amount of any ex-
25 penditure shall be the cost thereof.

1 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
2 ERGY FINANCING.—For purposes of determining the
3 amount of expenditures made by any individual with
4 respect to any dwelling unit, there shall not be taken
5 into account expenditures which are made from sub-
6 sidized energy financing (as defined in section
7 48(a)(5)(C)).

8 “(f) BASIS ADJUSTMENTS.—For purposes of this
9 subtitle, if a credit is allowed under this section for any
10 expenditure with respect to any qualified wind energy
11 property, the increase in the basis of such property which
12 would (but for this subsection) result from such expendi-
13 ture shall be reduced by the amount of the credit so al-
14 lowed.

15 “(g) TERMINATION.—This section shall not apply to
16 property installed in taxable years beginning after Decem-
17 ber 31, 2008.”.

18 (b) CREDIT ALLOWED AGAINST REGULAR TAX AND
19 ALTERNATIVE MINIMUM TAX.—

20 (1) IN GENERAL.—Section 25C(b) of the Inter-
21 nal Revenue Code of 1986, as added by subsection
22 (a), is amended by adding at the end the following
23 new paragraph:

1 “(3) LIMITATION BASED ON AMOUNT OF
2 TAX.—The credit allowed under subsection (a) for
3 the taxable year shall not exceed the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under this subpart (other than this section) and
9 section 27 for the taxable year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 25C(c) of such Code, as added
12 by subsection (a), is amended by striking “sec-
13 tion 26(a) for such taxable year reduced by the
14 sum of the credits allowable under this subpart
15 (other than this section)” and inserting “sub-
16 section (b)(3)”.

17 (B) Section 23(b)(4)(B) of such Code is
18 amended by inserting “and section 25C” after
19 “this section”.

20 (C) Section 24(b)(3)(B) of such Code is
21 amended by striking “23 and 25B” and insert-
22 ing “23, 25B, and 25C”.

23 (D) Section 25(e)(1)(C) of such Code is
24 amended by inserting “25C,” after “25B,”.

1 (E) Section 25B(g)(2) of such Code is
2 amended by striking “section 23” and inserting
3 “sections 23 and 25C”.

4 (F) Section 26(a)(1) of such Code is
5 amended by striking “and 25B” and inserting
6 “25B, and 25C”.

7 (G) Section 904(h) of such Code is amend-
8 ed by striking “and 25B” and inserting “25B,
9 and 25C”.

10 (H) Section 1400C(d) of such Code is
11 amended by striking “and 25B” and inserting
12 “25B, and 25C”.

13 (c) ADDITIONAL CONFORMING AMENDMENTS.—

14 (1) Section 23(e) of the Internal Revenue Code
15 of 1986, as in effect for taxable years beginning be-
16 fore January 1, 2004, is amended by striking “sec-
17 tion 1400C” and inserting “sections 25C and
18 1400C”.

19 (2) Section 25(e)(1)(C) of such Code, as in ef-
20 fect for taxable years beginning before January 1,
21 2004, is amended by inserting “, 25C,” after “sec-
22 tions 23”.

23 (3) Subsection (a) of section 1016 of such Code
24 is amended by striking “and” at the end of para-
25 graph (27), by striking the period at the end of

1 paragraph (28) and inserting “, and”, and by add-
 2 ing at the end the following new paragraph:

3 “(29) to the extent provided in section 25C(f),
 4 in the case of amounts with respect to which a credit
 5 has been allowed under section 25C.”.

6 (4) Section 1400C(d) of such Code, as in effect
 7 for taxable years beginning before January 1, 2004,
 8 is amended by inserting “and section 25C” after
 9 “this section”.

10 (5) The table of sections for subpart A of part
 11 IV of subchapter A of chapter 1 of such Code is
 12 amended by inserting after the item relating to sec-
 13 tion 25B the following new item:

“Sec. 25C. Residential wind energy property.”.

14 (d) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided by para-
 16 graph (2), the amendments made by this section
 17 shall apply to expenditures after December 31,
 18 2002, in taxable years ending after such date.

19 (2) SUBSECTION (b).—The amendments made
 20 by subsection (b) shall apply to taxable years begin-
 21 ning after December 31, 2003.

22 **SEC. 3. CREDIT FOR BUSINESS INSTALLATION OF SMALL**
 23 **WIND ENERGY PROPERTY.**

24 (a) IN GENERAL.—Subparagraph (A) of section
 25 48(a)(3) of the Internal Revenue Code of 1986 (defining

1 energy property) is amended by striking “or” at the end
2 of clause (i), by adding “or” at the end of clause (ii), and
3 by inserting after clause (ii) the following new clause:

4 “(iii) qualified wind energy property
5 installed before January 1, 2009,”.

6 (b) QUALIFIED WIND ENERGY PROPERTY.—Sub-
7 section (a) of section 48 is amended by redesignating
8 paragraphs (4) and (5) as paragraphs (5) and (6), respec-
9 tively, and by inserting after paragraph (3) the following
10 new paragraph:

11 “(4) QUALIFIED WIND ENERGY PROPERTY.—
12 For purposes of this subsection—

13 “(A) IN GENERAL.—The term ‘qualified
14 wind energy property’ means a qualifying wind
15 turbine—

16 “(i) installed on or in connection with
17 a farm (as defined in section 6420(c)), a
18 ranch, or an establishment of an eligible
19 small business (as defined in section 44(b))
20 which is located in the United States and
21 which is owned and used by the taxpayer,

22 “(ii) the original use of which com-
23 mences with the taxpayer, and

24 “(iii) which carries at least a 5-year
25 limited warranty covering defects in de-

1 sign, material, or workmanship, and, for
2 any qualifying wind turbine that is not in-
3 stalled by the taxpayer, at least a 5-year
4 limited warranty covering defects in instal-
5 lation.

6 “(B) LIMITATION.—In the case of any
7 qualified wind energy property placed in service
8 during the taxable year, the credit determined
9 under paragraph (1) for such year with respect
10 to such property shall not exceed an amount
11 equal to the lesser of—

12 “(i) 30 percent of the basis of such
13 property, including all necessary installa-
14 tion fees and charges, or

15 “(ii) \$1,000 for each kilowatt of ca-
16 pacity of such property.

17 “(C) QUALIFYING WIND TURBINE.—For
18 purposes of this paragraph the term ‘qualifying
19 wind turbine’ means a wind turbine of 75 kilo-
20 watts of rated capacity or less which at the
21 time of manufacture and not more than one
22 year from the date of purchase meets the latest
23 performance rating standards published by the
24 American Wind Energy Association or the

1 International Electrotechnical Commission and
2 which is used to generate electricity.

3 “(D) SAFETY CERTIFICATIONS.—No credit
4 shall be allowed under this section for any
5 qualified wind energy property unless such
6 property meets appropriate fire and electric
7 code requirements.”.

8 (c) LIMITATION.—Section 48(a)(2)(A) of the Internal
9 Revenue Code of 1986 (relating to energy percentage) is
10 amended to read as follows:

11 “(A) IN GENERAL.—The energy percent-
12 age is—

13 “(i) in the case of qualified wind en-
14 ergy property, 30 percent, and

15 “(ii) in the case of any other energy
16 property, 10 percent.”.

17 (d) CONFORMING AMENDMENT.—Section
18 29(b)(3)(A)(i)(III) of the Internal Revenue Code of 1986
19 is amended by striking “section 48(a)(4)(C)” and insert-
20 ing “section 48(a)(5)(C)”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this subsection shall apply to property placed in service
23 after December 31, 2003, under rules similar to the rules
24 of section 48(m) of the Internal Revenue Code of 1986

1 (as in effect on the day before the date of the enactment
2 of the Revenue Reconciliation Act of 1990).

○