

109TH CONGRESS  
1ST SESSION

# S. 1093

To reauthorize and revise the Renewable Energy Production Incentive program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 20, 2005

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To reauthorize and revise the Renewable Energy Production Incentive program, and for other purposes.

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 “Research and Develop-  
5 ment Investment Act”.

6 **SEC. 2. REAUTHORIZE AND REVISE THE RENEWABLE EN-**  
7 **ERGY PRODUCTION INCENTIVE PROGRAM.**

8 (a) INCENTIVE PAYMENTS.—Section 1212(a) of the  
9 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is  
10 amended by striking “and which satisfies” and all that

1 follows through “Secretary shall establish.” and inserting  
2 “. If there are insufficient appropriations to make full pay-  
3 ments for electric production from all qualified renewable  
4 energy facilities in any given year, the Secretary shall as-  
5 sign 60 percent of appropriated funds for that year to fa-  
6 cilities that use solar, wind, geothermal, or closed-loop  
7 (dedicated energy crops) biomass technologies to generate  
8 electricity, and assign the remaining 40 percent to other  
9 projects. The Secretary may, after transmitting to the  
10 Congress an explanation of the reasons therefor, alter the  
11 percentage requirements of the preceding sentence.”.

12 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—  
13 Section 1212(b) of the Energy Policy Act of 1992 (42  
14 U.S.C. 13317(b)) is amended—

15 (1) by striking “a State or any political” and  
16 all that follows through “nonprofit electrical cooper-  
17 ative” and inserting “a not-for-profit electric cooper-  
18 ative, a public utility described in section 115 of the  
19 Internal Revenue Code of 1986, a State, Common-  
20 wealth, territory, or possession of the United States  
21 or the District of Columbia, or a political subdivision  
22 thereof, or an Indian tribal government of subdivi-  
23 sion thereof,”; and

24 (2) by inserting “landfill gas,” after “wind, bio-  
25 mass,”.

1       (c) ELIGIBILITY WINDOW.—Section 1212(c) of the  
2 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is  
3 amended by striking “during the 10-fiscal year period be-  
4 ginning with the first full fiscal year occurring after the  
5 enactment of this section” and inserting “after October  
6 1, 2005, and before October 1, 2015”.

7       (d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of  
8 the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1))  
9 is amended by inserting “landfill gas,” after “wind, bio-  
10 mass,”.

11       (e) SUNSET.—Section 1212(f) of the Energy Policy  
12 Act of 1992 (42 U.S.C. 13317(f)) is amended by striking  
13 “the expiration of” and all that follows through “of this  
14 section” and inserting “September 30, 2025”.

15       (f) AUTHORIZATION OF APPROPRIATIONS.—Section  
16 1212(g) of the Energy Policy Act of 1992 (42 U.S.C.  
17 13317(g)) is amended to read as follows:

18       “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to carry out this section  
20 \$20,000,000 for each of fiscal years 2005 through 2025,  
21 to remain available until expended.”.

1 **SEC. 3. EXTENSION AND EXPANSION OF CREDIT FOR ELEC-**  
 2 **TRICITY PRODUCED FROM CERTAIN RENEW-**  
 3 **ABLE RESOURCES.**

4 (a) **EXTENSION.**—Section 45(d) of the Internal Rev-  
 5 enue Code of 1986 (relating to qualified facilities) is  
 6 amended by striking “2006” and inserting “2011”.

7 (b) **INCREMENTAL GEOTHERMAL ENERGY AND IN-**  
 8 **CREMENTAL HYDROPOWER PRODUCTION.**—

9 (1) **IN GENERAL.**—Section 45(c)(1) of the In-  
 10 ternal Revenue Code of 1986 (defining qualified en-  
 11 ergy resources) is amended by striking “and” at the  
 12 end of subparagraph (F), by striking the period at  
 13 the end of subparagraph (G) and inserting a comma,  
 14 and by adding at the end the following new subpara-  
 15 graphs:

16 “(H) incremental geothermal energy pro-  
 17 duction, and

18 “(I) incremental hydropower production.”.

19 (2) **DEFINITION OF RESOURCES.**—Section 45(c)  
 20 of such Code is amended by adding at the end the  
 21 following new paragraphs:

22 “(8) **INCREMENTAL GEOTHERMAL PRODUC-**  
 23 **TION.**—

24 “(A) **IN GENERAL.**—The term ‘incremental  
 25 geothermal production’ means for any taxable  
 26 year the excess of—

1           “(i) the total kilowatt hours of elec-  
2           tricity produced from an incremental geo-  
3           thermal facility described in subsection  
4           (d)(9), over

5           “(ii) the average annual kilowatt  
6           hours produced at such facility for 5 of the  
7           previous 7 calendar years before the date  
8           of the enactment of this paragraph after  
9           eliminating the highest and the lowest kilo-  
10          watt hour production years in such 7-year  
11          period.

12          “(B) SPECIAL RULE.—A facility described  
13          in subsection (d)(9) which was placed in service  
14          at least 7 years before the date of the enact-  
15          ment of this paragraph shall commencing with  
16          the year in which such date of enactment oc-  
17          curs, reduce the amount calculated under sub-  
18          paragraph (A)(ii) each year, on a cumulative  
19          basis, by the average percentage decrease in the  
20          annual kilowatt hour production for the 7-year  
21          period described in subparagraph (A)(ii) with  
22          such cumulative sum not to exceed 30 percent.

23          “(9) INCREMENTAL HYDROPOWER PRODUC-  
24          TION.—

1           “(A) IN GENERAL.—The term ‘incremental  
2           hydropower production’ means for any taxable  
3           year an amount equal to the percentage of total  
4           kilowatt hours of electricity produced from an  
5           incremental hydropower facility described in  
6           subsection (d)(10) attributable to efficiency im-  
7           provements or additions of capacity as deter-  
8           mined under subparagraph (B).

9           “(B) DETERMINATION OF INCREMENTAL  
10           HYDROPOWER PRODUCTION.—For purposes of  
11           subparagraph (A), incremental hydropower pro-  
12           duction for any incremental hydropower facility  
13           for any taxable year shall be determined by es-  
14           tablishing a percentage of average annual hy-  
15           dropower production at the facility attributable  
16           to the efficiency improvements or additions of  
17           capacity using the same water flow information  
18           used to determine an historic average annual  
19           hydropower production baseline for such facil-  
20           ity. Such percentage and baseline shall be cer-  
21           tified by the Federal Energy Regulatory Com-  
22           mission. For purposes of the preceding sen-  
23           tence, the determination of incremental hydro-  
24           power production shall not be based on any  
25           operational changes at such facility not directly

1 associated with the efficiency improvements or  
2 additions of capacity.”.

3 (3) FACILITIES.—Section 45(d) of such Code  
4 (relating to qualified facilities) is amended by adding  
5 at the end the following new paragraphs:

6 “(9) INCREMENTAL GEOTHERMAL FACILITY.—  
7 In the case of a facility using incremental geo-  
8 thermal to produce electricity, the term ‘qualified fa-  
9 cility’ means any facility owned by the taxpayer  
10 which is originally placed in service before the date  
11 of the enactment of this paragraph, but only to the  
12 extent of its incremental geothermal production. In  
13 the case of a qualified facility described in the pre-  
14 ceding sentence, the 10-year period referred to in  
15 subsection (a) shall be treated as beginning not ear-  
16 lier than such date of enactment. Such term shall  
17 not include any property described in section  
18 48(a)(3) the basis of which is taken into account by  
19 the taxpayer for purposes of determining the energy  
20 credit under section 48.

21 “(10) INCREMENTAL HYDROPOWER FACIL-  
22 ITY.—In the case of a facility using incremental hy-  
23 dropower to produce electricity, the term ‘qualified  
24 facility’ means any non-Federal hydroelectric facility  
25 owned by the taxpayer which is originally placed in

1 service before the date of the enactment of this  
2 paragraph, but only to the extent of its incremental  
3 hydropower production. In the case of a qualified fa-  
4 cility described in the preceding sentence, the 10-  
5 year period referred to in subsection (a) shall be  
6 treated as beginning not earlier than such date of  
7 enactment.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to facilities placed in service after  
10 December 31, 2005.

11 **SEC. 4. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
12 **PROPERTY.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-  
14 chapter A of chapter 1 of the Internal Revenue Code of  
15 1986 (relating to nonrefundable personal credits) is  
16 amended by inserting after section 25B the following new  
17 section:

18 **“SEC. 25C. RESIDENTIAL SOLAR AND GEOTHERMAL PROP-**  
19 **ERTY.**

20 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
21 dividual, there shall be allowed as a credit against the tax  
22 imposed by this chapter for the taxable year an amount  
23 equal to 10 percent of the qualified energy property ex-  
24 penditures made by the taxpayer during such year.

1       “(b) LIMITATIONS.—No credit shall be allowed under  
2 this section for an item of property unless—

3           “(1) the original use of such property com-  
4 mences with the taxpayer,

5           “(2) such property reasonably can be expected  
6 to remain in use for at least 5 years, and

7           “(3) such property is installed on or in connec-  
8 tion with a dwelling unit located in the United  
9 States and used as a residence by the taxpayer.

10       “(c) QUALIFIED ENERGY PROPERTY EXPENDI-  
11 TURES.—For purposes of this section, the term ‘qualified  
12 energy property expenditure’ means an expenditure for en-  
13 ergy property (as defined in paragraph (3) of section 48(a)  
14 (determined without regard to subparagraphs (B) and (C)  
15 thereof).

16       “(d) SPECIAL RULES.—For purposes of this sec-  
17 tion—

18           “(1) SOLAR PANELS.—No expenditure relating  
19 to a solar panel or other property installed as a roof  
20 (or portion thereof) shall fail to be treated as prop-  
21 erty described in subsection (c) solely because it con-  
22 stitutes a structural component of the structure on  
23 which it is installed.

24           “(2) SWIMMING POOLS, ETC., USED AS STOR-  
25 AGE MEDIUM.—Expenditures which are properly al-

1 locable to a swimming pool, hot tub, or any other  
2 energy storage medium which has a function other  
3 than the function of such storage shall not be taken  
4 into account for purposes of this section.

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

10 “(A) The amount of the credit allowable  
11 under subsection (a) by reason of expenditures  
12 made during such calendar year by any of such  
13 individuals with respect to such dwelling unit  
14 shall be determined by treating all of such indi-  
15 viduals as 1 taxpayer whose taxable year is  
16 such calendar year.

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

1 the aggregate of such expenditures made by all  
2 of such individuals during such calendar year.

3 “(4) TENANT-STOCKHOLDER IN COOPERATIVE  
4 HOUSING CORPORATION.—In the case of an indi-  
5 vidual who is a tenant-stockholder (as defined in sec-  
6 tion 216) in a cooperative housing corporation (as  
7 defined in such section), such individual shall be  
8 treated as having made the individual’s tenant-stock-  
9 holder’s proportionate share (as defined in section  
10 216(b)(3)) of any expenditures of such corporation.

11 “(5) CONDOMINIUMS.—

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

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

1 a condominium project substantially all of the  
2 units of which are used as residences.

3 “(6) ALLOCATION IN CERTAIN CASES.—If less  
4 than 80 percent of the use of an item is for nonbusi-  
5 ness purposes, only that portion of the expenditures  
6 for such item which is properly allocable to use for  
7 nonbusiness purposes shall be taken into account.

8 “(7) WHEN EXPENDITURE MADE; AMOUNT OF  
9 EXPENDITURE.—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), an expenditure with respect  
12 to an item shall be treated as made when the  
13 original installation of the item is completed.

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

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

23 “(8) PROPERTY FINANCED BY SUBSIDIZED EN-  
24 ERGY FINANCING.—For purposes of determining the  
25 amount of expenditures made by any individual with

1       respect to any dwelling unit, there shall not be taken  
2       into account expenditures which are made from sub-  
3       sidized energy financing (as defined in section  
4       48(a)(4)(C)).

5       “(e) BASIS ADJUSTMENTS.—For purposes of this  
6       subtitle, if a credit is allowed under this section for any  
7       expenditure with respect to any property, the increase in  
8       the basis of such property which would (but for this sub-  
9       section) result from such expenditure shall be reduced by  
10      the amount of the credit so allowed.”.

11      (b) CONFORMING AMENDMENTS.—

12           (1) Section 1016(a) of the Internal Revenue  
13      Code of 1986 is amended by striking “and” at the  
14      end of paragraph (30), by striking the period at the  
15      end of paragraph (31) and inserting “, and”, and by  
16      adding at the end the following new paragraph:

17           “(32) to the extent provided in section 25C(e),  
18      in the case of amounts with respect to which a credit  
19      has been allowed under section 25C.”.

20           (2) The table of sections for subpart A of part  
21      IV of subchapter A of chapter 1 of such Code is  
22      amended by inserting after the item relating to sec-  
23      tion 25B the following new item:

“Sec. 25C. Residential solar and geothermal property.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after De-  
3 cember 31, 2004.

4 **SEC. 5. DELAY IN PHASEOUT OF DEDUCTION FOR CLEAN-**  
5 **FUEL VEHICLES.**

6 (a) IN GENERAL.—Section 179A(b)(1)(B) of the In-  
7 ternal Revenue Code of 1986 (relating to phaseout) is  
8 amended by striking “2005” and inserting “2006”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to property placed in service after  
11 December 31, 2005.

12 **SEC. 6. DELAY IN PHASEOUT OF CREDIT FOR QUALIFIED**  
13 **ELECTRIC VEHICLES.**

14 (a) IN GENERAL.—Section 30(b)(2) of the Internal  
15 Revenue Code of 1986 (relating to phaseout) is amended  
16 by striking “2005” and inserting “2006”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to property placed in service after  
19 December 31, 2005.

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