

## Renewable Energy Community Seeks Extension of Tax Credits

By Michael J. Novogradac, CPA

“America has got to change its habits. We’ve got to get off oil.”

With those words President George W. Bush underscored the very real need for the United States to find clean alternatives to gas and oil to power its homes and businesses.

While President Bush went on to promote increased reliance on nuclear power to a gathering of the world’s leading renewable energy experts at the Washington International Renewable Energy Conference last month, some legislators and a host of renewable energy organizations and professionals were seeking to gain support for legislation that would extend the renewable energy production tax credit and the investment tax credit for renewable energy.

House Ways and Means Chairman Charles B. Rangel, D-N.Y., on February 12 introduced H.R. 5351, the Renewable Energy and Energy Conservation Tax Act of 2008.

Rangel’s legislation would extend through December 31, 2011 the placed-in-service date for \$6.57 billion in renewable energy tax credits for certain qualifying facilities that produce power from wind, biomass, landfill gases and other technologies. The measure would extend for eight years (through 2016) the 30 percent investment tax credit for solar and fuel cell property at an estimated cost of \$621 million over 10 years. (See sidebar on page 4.)

### A Little History

The Energy Policy Act of 2005 (EPACT), signed by President Bush on August 8, 2005, offered consumers and businesses federal tax credits beginning in January 2006 for purchasing fuel-efficient hybrid-electric vehicles and energy-efficient appliances and products. Businesses are eli-

gible for tax credits for buying hybrid vehicles, for building energy-efficient buildings, and for improving the energy efficiency of commercial buildings.

Credit is also available for business installation of qualified fuel cells, stationary microturbine power plants, and solar equipment. This provides a 30 percent tax credit for the purchase price for installing qualified fuel cell power plants for businesses, a 10 percent credit for qualifying stationary microturbine power plants and a 30 percent credit for qualifying solar energy equipment. This was effective January 1, 2006 through December 31, 2007. The Tax Relief and Health Care Act of 2006 provided an extension through 2008 of these energy provisions.

As the renewable energy industry has matured, the potential for the uses of these tax credits has grown. Slowly but surely deals are beginning to be done; for example some developers are combining renewable energy tax credits (RETCs) and low-income housing tax credits (LIHTCs) to create affordable housing properties powered entirely or in part by renewable energy sources. In another emerging trend, owners of existing LIHTC properties are exploring the option to install solar panels on the housing in their portfolios and pursue RETCs related to those investments.

### H.R. 5351, Renewable Energy and Energy Conservation Tax Act of 2008

On February 27, the House voted 236-182 in favor of the Renewable Energy and Energy Conservation Tax Act of 2008. Seventeen Republicans joined 219 Democrats to vote yes and eight Democrats joined 174 Republicans to oppose H.R. 5351. The bill, with \$18.1 billion in renewable energy tax incentives, extends the incentives in the 2005 energy bill

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that are set to expire at the end of this year. Clean energy incentives in H.R. 5351 would be paid for by eliminating about \$18 billion in subsidies over 10 years to the big oil companies. The profits of the big five oil companies in 2007 alone were reportedly about \$123 billion. According to the Energy Information Administration, gross revenues from the 27 biggest energy companies hit a record high of \$220 billion in 2006 (the most recent information available), well above the \$188 billion in 2005 and \$129 billion in 2004.

ACORE, an organization that represents all renewable energy industries, called on Congress in February to pass the bill. It warned that without it, 42,000 megawatts of planned renewable energy projects in development in 45 states would be at risk. The American Wind Energy Association, which called for a bipartisan effort in passing the renewable tax credit extension, estimates that 116,000 jobs and \$19 billion in clean energy investment are at risk from the expiration of the renewable energy tax credits.

H.R. 5351 would strengthen and extend the production

tax credit; spur the deployment of wind, biomass, geothermal, hydropower, tidal and landfill gas; extend the solar and fuel cell investment tax credit and offer tax incentives for residential solar, wind and geothermal technologies; create a new production tax credit for cellulosic ethanol; and extend the biodiesel production tax credit. It would also create a new category of tax credit bonds to fund local initiatives to promote the deployment of green technologies. "It will spur the production of clean renewable energy sources and provide businesses with the certainty necessary to make long-term plans to build viable and sustaining markets for these technologies. This is all about answers in the marketplace," said House Speaker Nancy Pelosi, D-Calif.

The bill faces two major obstacles, however: the Senate and President Bush. The bill must receive 60 votes in the Senate for floor consideration and the president has threatened to veto the bill if it is passed by Congress. Opposition to the bill hinges on the proposed rollbacks of big oil subsidies and that those increases on the oil and gas industry would result in higher energy costs to

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the nation's consumers and businesses. The administration also opposes legislation language that would apply Davis-Bacon prevailing wage requirements to projects financed with tax credit bonds.

A cap on wind energy production credits included in the bill also came in for criticism. Rep. Phil English, R-Pa., called the cap a "compromise on the integrity of the wind credit that has potentially enormous consequences." Senate Finance Committee ranking member Charles Grassley, R-Iowa, also opposed the cap, saying it would prevent wind energy producing companies from getting the full current credit.

A similar bill by Rangel introduced in January 2007 also proposed to repeal the subsidies for the big oil companies and to use the funds for research and renewable energy resources and tax incentives. It passed easily in the House but died in the Senate because the President threatened to veto the bill if the oil subsidies were repealed.

## Solutions Needed

Deputy Secretary of State John Negroponte acknowledged on March 5 that the federal government policy must facilitate "real solutions" to climate change.

To accomplish these real solutions, not only must this extension be passed but it is critical that tough constructive steps are taken for the lasting health of the nation's energy sources. Legislation must be enacted that will have long-term effects. A coherent policy is crucial to the long-term health of the nation's energy issues and concerns. We call on the present Administration and those that follow to take important steps to create policies that will change energy production and use patterns; to make serious attempts to connect the many agencies and organizations that must work together to create sound and consistent policy, to forge policy that encourages long-term investment and production of alternative clean energy, and to undertake long-term efforts to support a return on the nation's investment in power plants, production facilities and a new generation of products.

Let us trust that as President Bush said to the hundreds gathered on March 6 that within a decade "people will marvel about how far technology has helped change our habits and change the world." A part of that trust rests with our representatives in Washington, that they will set policy and pass legislation so critical to that vision.

For more information about renewable energy tax credits and the efforts to extend and expand them, please visit the Renewable Energy Tax Credit Resource Center online at [www.energytaxcredits.com](http://www.energytaxcredits.com). ❖

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## At a Glance:

### The Renewable Energy and Energy Conservation Tax Act of 2008

#### INCREASE PRODUCTION OF RENEWABLE ELECTRICITY

##### **Long-term extension and modification of renewable energy production tax credit**

The bill extends the placed-in service date for three years (Through December 31, 2011) for certain qualifying facilities. Includes a new category of qualifying facilities (those that will generate electricity from marine renewables). Estimated cost: \$6.57 billion over 10 years

##### **Long-term extension and modification of solar energy and fuel cell investment tax credit.**

The bill extends the 30 percent investment tax credit for solar energy property and qualified fuel cell property for eight years (through the end of 2016). Increases the \$500 per half kilowatt of capacity cap for qualified fuel cells to \$1,500 per half kilowatt of capacity. Removes an existing limitation that prevents public utilities from claiming the investment tax credit. Allows the energy credit to be used to offset alternative minimum tax (AMT). Estimated cost: \$621 million over 10 years.

##### **New Clean Renewable Energy Bonds (CREBs).**

The bill authorizes \$2 billion of new clean renewable energy bonds for public power providers and electric cooperatives. Estimated cost: \$640 million over 10 years.

##### **Long-term extension and modification of the residential energy-efficient property credit.**

The bill would extend the credit for residential solar property for six years (through the end of 2014). Increase the annual credit cap (currently capped at \$2,000) to \$4,000. Allows the credit to be used to offset alternative minimum tax (AMT). Estimated cost: \$634 million over 10 years.

##### **Sales of electric transmission property.**

The bill extends the present-law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Applies to sales before January 1, 2010. Estimated cost: revenue neutral over 10 years.

#### INCREASE PRODUCTION OF RENEWABLE FUELS

##### **Cellulosic alcohol production credit.**

The bill creates a new production tax credit of 50 cents per gallon for cellulosic alcohol produced for use as a fuel in the United States. The credit is available through the end of 2010. Estimated cost: \$24 million over 10 years.

##### **Extension of biodiesel production tax credit; extension and modification of renewable diesel tax credit.**

The bill extends for two years (through December 31, 2010) the \$1 and 50 cent per gallon production tax credits for biodiesel and the small biodiesel producer credit of 10 cents per gallon. Extends for two years (through December 31, 2010) the \$1 per gallon production tax credit for diesel fuel created from biomass. Eliminates the requirement that the diesel fuel must be produced using a thermal depolymerization process. Clarifies that the \$1 per gallon production credit for renewable diesel is limited to fuel that is produced solely from biomass. Estimated cost: \$202 million over 10 years.

##### **Extension and increase of alternative refueling stations tax credit.**

The bill increases the 30 percent alternative refueling property credit (capped at \$30,000) to 50 percent (capped at \$50,000). Extends this credit through the end of 2010. Estimated cost: \$156 million over 10 years.

##### **Clarification that fuel credits are designed to provide an incentive for United States production.**

The bill clarifies that the per gallon tax incentives for biodiesel, renewable diesel and alternative fuels are incentives for the production of fuels in the United States. Clarifies that the per gallon tax incentives for alcohol fuels, biodiesel, renewable diesel and alternative fuels are limited to fuels that are produced for consumption in the United States (applies to fuel produced, and sold and used, after December 31, 2008). This proposal is estimated to raise \$68 million over 10 years.

Follow the status of this bill and related legislation by checking in regularly at [www.energytaxcredits.com](http://www.energytaxcredits.com).