

**AMENDMENT TO COMMITTEE PRINT # 4**  
**OFFERED BY MS. DEGETTE OF COLORADO**

Page 21, after line 12, insert:

1 **SEC. 13. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

2 (a) IN GENERAL.—Title VI of the Public Utility Reg-  
3 ulatory Policies Act of 1978 is amended by adding at the  
4 end the following:

5 **“SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

6 “(a) DEFINITIONS.—For purposes of this section:

7 “(1) BIOMASS.—The term ‘biomass’ means—

8 “(A) cellulosic (plant fiber) organic mate-  
9 rials from a plant that is planted for the pur-  
10 pose of being used to produce energy;

11 “(B) nonhazardous, plant or algal matter  
12 waste materials that is segregated from other  
13 waste materials and is derived from—

14 “(i) an agricultural crop, crop byprod-  
15 uct or residue resource;

16 “(ii) waste such as landscape or right-  
17 of-way trimmings, but not including—

18 “(I) municipal solid waste;

19 “(II) recyclable postconsumer  
20 waste paper;

1                   “(III) painted, treated, or pres-  
2                   surized wood;

3                   “(IV) wood contaminated with  
4                   plastic or metals; or

5                   “(iii) gasified animal waste;

6                   “(iv) landfill methane; and

7                   “(C) with respect to material removed  
8                   from National Forest System lands the term in-  
9                   cludes only organic material from—

10                   “(i) precommercial thinnings;

11                   “(ii) slash;

12                   “(iii) brush; and

13                   “(iv) mill residues.

14                   “(2) ELIGIBLE FACILITY.—The term ‘eligible  
15                   facility’ means—

16                   “(A) a facility for the generation of electric  
17                   energy from a renewable energy resource that is  
18                   placed in service on or after the date of enact-  
19                   ment of this section or the effective date of the  
20                   applicable State renewable portfolio standard  
21                   program; or

22                   “(B) a repowering or cofiring increment  
23                   that is placed in service on or after the date of  
24                   enactment of this section or the effective date  
25                   of the applicable State renewable portfolio

1 standard program, at a facility for the genera-  
2 tion of electric energy from a renewable energy  
3 resource that was placed in service before that  
4 date.

5 “(3) EXISTING FACILITY OFFSET.—The term  
6 ‘existing facility offset’ means renewable energy gen-  
7 erated from an existing facility, not classified as an  
8 eligible facility, that is owned or under contract, di-  
9 rectly or indirectly, to a retail electric supplier on  
10 the date of enactment of this section.

11 “(4) INCREMENTAL HYDROPOWER.—The term  
12 ‘incremental hydropower’ means additional genera-  
13 tion that is achieved from increased efficiency or ad-  
14 ditions of capacity on or after the date of enactment  
15 of this section or the effective date of the applicable  
16 State renewable portfolio standard program, at a hy-  
17 droelectric facility that was placed in service before  
18 that date.

19 “(5) INDIAN LAND.—The term ‘Indian land’  
20 means—

21 “(A) any land within the limits of any In-  
22 dian reservation, pueblo, or rancheria;

23 “(B) any land not within the limits of any  
24 Indian reservation, pueblo, or rancheria title to  
25 which was on the date of enactment of this

1 paragraph either held by the United States for  
2 the benefit of any Indian tribe or individual or  
3 held by any Indian tribe or individual subject to  
4 restriction by the United States against alien-  
5 ation;

6 “(C) any dependent Indian community;  
7 and

8 “(D) any land conveyed to any Alaska Na-  
9 tive corporation under the Alaska Native  
10 Claims Settlement Act.

11 “(6) INDIAN TRIBE.—The term ‘Indian tribe’  
12 means any Indian tribe, band, nation, or other orga-  
13 nized group or community, including any Alaskan  
14 Native village or regional or village corporation as  
15 defined in or established pursuant to the Alaska Na-  
16 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),  
17 which is recognized as eligible for the special pro-  
18 grams and services provided by the United States to  
19 Indians because of their status as Indians.

20 “(7) RENEWABLE ENERGY.—The term ‘renew-  
21 able energy’ means electric energy generated by a re-  
22 newable energy resource.

23 “(8) RENEWABLE ENERGY RESOURCE.—The  
24 term ‘renewable energy resource’ means solar (in-  
25 cluding solar water heating), wind, ocean, tidal, geo-

1 thermal energy, biomass, landfill gas, or incremental  
2 hydropower.

3 “(9) REPOWERING OR COFIRING INCREMENT.—

4 The term ‘repowering or cofiring increment’  
5 means—

6 “(A) the additional generation from a  
7 modification that is placed in service on or after  
8 the date of enactment of this section or the ef-  
9 fective date of the applicable State renewable  
10 portfolio standard program, to expand elec-  
11 tricity production at a facility used to generate  
12 electric energy from a renewable energy re-  
13 source or to cofire biomass that was placed in  
14 service before the date of enactment of this sec-  
15 tion or the effective date of the applicable State  
16 renewable portfolio standard program; or

17 “(B) the additional generation above the  
18 average generation in the 3 years preceding the  
19 date of enactment of this section or the effec-  
20 tive date of the applicable State renewable port-  
21 folio standard program, to expand electricity  
22 production at a facility used to generate electric  
23 energy from a renewable energy resource or to  
24 cofire biomass that was placed in service before  
25 the date of enactment of this section or the ef-

1           fective date of the applicable State renewable  
2           portfolio standard program.

3           “(10) RETAIL ELECTRIC SUPPLIER.—The term  
4           ‘retail electric supplier’ means a person that sells  
5           electric energy to electric consumers and sold not  
6           less than 1,000,000 megawatt-hours of electric en-  
7           ergy to electric consumers for purposes other than  
8           resale during the preceding calendar year; except  
9           that such term does not include the United States,  
10          a State or any political subdivision of a State, or any  
11          agency, authority, or instrumentality of any one or  
12          more of the foregoing, or a rural electric cooperative.

13          “(11) RETAIL ELECTRIC SUPPLIER’S BASE  
14          AMOUNT.—The term ‘retail electric supplier’s base  
15          amount’ means the total amount of electric energy  
16          sold by the retail electric supplier, expressed in  
17          terms of kilowatt hours, to electric customers for  
18          purposes other than resale during the most recent  
19          calendar year for which information is available, ex-  
20          cluding electric energy generated by a hydroelectric  
21          facility.

22          “(b) MINIMUM RENEWABLE GENERATION REQUIRE-  
23          MENT.—For each calendar year beginning in calendar  
24          year 2010, each retail electric supplier shall submit to the  
25          Secretary, not later than April 1 of the following calendar

1 year, renewable energy credits in an amount equal to the  
2 required annual percentage specified in subsection (c).

3 “(c) REQUIRED ANNUAL PERCENTAGE.—For cal-  
4 endar years 2010 through 2039, the required annual per-  
5 centage of the retail electric supplier’s base amount that  
6 shall be generated from renewable energy resources, or  
7 otherwise credited towards such percentage requirement  
8 pursuant to subsection (d), shall be the percentage speci-  
9 fied in the following table:

| “Calendar Years           | Required annual<br>percentage |
|---------------------------|-------------------------------|
| 2010 .....                | 1                             |
| 2011 .....                | 2                             |
| 2012 .....                | 4                             |
| 2013 .....                | 6                             |
| 2014 .....                | 8                             |
| 2015 .....                | 10                            |
| 2016 .....                | 12                            |
| 2017 .....                | 14                            |
| 2018 .....                | 16                            |
| 2019 .....                | 18                            |
| 2020 and thereafter ..... | 20                            |

10 “(d) RENEWABLE ENERGY CREDITS.—(1) A retail  
11 electric supplier may satisfy the requirements of sub-  
12 section (b) through the submission of renewable energy  
13 credits—

14 “(A) issued to the retail electric supplier under  
15 subsection (e);

16 “(B) obtained by purchase or exchange under  
17 subsection (f) or (h); or

18 “(C) borrowed under subsection (j).

1       “(2) A renewable energy credit may be counted to-  
2 ward compliance with subsection (b) only once.

3       “(e) ISSUANCE OF CREDITS.—(1) The Secretary  
4 shall establish by rule, not later than 1 year after the date  
5 of enactment of this section, a program to verify and issue  
6 renewable energy credits, track their sale, exchange and  
7 submission, and enforce the requirements of this section.

8       “(2) An entity that generates electric energy through  
9 the use of a renewable energy resource may apply to the  
10 Secretary for the issuance of renewable energy credits.  
11 The applicant must demonstrate that the electric energy  
12 will be transmitted onto the grid or, in the case of a gen-  
13 eration offset, that the electric energy offset would have  
14 otherwise been consumed on site. The application shall in-  
15 dicate—

16           “(A) the type of renewable energy resource used  
17 to produce the electricity;

18           “(B) the location where the electric energy was  
19 produced; and

20           “(C) any other information the Secretary deter-  
21 mines appropriate.

22       “(3)(A) Except as provided in subparagraphs (B),  
23 (C), and (D), the Secretary shall issue to each entity that  
24 generates electric energy one renewable energy credit for  
25 each kilowatt hour of electric energy the entity generates

1 from the date of enactment of this section and in each  
2 subsequent calendar year through the use of a renewable  
3 energy resource at an eligible facility.

4       “(B) For incremental hydropower the renewable en-  
5 ergy credits shall be calculated based on the expected in-  
6 crease in average annual generation resulting from the ef-  
7 ficiency improvements or capacity additions. The number  
8 of credits shall be calculated using the same water flow  
9 information used to determine a historic average annual  
10 generation baseline for the hydroelectric facility and cer-  
11 tified by the Secretary or the Federal Energy Regulatory  
12 Commission. The calculation of the renewable energy cred-  
13 its for incremental hydropower shall not be based on any  
14 operational changes at the hydroelectric facility not di-  
15 rectly associated with the efficiency improvements or ca-  
16 pacity additions.

17       “(C) The Secretary shall issue two renewable energy  
18 credits for each kilowatt hour of electric energy generated  
19 and supplied to the grid in that calendar year through the  
20 use of a renewable energy resource at an eligible facility  
21 located on Indian land. For purposes of this paragraph,  
22 renewable energy generated by biomass cofired with other  
23 fuels is eligible for two credits only if the biomass was  
24 grown on such land.

1       “(D) For electric energy generated by a renewable  
2 energy resource at an on-site eligible facility, used to offset  
3 part or all of the customer’s requirements for electric en-  
4 ergy, the Secretary shall issue three renewable energy  
5 credits to such customer for each kilowatt hour generated.

6       “(E) In the case of a retail electric supplier that is  
7 subject to a State renewable standard program that—

8           “(i) requires the generation of electricity from  
9 renewable energy; or

10          “(ii) provides for alternative compliance pay-  
11 ments in satisfaction of applicable State require-  
12 ments under the program,

13 the Secretary shall issue an amount of renewable energy  
14 credits equal to the amount of renewable energy credits  
15 that the Secretary would have issued had a payment of  
16 the same amount been made to the Secretary under sub-  
17 section (j). Such renewable energy credits may be applied  
18 against the retail electric supplier’s own required annual  
19 percentage or may be transferred for use only by an asso-  
20 ciate company of the retail electric supplier.

21       “(f) ELIGIBILITY.—To be eligible for a renewable en-  
22 ergy credit, the unit of electric energy generated through  
23 the use of a renewable energy resource may be sold or  
24 may be used by the generator. If both a renewable energy  
25 resource and a non-renewable energy resource are used to

1 generate the electric energy, the Secretary shall issue re-  
2 newable energy credits based on the proportion of the re-  
3 newable energy resources used. The Secretary shall iden-  
4 tify renewable energy credits by type and date of genera-  
5 tion.

6 “(g) CONTRACTS UNDER SECTION 210.—When a  
7 generator sells electric energy generated through the use  
8 of a renewable energy resource to a retail electric supplier  
9 under a contract subject to section 210 of this Act, the  
10 retail electric supplier is treated as the generator of the  
11 electric energy for the purposes of this section or the dura-  
12 tion of the contract.

13 “(h) EXISTING FACILITY OFFSETS.—The Secretary  
14 shall issue renewable energy credits for existing facility  
15 offsets to be applied against a retail electric supplier’s re-  
16 quired annual percentage. Such credits are not tradeable  
17 and may be used only in the calendar year generation ac-  
18 tually occurs.

19 “(i) RENEWABLE ENERGY CREDIT TRADING.—A re-  
20 newable energy credit, may be sold, transferred or ex-  
21 changed by the entity to whom issued or by any other enti-  
22 ty who acquires the renewable energy credit, except for  
23 those renewable energy credits issued pursuant to sub-  
24 section (e)(3)(E). A renewable energy credit for any year  
25 that is not used to satisfy the minimum renewable genera-

1 tion requirement of subsection (a) for that year may be  
2 carried forward for use within the next 4 years.

3 “(j) RENEWABLE ENERGY CREDIT BORROWING.—At  
4 any time before the end of calendar year 2012, a retail  
5 electric supplier that has reason to believe it will not have  
6 sufficient renewable energy credits to comply with sub-  
7 section (b) may—

8 “(1) submit a plan to the Secretary dem-  
9 onstrating that the retail electric supplier will earn  
10 sufficient credits within the next 3 calendar years  
11 which, when taken into account, will enable the re-  
12 tail electric supplier to meet the requirements of  
13 subsection (b) for calendar year 2012 and the subse-  
14 quent calendar years involved; and

15 “(2) upon the approval of the plan by the Sec-  
16 retary, apply renewable energy credits that the plan  
17 demonstrates will be earned within the next 3 cal-  
18 endar years to meet the requirements of subsection  
19 (b) for each calendar year involved.

20 The retail electric supplier must repay all of the borrowed  
21 renewable energy credits by submitting an equivalent  
22 number of renewable energy credits, in addition to those  
23 otherwise required under subsection (b), by calendar year  
24 2020 or any earlier deadlines specified in the approved  
25 plan. Failure to repay the borrowed renewable energy

1 credits shall subject the retail electric supplier to civil pen-  
2 alties under subsection (k) for violation of the require-  
3 ments of subsection (b) for each calendar year involved.

4       “(k) ENFORCEMENT.—A retail electric supplier that  
5 does not submit renewable energy credits as required  
6 under subsection (b) shall be liable for the payment of a  
7 civil penalty. That penalty shall be calculated on the basis  
8 of the number of renewable energy credits not submitted,  
9 multiplied by the lesser of 4.5 cents or 300 percent of the  
10 average market value of credits for the compliance period.  
11 Any such penalty shall be due and payable without de-  
12 mand to the Secretary as provided in the regulations  
13 issued under subsection (e). On January 1 of each year  
14 following calendar year 2006, the Secretary shall adjust  
15 for inflation the penalty for such calendar year, based on  
16 the Gross Domestic Product Implicit Price Deflator.

17       “(l) CREDIT COST CAP.—The Secretary shall offer  
18 renewable energy credits for sale at the lesser of 3 cents  
19 per kilowatt-hour or 200 percent of the average market  
20 value of renewable credits for the applicable compliance  
21 period. On January 1 of each year following calendar year  
22 2006, the Secretary shall adjust for inflation the price  
23 charged per credit for such calendar year, based on the  
24 Gross Domestic Product Implicit Price Deflator.

1       “(m) INFORMATION COLLECTION.—The Secretary  
2 may collect the information necessary to verify and  
3 audit—

4           “(1) the annual electric energy generation and  
5 renewable energy generation of any entity applying  
6 for renewable energy credits under this section;

7           “(2) the validity of renewable energy credits  
8 submitted by a retail electric supplier to the Sec-  
9 retary; and

10          “(3) the quantity of electricity sales of all retail  
11 electric suppliers.

12       “(n) ENVIRONMENTAL SAVINGS CLAUSE.—Incre-  
13 mental hydropower shall be subject to all applicable envi-  
14 ronmental laws and licensing and regulatory requirements.

15       “(o) EXISTING PROGRAMS.—(1) This section does  
16 not preclude a State from imposing additional renewable  
17 energy requirements in that State, including specifying eli-  
18 gible technologies under such State requirements.

19       “(2) In the rule establishing this program, the Sec-  
20 retary shall incorporate common elements of existing re-  
21 newable energy programs, including State programs, to  
22 ensure administrative ease, market transparency and ef-  
23 fective enforcement. The Secretary shall work with the  
24 States to minimize administrative burdens and costs and

1 to avoid duplicating compliance charges to retail electric  
2 suppliers.

3       “(p) RECOVERY OF COSTS.—An electric utility whose  
4 sales of electric energy are subject to rate regulation, in-  
5 cluding any utility whose rates are regulated by the Com-  
6 mission and any State regulated electric utility, shall not  
7 be denied the opportunity to recover the full amount of  
8 the prudently incurred incremental cost of renewable en-  
9 ergy obtained to comply with the requirements of sub-  
10 section (b) for sales to electric customers which are subject  
11 to rate regulation, notwithstanding any other law, regula-  
12 tion, rule, administrative order or any agreement between  
13 the electric utility and either the Commission or a State  
14 regulatory authority. For the purpose of this subsection,  
15 the term ‘incremental cost of renewable energy’ means—

16           “(1) the additional cost to the electric utility for  
17 the purchase or generation of renewable energy to  
18 satisfy the minimum renewable generation require-  
19 ment of subsection (b), as compared to the cost of  
20 the electric energy the electric utility would generate  
21 or purchase from another source but for the require-  
22 ments of subsection (b); and

23           “(2) the cost to the electric utility for acquiring  
24 by purchase or exchange renewable energy credits to

1 satisfy the minimum renewable generation require-  
2 ment of subsection (b).

3 For purposes of this subsection, the definitions in section  
4 3 of this Act shall apply to the terms ‘electric utility’,  
5 ‘State regulated electric utility’, ‘State agency’, ‘Commis-  
6 sion’, and ‘State regulatory authority’.

7 “(q) VOLUNTARY PARTICIPATION.—The Secretary  
8 shall encourage federally-owned utilities, municipally-  
9 owned utilities and rural electric cooperatives that sell  
10 electric energy to electric consumers for purposes other  
11 than resale to participate in the renewable portfolio stand-  
12 ard program. A municipally-owned utility or rural electric  
13 cooperative that owns or has under contract a facility for  
14 the generation of electric energy from a renewable energy  
15 resource may not sell or trade renewable energy credits  
16 generated by such resource unless it participates in the  
17 renewable portfolio standard program under the same  
18 terms and conditions as retail electric suppliers.

19 “(r) PROGRAM REVIEW.—The Secretary shall enter  
20 into a contract with the National Academy of Sciences to  
21 conduct a comprehensive evaluation of all aspects of the  
22 Renewable Portfolio Standard program, within 8 years of  
23 enactment of this section. The study shall include an eval-  
24 uation of—

1           “(1) the effectiveness of the program in increas-  
2           ing the market penetration and lower the cost of the  
3           eligible renewable technologies;

4           “(2) the opportunities for any additional tech-  
5           nologies and sources of renewable energy emerging  
6           since enactment of this section;

7           “(3) the impact on the regional diversity and  
8           reliability of supply sources, including the power  
9           quality benefits of distributed generation;

10          “(4) the regional resource development relative  
11          to renewable potential and reasons for any under in-  
12          vestment in renewable resources; and

13          “(5) the net cost/benefit of the renewable port-  
14          folio standard to the national and State economies,  
15          including retail power costs, economic development  
16          benefits of investment, avoided costs related to envi-  
17          ronmental and congestion mitigation investments  
18          that would otherwise have been required, impact on  
19          natural gas demand and price, effectiveness of green  
20          marketing programs at reducing the cost of renew-  
21          able resources.

22          The Secretary shall transmit the results of the evaluation  
23          and any recommendations for modifications and improve-  
24          ments to the program to Congress not later than January  
25          1, 2016.

1       “(s) PROGRAM IMPROVEMENTS.—Using the results  
2 of the evaluation under subsection (p), the Secretary shall  
3 by rule, within 6 months of the completion of the evalua-  
4 tion, make such modifications to the program as may be  
5 necessary to improve the efficiency of the program and  
6 maximize the use of renewable energy under the program.

7       “(t) STATE RENEWABLE ENERGY ACCOUNT PRO-  
8 GRAM.—(1) The Secretary shall establish, not later than  
9 December 31, 2009, a State renewable energy account  
10 program.

11       “(2) All money collected by the Secretary from the  
12 sale of renewable energy credits shall be deposited into the  
13 State renewable energy account established pursuant to  
14 this subsection. The State renewable energy account shall  
15 be held by the Secretary and shall not be transferred to  
16 the Secretary of the Treasury.

17       “(3) Proceeds deposited in the State renewable en-  
18 ergy account shall be used by the Secretary, subject to  
19 annual appropriations, for a program to provide grants to  
20 the State agency responsible for developing State energy  
21 conservation plans under section 363 of the Energy Policy  
22 and Conservation Act (42 U.S.C. 6322) for the purposes  
23 of promoting renewable energy production and providing  
24 energy assistance and weatherization services to low-in-  
25 come consumers.

1       “(4) The Secretary may issue guidelines and criteria  
2 for grants awarded under this subsection. At least 75 per-  
3 cent of the funds provided to each State shall be used for  
4 promoting renewable energy production. The funds shall  
5 be allocated to the States on the basis of retail electric  
6 sales subject to the Renewable Portfolio Standard under  
7 this section or through voluntary participation. To the ex-  
8 tent Federal credits have been issued without payment due  
9 to reciprocity with State programs under subsection  
10 (d)(3)(E), deductions shall be made from the relevant  
11 State’s allocation. State energy offices receiving grants  
12 under this section shall maintain such records and evi-  
13 dence of compliance as the Secretary may require.”.

14       (b) TABLE OF CONTENTS.—The table of contents for  
15 such title is amended by adding the following new items  
16 at the end:

“Sec. 609. Rural and remote communities electrification grants.

“Sec. 610. Federal renewable portfolio standard.”.

17       (c) SUNSET.—Section 610 of such title and the item  
18 relating to such section 610 in the table of contents for  
19 such title are each repealed as of December 31, 2039.

