

110TH CONGRESS  
1ST SESSION

# S. 1618

To amend the Internal Revenue Code of 1986 to provide a credit for the production of a cellulosic biofuel.

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## IN THE SENATE OF THE UNITED STATES

JUNE 14, 2007

Mr. SALAZAR (for himself, Mrs. LINCOLN, Mr. SMITH, Mr. ALLARD, Ms. STABENOW, Ms. CANTWELL, Mr. CRAIG, Mr. WYDEN, Mr. CONRAD, Mr. NELSON of Nebraska, and Mr. KERRY) 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 provide a credit for the production of a cellulosic biofuel.

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 PRODUCTION OF CELLULOSIC**  
4       **BIOFUEL.**

5       (a) IN GENERAL.—Subpart B of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code of  
7 1986 is amended by adding at the end the following new  
8 section:

1 **“SEC. 30D. CELLULOSIC BIOFUEL PRODUCTION.**

2       “(a) GENERAL RULE.—There shall be allowed as a  
3 credit against the tax imposed by this chapter for the tax-  
4 able year an amount equal to \$1.28 for each gallon of  
5 qualified cellulosic biofuel production.

6       “(b) QUALIFIED CELLULOSIC BIOFUEL PRODUC-  
7 TION.—For purposes of this section, the term ‘qualified  
8 cellulosic biofuel production’ means any cellulosic biofuel  
9 which is produced in the United States by the taxpayer  
10 and which during the taxable year—

11               “(1) is sold by the taxpayer to another per-  
12 son—

13                       “(A) for use by such other person in the  
14 production of a qualified cellulosic biofuel mix-  
15 ture in such other person’s trade or business  
16 (other than casual off-farm production),

17                       “(B) for use by such other person as a fuel  
18 in a trade or business, or

19                       “(C) who sells such cellulosic biofuel at re-  
20 tail to another person and places such cellulosic  
21 biofuel in the fuel tank of such other person, or

22       “(2) is used or sold by the taxpayer for any  
23 purpose described in paragraph (1).

24       “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
25 poses of this section—

1           “(1) CELLULOSIC BIOFUEL.—The term ‘cel-  
 2           lulosic biofuel’ means any liquid transportation fuel  
 3           derived from any lignocellulosic or hemicellulosic  
 4           mater (other than food starch) that is available on  
 5           a renewable or recurring basis.

6           “(2) QUALIFIED CELLULOSIC BIOFUEL MIX-  
 7           TURE.—The term ‘qualified cellulosic biofuel mix-  
 8           ture’ means a mixture of cellulosic biofuel and gaso-  
 9           line which—

10                   “(A) is sold by the person producing such  
 11                   mixture to any person for use as a fuel, or

12                   “(B) is used as a fuel by the person pro-  
 13                   ducing such mixture.

14           “(3) CELLULOSIC BIOFUEL NOT USED AS A  
 15           FUEL.—If any credit is allowed under subsection (a)  
 16           and any person does not use such cellulosic biofuel  
 17           for a purpose described in subsection (b), then there  
 18           is hereby imposed on such person a tax equal to  
 19           \$1.28 for each gallon of such cellulosic biofuel.

20           “(4) PASS-THRU IN THE CASE OF ESTATES AND  
 21           TRUSTS.—Under regulations prescribed by the Sec-  
 22           retary, rules similar to the rules of subsection (d) of  
 23           section 52 shall apply.

24           “(5) DENIAL OF DOUBLE BENEFIT.—No credit  
 25           shall be allowed under this section to any taxpayer

1 with respect to any cellulosic biofuel if a credit or  
 2 payment is allowed with respect to such fuel to such  
 3 taxpayer under section 40, 40A, 6426, or 6427(e).

4 “(d) LIMITATION BASED ON AMOUNT OF TAX.—The  
 5 credit allowed under subsection (a) for any taxable year  
 6 shall not exceed the excess of—

7 “(1) the sum of the regular tax liability (as de-  
 8 fined in section 26(b)) plus the tax imposed by sec-  
 9 tion 55, over

10 “(2) the sum of the credits allowable under sub-  
 11 part A and sections 27, 30, 30B, and 30C.

12 “(e) CARRYFORWARD AND CARRYBACK OF UNUSED  
 13 CREDIT.—

14 “(1) IN GENERAL.—If the credit allowable  
 15 under subsection (a) exceeds the limitation imposed  
 16 by subsection (d) for such taxable year (hereinafter  
 17 in this section referred to as the ‘unused credit  
 18 year’) reduced by the sum of the credits allowable  
 19 under subpart A, such excess shall be—

20 “(A) carried back to the taxable year pre-  
 21 ceding the unused credit year, and

22 “(B) carried forward to each of the 20 tax-  
 23 able years following the unused credit year.

24 “(2) TRANSITION RULE.—The credit under  
 25 subsection (a) may not be carried to a taxable year

1       beginning before the date of the enactment of this  
2       section.

3       “(f) APPLICATION OF SECTION.—This section shall  
4       apply with respect to qualified cellulosic biofuel produc-  
5       tion—

6               “(1) after the date of the enactment of this sec-  
7       tion, and

8               “(2) before the date on which the Secretary of  
9       Energy certifies that 1,000,000,000 gallons of cel-  
10       lulosic biofuels have been produced in the United  
11       States after such date.”.

12       (b) DEDUCTION ALLOWED FOR UNUSED CREDIT.—  
13       Section 196(c) of such Code is amended by adding at the  
14       end the following new subsection:

15       “(d) DEDUCTION ALLOWED FOR CELLULOSIC  
16       BIOFUEL PRODUCTION CREDIT.—

17               “(1) IN GENERAL.—If any portion of the credit  
18       allowed under section 30D for any taxable year has  
19       not, after the application of section 30D(d), been al-  
20       lowed to the taxpayer as a credit under such section  
21       for any taxable year, an amount equal to such credit  
22       not so allowed shall be allowed to the taxpayer as a  
23       deduction for the first taxable year following the last  
24       taxable year for which such credit could, under sec-  
25       tion 30D(e), have been allowed as a credit.

1           “(2) TAXPAYER’S DYING OR CEASING TO  
 2       EXIST.—If a taxpayer dies or ceases to exist before  
 3       the first taxable year following the last taxable year  
 4       for which the credit could, under section 30D(e),  
 5       have been allowed as a credit, the amount described  
 6       in paragraph (1) (or the proper portion thereof)  
 7       shall, under regulations prescribed by the Secretary,  
 8       be allowed to the taxpayer as a deduction for the  
 9       taxable year in which such death or cessation oc-  
 10      curs.”.

11       (c) CONFORMING AMENDMENTS.—

12           (1)(A) Section 87 of the Internal Revenue Code  
 13       of 1986 is amended by striking “and” at the end of  
 14       paragraph (1), by striking the period at the end of  
 15       paragraph (2) and inserting “, and”, and by adding  
 16       at the end the following new paragraph:

17           “(3) the cellulosic biofuel production credit de-  
 18       termined with respect to the taxpayer under section  
 19       30D(a).”.

20           (B) The heading of section 87 of such Code is  
 21       amended by striking “**AND BIODIESEL FUELS**  
 22       **CREDITS**” and inserting “, **BIODIESEL FUELS,**  
 23       **AND CELLULOSIC BIOFUELS CREDITS**”.

24           (C) The item relating to section 87 is the table  
 25       of sections for part II of subchapter B of chapter 1

1 of such Code is amended by striking “and biodiesel  
2 fuels credits” and inserting “, biodiesel fuels, and  
3 cellulosic biofuels credits”.

4 (2) The table of sections for subpart B of part  
5 IV of subchapter A of chapter 1 of such Code is  
6 amended by inserting after the item relating to sec-  
7 tion 40A the following new item:

“Sec. 30D. Cellulosic biofuel production.”.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to fuel produced after the date of  
10 the enactment of this Act.

