

111TH CONGRESS
2^D SESSION

H. R. 5343

To amend the Internal Revenue Code of 1986 to provide an investment tax credit for advanced biofuel production property.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2010

Ms. HERSETH SANDLIN (for herself and Mr. HODES) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide an investment tax credit for advanced biofuel production 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 “Advanced Biofuel In-
5 vestment Act of 2010”.

1 **SEC. 2. INVESTMENT TAX CREDIT FOR QUALIFIED AD-**
2 **VANCED BIOFUEL PRODUCTION PROPERTY.**

3 (a) **IN GENERAL.**—Subparagraph (A) of section
4 48(a)(3) of the Internal Revenue Code of 1986 (defining
5 energy property) is amended by striking “or” at the end
6 of clause (vi), by inserting “or” at the end of clause (vii),
7 and by inserting after clause (vii) the following new clause:

8 “(viii) qualified advanced biofuel pro-
9 duction property,”.

10 (b) **30 PERCENT CREDIT.**—Clause (i) of section
11 48(a)(2)(A) of the Internal Revenue Code of 1986 is
12 amended by striking “and” at the end of subclause (III)
13 and by inserting after subclause (IV) the following new
14 subclause:

15 “(V) qualified advanced biofuel
16 production property, and”.

17 (c) **DEFINITIONS.**—Subsection (c) of section 48 of
18 the Internal Revenue Code of 1986 is amended by adding
19 at the end the following new paragraph:

20 “(5) **QUALIFIED ADVANCED BIOFUEL PRODUC-**
21 **TION PROPERTY.**—

22 “(A) **IN GENERAL.**—The term ‘qualified
23 advanced biofuel production property’ means
24 property used in an advanced biofuel project.

25 “(B) **ADVANCED BIOFUEL PROJECT.**—The
26 term ‘advanced biofuel project’ means a project

1 certified by the Secretary of Energy as meeting
2 the following requirements:

3 “(i) The property is used to produce
4 advanced biofuel for sale to unrelated per-
5 sons (within the meaning of section
6 45(e)(4)).

7 “(ii) The project will rely primarily on
8 new or significantly improved technologies
9 as compared to commercial technologies
10 currently in service in the United States
11 and used to produce advanced biofuel.

12 “(iii) Such other requirements as the
13 Secretary of Energy, not later than 120
14 days after the date of the Advanced
15 Biofuel Investment Act of 2010, may by
16 regulation prescribe to the extent necessary
17 to carry out the purposes of this section,
18 including encouraging private investment
19 in projects which provide the greatest net
20 impact in avoiding or reducing air pollut-
21 ants or anthropogenic emissions of green-
22 house gases, have the greatest readiness
23 for commercial employment, replication,
24 and further commercial use in the United
25 States, and will introduce new technologies

1 and fuel production processes in the com-
2 mercial market.

3 “(C) ADVANCED BIOFUEL.—The term ‘ad-
4 vanced biofuel’ means fuel that—

5 “(i) meets the definition of advanced
6 biofuel in section 9001(3) of the Farm Se-
7 curity and Rural Investment Act of 2002,
8 and

9 “(ii) has lifecycle greenhouse gas
10 emissions that are at least 50 percent less
11 than baseline lifecycle greenhouse gas
12 emissions, as required under section
13 211(o)(1)(B)(i) of the Clean Air Act.

14 “(D) TERMINATION.—The term ‘qualified
15 advanced biofuel production property’ shall not
16 include any property placed in service after De-
17 cember 31, 2015.”.

18 (d) GRANTS IN LIEU OF TAX CREDIT.—

19 (1) IN GENERAL.—Section 1603(d) of the
20 American Recovery and Reinvestment Tax Act of
21 2009 is amended by inserting after paragraph (8)
22 the following new paragraph:

23 “(9) QUALIFIED ADVANCED BIOFUEL PRODUC-
24 TION PROPERTY.—Any property described in clause
25 (viii) of section 48(a)(3)(A).”.

1 (2) APPLICABLE PERCENTAGE.—Section
2 1603(b)(2)(A) of such Act is amended by inserting
3 “and (9)” after “through (4)”.

4 (e) GRANT INCLUDIBLE IN INCOME.—Section
5 48(d)(3) of the Internal Revenue Code of 1986 is amended
6 by striking “Any such grant” and inserting “Except for
7 a grant for specified energy property described in sub-
8 section (d)(9) of such section 1603, any such grant”.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to periods after the date of the
11 enactment of this Act, in taxable years ending after such
12 date, under rules similar to the rules of section 48(m) of
13 the Internal Revenue Code of 1986 (as in effect on the
14 day before the date of the enactment of the Revenue Rec-
15 onciliation Act of 1990).

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