

111TH CONGRESS
2^D SESSION

H. R. 6035

To amend the Internal Revenue Code of 1986 to provide an investment credit to promote the conversion of United States coal and domestic carbonaceous feedstocks into synthetic fuels and synthetic gas.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2010

Mr. HOLDEN introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide an investment credit to promote the conversion of United States coal and domestic carbonaceous feedstocks into synthetic fuels and synthetic gas.

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 “Foreign Oil Displace-
5 ment Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the strategic interests of the United States
2 would be served by a reduction in the Nation’s de-
3 pendence upon imported oil to produce transpor-
4 tation fuels and other products vital to both the do-
5 mestic economy and national security;

6 (2) this goal would be served by the develop-
7 ment of a viable, commercially competitive synthetic
8 fuels industry reliant upon domestic coals and other
9 plentiful, nontraditional carbonaceous feedstocks;
10 and

11 (3) temporary financial incentives are required
12 to foster private investment in the technology, de-
13 sign, construction, and operation of strategic facili-
14 ties capable of producing synthetic fuels or synthetic
15 gas on a commercial scale.

16 **SEC. 3. CARBONACEOUS FUELS FACILITY CREDIT.**

17 (a) ALLOWANCE OF CARBONACEOUS FUELS FACIL-
18 ITY CREDIT.—Section 46 of the Internal Revenue Code
19 of 1986 is amended by striking “and” at the end of para-
20 graph (5), by striking the period at the end of paragraph
21 (6) and inserting “, and” and by inserting after paragraph
22 (6) the following new paragraph:

23 “(7) the carbonaceous fuels facility credit.”.

24 (b) AMOUNT OF CARBONACEOUS FUELS FACILITY
25 CREDIT.—Subpart E of part IV of subchapter A of chap-

1 ter 1 of such Code is amended by inserting after section
2 48D the following new section:

3 **“SEC. 48E. CARBONACEOUS FUELS FACILITY CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 46, the
5 carbonaceous fuels facility credit for any taxable year is
6 an amount equal to 30 percent of the qualified investment
7 in a carbonaceous fuels conversion facility for such taxable
8 year.

9 “(b) QUALIFIED INVESTMENT.—For purposes of this
10 section—

11 “(1) IN GENERAL.—The term ‘qualified invest-
12 ment’ means, with respect to any taxable year, the
13 basis of property placed in service by the taxpayer
14 during the taxable year as part of a carbonaceous
15 fuels conversion facility—

16 “(A)(i) the construction, reconstruction, or
17 erection of which is completed by the taxpayer,
18 or

19 “(ii) which is acquired by the taxpayer if
20 the original use of such property commences
21 with the taxpayer,

22 “(B) with respect to which depreciation (or
23 amortization in lieu of depreciation) is allow-
24 able, and

1 “(C) which has a useful life of not less
2 than 3 years.

3 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—
4 For purposes of paragraph (1)(A), in the case of a
5 facility that—

6 “(A) is originally placed in service by a
7 person, and

8 “(B) is sold and leased back by such per-
9 son, or is leased to such person, within 3
10 months after the date such facility was origi-
11 nally placed in service, for a period of not less
12 than 12 years,

13 such facility shall be treated as originally placed in
14 service not earlier than the date on which such prop-
15 erty is used under the leaseback (or lease) referred
16 to in subparagraph (B). The preceding sentence
17 shall not apply to any property if the lessee and les-
18 sor of such property make an election under this
19 sentence. Such an election, once made, may be re-
20 voked only with the consent of the Secretary.

21 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
22 TURES RULES MADE APPLICABLE.—Rules similar to
23 the rules of subsections (c)(4) and (d) of section 46
24 (as in effect on the day before the enactment of the

1 Revenue Reconciliation Act of 1990) shall apply for
2 purposes of this section.

3 “(c) CARBONACEOUS FUELS CONVERSION FACIL-
4 ITY.—

5 “(1) IN GENERAL.—For purposes of this sec-
6 tion, the term ‘carbonaceous fuels conversion facility’
7 means a facility of the taxpayer used to produce a
8 qualified fuel.

9 “(2) QUALIFIED FUEL.—For purposes of para-
10 graph (1), the term ‘qualified fuel’—

11 “(A) has the meaning given such term by
12 section 45K(e), except that

13 “(B) in applying section 45K(c)(1)(C), the
14 term ‘coal’ includes—

15 “(i) peat, and

16 “(ii) any byproduct (including syn-
17 thetic gas) or chemical—

18 “(I) that is from a coal, culm, or
19 silt preparation facility, and

20 “(II) that contains fixed carbon
21 derived from coal.

22 “(d) COORDINATION WITH OTHER CREDITS.—This
23 section shall not apply to any property with respect to
24 which any other credit is allowed unless the taxpayer elects

1 to waive the application of such other credits to such prop-
2 erty.

3 “(e) CREDIT MAY BE ASSIGNED.—

4 “(1) IN GENERAL.—If any taxpayer elects the
5 application of this subsection for any taxable year,
6 the amount of credit determined under this section
7 for such year which would (but for this subsection)
8 be allowable to the taxpayer shall be allowable to the
9 person designated by the taxpayer. Such amount
10 shall be determined by applying this section sepa-
11 rately from section 38 for such year. The person so
12 designated shall be treated as the taxpayer with re-
13 spect to this section (other than this subsection) for
14 purposes of this title (other than this paragraph).

15 “(2) TREATMENT OF AMOUNTS PAID FOR AS-
16 SIGNMENT.—If any amount is paid to the person
17 who assigns the credit determined under this sec-
18 tion, no portion of such amount shall be includible
19 in such person’s gross income.

20 “(f) APPLICATION OF SECTION.—This section shall
21 apply to periods after the date of the enactment of this
22 section and before January 1, 2024, under rules similar
23 to the rules of section 48(m) (as in effect on the day before
24 the date of the enactment of the Revenue Reconciliation
25 Act of 1990).”.

1 (c) RECAPTURE.—

2 (1) IN GENERAL.—Subsection (a) of section 50
3 of such Code is amended by adding at the end the
4 following new paragraph:

5 “(6) SPECIAL RULES RELATING TO CARBO-
6 NACEOUS FUELS CONVERSION FACILITY.—For pur-
7 poses of applying this subsection in the case of any
8 credit allowable by reason of section 48E, the fol-
9 lowing shall apply:

10 “(A) IN GENERAL.—In lieu of the amount
11 of the increase in tax under paragraph (1), the
12 increase in tax shall be an amount equal to the
13 investment tax credit allowed under section 38
14 for all prior taxable years with respect to a car-
15 bonaceous fuels conversion facility (as defined
16 by section 48E(e)) multiplied by a fraction
17 whose numerator is the number of years re-
18 maining to fully depreciate under this chapter
19 the carbonaceous fuels conversion facility dis-
20 posed of, and whose denominator is the total
21 number of years over which such facility would
22 otherwise have been subject to depreciation. For
23 purposes of the preceding sentence, the year of
24 disposition of the carbonaceous fuels conversion

1 facility property shall be treated as a year of re-
2 maining depreciation.

3 “(B) PROPERTY CEASES TO QUALIFY FOR
4 PROGRESS EXPENDITURES.—Rules similar to
5 the rules of paragraph (2) shall apply in the
6 case of qualified progress expenditures for a
7 carbonaceous fuels conversion facility under sec-
8 tion 48E, except that the amount of the in-
9 crease in tax under subparagraph (A) of this
10 paragraph shall be substituted in lieu of the
11 amount described in such paragraph (2).”.

12 (2) Paragraph (4) of section 50(a) of such Code
13 is amended by striking “and (2)” and inserting “,
14 (2), and (6)”.

15 (d) APPLICATION OF AT-RISK RULES.—Subpara-
16 graph (C) of section 49(a)(1) of such Code is amended
17 by striking “and” at the end of clause (v), by striking the
18 period at the end of clause (vi) and inserting “, and”, and
19 by adding at the end thereof the following new clause:

20 “(vii) the portion of the basis of any
21 carbonaceous fuels conversion facility at-
22 tributable to any qualified investment (as
23 defined by section 48E(b)).”.

24 (e) CLERICAL AMENDMENT.—The table of sections
25 for subpart E of part IV of subchapter A of chapter 1

1 of such Code is amended by inserting after the item relat-
 2 ing to section 48D the following new item:

“Sec. 48E. Carbonaceous fuels facility credit.”

3 (f) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply taxable years ending after the date
 5 of the enactment of this Act.

6 **SEC. 4. EXEMPTION FROM MANUFACTURERS EXCISE TAX**
 7 **ON FUELS.**

8 (a) **IN GENERAL.**—Subsection (a) of section 4083 of
 9 the Internal Revenue Code of 1986 is amended by adding
 10 at the end the following new paragraph:

11 “(4) **QUALIFIED CARBONACEOUS FUEL.**—

12 “(A) **EXEMPTION.**—The terms ‘taxable
 13 fuel’, ‘gasoline’, ‘diesel fuel’ and ‘kerosene’ do
 14 not include qualified carbonaceous fuel or that
 15 portion of a blend that is qualified carbo-
 16 naceous fuel.

17 “(B) **QUALIFIED CARBONACEOUS FUEL**
 18 **DEFINED.**—For purposes of subparagraph (A),
 19 the term ‘qualified carbonaceous fuel’ means
 20 qualified fuel produced by a carbonaceous fuels
 21 conversion facility.

22 “(C) **OTHER DEFINITIONS.**—For purposes
 23 of subparagraph (B), the terms ‘qualified fuel’
 24 and ‘carbonaceous fuels conversion facility’ have
 25 the meaning given such terms by section 48E.

1 “(D) APPLICATION OF PARAGRAPH.—This
2 paragraph shall apply during the period begin-
3 ning on the 91st day after the date of the en-
4 actment of this paragraph and ending on De-
5 cember 31, 2023.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall take effect on the date of the enactment
8 of this Act.

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