

115TH CONGRESS
1ST SESSION

S. 1980

To amend the Internal Revenue Code of 1986 to provide credits for the production of renewable chemicals and investments in renewable chemical production facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 2017

Ms. STABENOW (for herself, Ms. COLLINS, Mr. COONS, Mr. FRANKEN, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide credits for the production of renewable chemicals and investments in renewable chemical production facilities, and for other purposes.

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 “Renewable Chemicals
5 Act of 2017”.

1 **SEC. 2. CREDITS FOR PRODUCTION OF RENEWABLE CHEMI-**
2 **CALS AND INVESTMENTS IN RENEWABLE**
3 **CHEMICAL PRODUCTION FACILITIES.**

4 (a) PRODUCTION OF RENEWABLE CHEMICALS.—

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

9 **“SEC. 45S. CREDIT FOR PRODUCTION OF RENEWABLE**
10 **CHEMICALS.**

11 “(a) IN GENERAL.—For purposes of section 38, the
12 production credit for renewable chemicals for any taxable
13 year is an amount (determined separately for each renew-
14 able chemical) equal to \$0.15 per pound of biobased con-
15 tent of each renewable chemical produced during the tax-
16 able year—

17 “(1) by the taxpayer, or

18 “(2) for the taxpayer by a contract manufac-
19 turer under a binding written agreement.

20 “(b) LIMITATION.—The amount of the credit deter-
21 mined under subsection (a) with respect to a renewable
22 chemical produced during any taxable year shall not ex-
23 ceed the credit amount allocated for purposes of this sec-
24 tion by the Secretary to the taxpayer with respect to such
25 chemical for such taxable year under section 48E(e).

26 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) RENEWABLE CHEMICAL.—The term ‘re-
2 newable chemical’ means any chemical which—

3 “(A) is produced in the United States (or
4 in a territory or possession of the United
5 States) from renewable biomass,

6 “(B) is sold or used by the taxpayer—

7 “(i) for the production of chemical
8 products, polymers, plastics, or formulated
9 products, or

10 “(ii) as chemicals, polymers, plastics,
11 or formulated products,

12 “(C) is not less than 95 percent biobased
13 content,

14 “(D) is the product of, or is reliant upon,
15 biological conversion, thermal conversion, or a
16 combination of biological and thermal conver-
17 sion of renewable biomass,

18 “(E) is not sold or used for the production
19 of any food, feed, or fuel, and

20 “(F) is not a chemical for which a credit
21 has been claimed by the taxpayer in any taxable
22 year under this section or section 48E.

23 “(2) BIOBASED CONTENT.—The term ‘biobased
24 content’ means, with respect to any renewable chem-
25 ical, the biobased content of the total mass of or-

1 organic carbon in such chemical (expressed as a per-
2 centage), determined by testing representative sam-
3 ples using the American Society for Testing and Ma-
4 terials (ASTM) D6866.

5 “(3) RENEWABLE BIOMASS.—The term ‘renew-
6 able biomass’ has the meaning given such term in
7 section 9001(13) of the Farm Security and Rural
8 Investment Act of 2002 (7 U.S.C. 8101(13)).

9 “(d) NATIONAL LIMITATION ON CREDITS FOR RE-
10 NEWABLE CHEMICALS.—See section 48E(e) for rules re-
11 lating to national limitation on credits under this section.

12 “(e) COORDINATION WITH INVESTMENT CREDIT FOR
13 RENEWABLE CHEMICAL PRODUCTION FACILITIES.—See
14 section 48E(f) for rules coordinating section 48E with this
15 section.

16 “(f) TERMINATION.—Notwithstanding any other pro-
17 vision of this section or section 48E, the Secretary may
18 not allocate any credit amount under this section to any
19 taxable year which begins more than 5 years after the date
20 of the enactment of this section.”.

21 (2) CREDIT TO BE PART OF GENERAL BUSI-
22 NESS CREDIT.—Subsection (b) of section 38 of such
23 Code is amended by striking “plus” at the end of
24 paragraph (35), by striking the period at the end of

1 paragraph (36) and inserting “, plus”, and by add-
2 ing at the end the following new paragraph:

3 “(37) the renewable chemicals production credit
4 determined under section 45S(a).”.

5 (b) INVESTMENT CREDIT IN LIEU OF PRODUCTION
6 CREDIT.—

7 (1) IN GENERAL.—Section 46 of the Internal
8 Revenue Code of 1986 is amended by striking “and”
9 at the end of paragraph (5), by striking the period
10 at the end of paragraph (6) and inserting “, and”,
11 and by adding at the end the following new para-
12 graph:

13 “(7) the renewable chemical production facili-
14 ties credit.”.

15 (2) RENEWABLE CHEMICAL PRODUCTION FA-
16 CILITIES CREDIT.—Subpart E of part IV of sub-
17 chapter A of chapter 1 of such Code is amended by
18 inserting after section 48D the following:

19 **“SEC. 48E. INVESTMENT CREDIT FOR RENEWABLE CHEM-
20 ICAL PRODUCTION FACILITIES.**

21 “(a) IN GENERAL.—For purposes of section 46, the
22 renewable chemical production facilities credit for any tax-
23 able year is an amount equal to 30 percent of the basis
24 of any eligible property which is a part of a renewable

1 chemical production facility placed in service by the tax-
2 payer during such taxable year.

3 “(b) LIMITATION.—The amount of the credit deter-
4 mined under subsection (a) with respect to a renewable
5 chemical production facility of the taxpayer during any
6 taxable year shall not exceed the credit amount allocated
7 for purposes of this section by the Secretary to the tax-
8 payer for such taxable year under subsection (e).

9 “(c) RENEWABLE CHEMICAL PRODUCTION FACIL-
10 ITY.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘renewable chem-
12 ical production facility’ means a facility—

13 “(A) which is owned by the taxpayer,

14 “(B) which is originally placed in service
15 after the date of the enactment of this section
16 and before the first day of the taxable year
17 which begins 6 years after the date of the en-
18 actment of this section, and

19 “(C) with respect to which—

20 “(i) no credit has been allowed under
21 section 45S for chemicals produced at such
22 facility in any previous taxable year, and

23 “(ii) the taxpayer makes an irrev-
24 ocable election to have this section apply,
25 and

1 “(D) which is used to produce renewable
2 chemicals.

3 “(2) ELIGIBLE PROPERTY.—The term ‘eligible
4 property’ means any property—

5 “(A) which is—

6 “(i) tangible personal property, or

7 “(ii) other tangible property (not in-
8 cluding a building or its structural compo-
9 nents),

10 but only if such property is used as an integral
11 part of the renewable chemical production facil-
12 ity, and

13 “(B) with respect to which depreciation (or
14 amortization in lieu of depreciation) is allow-
15 able.

16 “(3) RENEWABLE CHEMICAL.—The term ‘re-
17 newable chemical’ has the meaning given such term
18 by section 45S(e)(1).

19 “(d) CERTAIN QUALIFIED PROGRESS EXPENDI-
20 TURES RULES MADE APPLICABLE.—Rules similar to the
21 rules of subsections (c)(4) and (d) of section 46 (as in
22 effect on the day before the enactment of the Revenue
23 Reconciliation Act of 1990) shall apply for purposes of
24 this section.

1 “(e) NATIONAL LIMITATION ON CREDITS FOR RE-
2 NEWABLE CHEMICALS.—

3 “(1) IN GENERAL.—Not later than 180 days
4 after the date of the enactment of this section, the
5 Secretary, in consultation with the Secretary of Ag-
6 riculture, shall establish a program to allocate credit
7 amounts under this section and section 45S to tax-
8 payers who produce renewable chemicals for taxable
9 years ending after the date of the enactment of this
10 section.

11 “(2) LIMITATIONS.—

12 “(A) AGGREGATE LIMITATION.—The total
13 amount of credits that may be allocated under
14 such program shall not exceed \$500,000,000.

15 “(B) TAXPAYER LIMITATION.—The
16 amount of credits that may be allocated to any
17 taxpayer for any taxable year under such pro-
18 gram shall not exceed \$25,000,000. For pur-
19 poses of the preceding sentence, all persons
20 treated as a single employer under subsection
21 (a) or (b) of section 52, or subsection (m) or
22 (o) of section 414, shall be treated as one tax-
23 payer.

24 “(3) SELECTION CRITERIA.—In determining to
25 which taxpayers to make allocations of the credit

1 amount under such program, the Secretary shall
2 take into consideration—

3 “(A) the number of jobs created and main-
4 tained (directly and indirectly) in the United
5 States (including territories and possessions of
6 the United States) as result of such allocation
7 during the credit period and thereafter,

8 “(B) the degree to which the production of
9 the renewable chemical demonstrates reduced
10 dependence on imported feedstocks, petroleum,
11 non-renewable resources, or other fossil fuels,

12 “(C) the technological innovation involved
13 in the production method of the renewable
14 chemical,

15 “(D) the energy efficiency and reduction in
16 lifecycle greenhouse gases of the renewable
17 chemical or of the production method of the re-
18 newable chemical, and

19 “(E) whether there is a reasonable expec-
20 tation of commercial viability.

21 “(4) REDISTRIBUTION.—If a credit amount al-
22 located to a taxpayer for a taxable year with respect
23 to any renewable chemical or renewable chemical
24 production facility (determined without regard to
25 this paragraph) exceeds the amount of the credit

1 with respect to such chemical determined under this
2 section on the taxpayer's return for such taxable
3 year—

4 “(A) the credit amount allocated to such
5 taxpayer for such taxable year with respect to
6 such renewable chemical shall be treated as
7 being the amount so determined on the tax-
8 payer's return, and

9 “(B) such excess may be reallocated by the
10 Secretary consistent with the requirements of
11 this subsection.

12 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
13 retary shall, upon making an allocation of credit
14 amount under this section, publicly disclose the iden-
15 tity of the taxpayer and the amount of the credit
16 with respect to such taxpayer.

17 “(f) COORDINATION WITH PRODUCTION CREDIT FOR
18 RENEWABLE CHEMICALS.—If a taxpayer makes an elec-
19 tion under subsection (c)(1)(C)(ii) with respect to a renew-
20 able chemical production facility, a credit shall not be al-
21 lowed under section 45S for any renewable chemical pro-
22 duced by such facility.

23 “(g) REGULATIONS.—The Secretary shall issue such
24 regulations or other guidance as may be necessary to carry
25 out this section and section 45S.

1 “(h) TERMINATION.—The Secretary may not allocate
2 any credit amount under this section to any taxable year
3 which begins more than 5 years after the date of the en-
4 actment of this section.”.

5 (c) CREDITS ALLOWABLE AGAINST ALTERNATIVE
6 MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) of
7 the Internal Revenue Code of 1986 is amended by redesi-
8 gnating clauses (vii) through (ix) as clauses (ix) through
9 (xi), respectively, and by inserting after clause (vi) the fol-
10 lowing new clauses:

11 “(vii) the credit determined under sec-
12 tion 45S,

13 “(viii) the credit determined under
14 section 46 to the extent that such credit is
15 attributable to the renewable chemical pro-
16 duction facilities credit under section
17 48E,”.

18 (d) CLERICAL AMENDMENTS.—

19 (1) The table of sections for subpart D of part
20 IV of subchapter A of chapter 1 of the Internal Rev-
21 enue Code of 1986 is amended by adding at the end
22 the following new item:

“Sec. 45S. Credit for production of renewable chemicals.”.

23 (2) The table of sections for subpart E of part
24 IV of subchapter A of chapter 1 of such Code is

1 amended by adding at the end the following new
2 item:

“Sec. 48E. Investment credit for renewable chemical production facilities.”.

3 (e) **EFFECTIVE DATES.**—The amendments made by
4 this section shall apply to renewable chemicals produced
5 and renewable chemical production facilities placed in
6 service after the date of the enactment of this Act, in tax-
7 able years ending after such date.

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