

106TH CONGRESS
1ST SESSION

H. R. 162

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 liquid fuels.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

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 liquid fuels.

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”.

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 on a com-
15 mercial 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 (2), by striking the period at the end of paragraph
21 (3) and inserting “, and”, and by inserting after para-
22 graph (3) the following new paragraph:

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

24 (b) AMOUNT OF CARBONACEOUS FUELS FACILITY
25 CREDIT.—Section 48 of such Code (relating to the energy

1 credit and the reforestation credit) is amended by adding
 2 after subsection (b) the following new subsection:

3 “(c) CARBONACEOUS FUELS FACILITY CREDIT.—

4 “(1) IN GENERAL.—For purposes of section 46,
 5 the carbonaceous fuels facility credit for any taxable
 6 year is an amount equal to 28 percent of the quali-
 7 fied investment in a carbonaceous fuels conversion
 8 facility for such taxable year.

9 “(2) CARBONACEOUS FUELS CONVERSION FA-
 10 CILITY.—

11 “(A) IN GENERAL.—For purposes of para-
 12 graph (1), the term ‘carbonaceous fuels conver-
 13 sion facility’ means a facility of the taxpayer—

14 “(i)(I) the original use of which com-
 15 mences with the taxpayer or the recon-
 16 struction of which is completed by the tax-
 17 payer (but only with respect to that por-
 18 tion of the basis which is properly attrib-
 19 utable to such reconstruction), or

20 “(II) that is acquired through pur-
 21 chase (as defined by section 179(d)(2)),

22 “(ii) that is depreciable under section
 23 167,

24 “(iii) that has a useful life of not less
 25 than 4 years, and

1 “(iv) that is used to produce a quali-
2 fied fuel.

3 “(B) SPECIAL RULE FOR SALE-LEASE-
4 BACKS.—For purposes of clause (i) of subpara-
5 graph (A), in the case of a facility that—

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

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

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

22 “(C) QUALIFIED FUEL.—For purposes of
23 clause (iv) of subparagraph (A), the term
24 ‘qualified fuel’—

1 “(i) has the meaning given such term
2 by section 29(c), except that

3 “(ii) in respect of subparagraph (C) of
4 paragraph (1) of section 29(c), the term
5 ‘coal’ shall, in addition to lignite, be
6 deemed to include standard anthracite,
7 peat, and any byproduct from a coal, culm,
8 or silt preparation facility that contains
9 fixed carbon.

10 “(3) QUALIFIED INVESTMENT.—For purposes
11 of paragraph (1), the term ‘qualified investment’
12 means, with respect to any taxable year, the basis of
13 a carbonaceous fuels conversion facility placed in
14 service by the taxpayer during such taxable year.

15 “(4) QUALIFIED PROGRESS EXPENDITURES.—

16 “(A) INCREASE IN QUALIFIED INVEST-
17 MENT.—In the case of a taxpayer who has
18 made an election under subparagraph (E), the
19 amount of the qualified investment of such tax-
20 payer for the taxable year (determined under
21 paragraph (3) without regard to this sub-
22 section) shall be increased by an amount equal
23 to the aggregate of each qualified progress ex-
24 penditure for the taxable year with respect to
25 progress expenditure property.

“(B) PROGRESS EXPENDITURE PROPERTY
DEFINED.—For purposes of this paragraph, the
term ‘progress expenditure property’ means any
property being constructed by or for the tax-
payer and which—

“(i) cannot reasonably be expected to
be completed in less than 18 months, and

“(ii) it is reasonable to believe will
qualify as a carbonaceous fuels conversion
facility which is being constructed by or for
the taxpayer when it is placed in service.

“(C) QUALIFIED PROGRESS EXPENDI-
TURES DEFINED.—For purposes of this
paragraph—

“(i) SELF-CONSTRUCTED PROP-
ERTY.—In the case of any self-constructed
property, the term ‘qualified progress ex-
penditures’ means the amount which, for
purposes of this subpart, is properly
chargeable (during such taxable year) to
capital account with respect to such prop-
erty.

“(ii) NON-SELF-CONSTRUCTED PROP-
ERTY.—In the case of non-self-constructed
property, the term ‘qualified progress ex-

penditures’ means the amount paid during the taxable year to another person for the construction of such property.

“(D) OTHER DEFINITIONS.—For purposes of this subsection—

“(i) SELF-CONSTRUCTED PROPERTY.—The term ‘self-constructed property’ means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

“(ii) NON-SELF-CONSTRUCTED PROPERTY.—The term ‘non-self-constructed property’ means property which is not self-constructed property.

“(iii) CONSTRUCTION, ETC.—The term ‘construction’ includes reconstruction and erection, and the term ‘constructed’ includes reconstructed and erected.

“(iv) ONLY CONSTRUCTION OF CARBONACEOUS FUELS CONVERSION FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures

1 therefor are properly chargeable to capital
2 account with respect to the property.

3 “(E) ELECTION.—An election under this
4 paragraph may be made at such time and in
5 such manner as the Secretary may by regula-
6 tions prescribe. Such an election shall apply to
7 the taxable year for which made and to all sub-
8 sequent taxable years. Such an election, once
9 made, may not be revoked except with the con-
10 sent of the Secretary.

11 “(5) COORDINATION WITH OTHER CREDITS.—
12 This subsection shall not apply to any property with
13 respect to which the energy credit or the rehabilita-
14 tion credit is allowed unless the taxpayer elects to
15 waive the application of such credits to such prop-
16 erty.”

17 (c) RECAPTURE.—Subsection (a) of section 50 of
18 such Code is amended by adding at the end the following
19 new paragraph:

20 “(6) SPECIAL RULES RELATING TO CARBO-
21 NACEOUS FUELS CONVERSION FACILITY.—For pur-
22 poses of applying this subsection in the case of any
23 credit allowable by reason of section 48(c), the fol-
24 lowing shall apply:

1 “(A) GENERAL RULE.—In lieu of the
2 amount of the increase in tax under paragraph
3 (1), the increase in tax shall be an amount
4 equal to the investment tax credit allowed under
5 section 38 for all prior taxable years with re-
6 spect to a carbonaceous fuels conversion facility
7 (as defined by section 48(c)) multiplied by a
8 fraction whose numerator is the number of
9 years remaining to fully depreciate under this
10 title the carbonaceous fuels conversion facility
11 disposed of, and whose denominator is the total
12 number of years over which such facility would
13 otherwise have been subject to depreciation. For
14 purposes of the preceding sentence, the year of
15 disposition of the carbonaceous fuels conversion
16 facility property shall be treated as a year of re-
17 maining depreciation.

18 “(B) PROPERTY CEASES TO QUALIFY FOR
19 PROGRESS EXPENDITURES.—Rules similar to
20 the rules of paragraph (2) shall apply in the
21 case of qualified progress expenditures for a
22 carbonaceous fuels conversion facility under sec-
23 tion 48(c), except that the amount of the in-
24 crease in tax under subparagraph (A) of this

1 paragraph shall be substituted in lieu of the
2 amount described in such paragraph (2).

3 “(C) This paragraph shall be applied sepa-
4 rately with respect to the credit allowed under
5 section 38 regarding a carbonaceous fuels con-
6 version facility.”

7 (d) TECHNICAL AMENDMENTS.—

8 (1) Subparagraph (C) of section 49(a)(1) of
9 such Code is amended by striking “and” at the end
10 of clause (ii), by striking the period at the end of
11 clause (iii) and inserting “, and”, and by adding at
12 the end thereof the following new clause:

13 “(iv) the portion of the basis of any
14 carbonaceous fuels conversion facility at-
15 tributable to any qualified investment (as
16 defined by section 48(c)(3)).”

17 (2) Paragraph (4) of section 50(a) of such Code
18 is amended by striking “and (2)” and inserting “,
19 (2), and (6)”.

20 (3)(A) The section heading for section 48 of
21 such Code is amended to read as follows:

22 **“SEC. 48. OTHER CREDITS.”**

23 (B) The table of sections for subpart E of part
24 IV of subchapter A of chapter 1 of such Code is
25 amended by striking the item relating to section 48

1 and inserting the following:

“Sec. 48. Other credits.”

2 (e) SALE OR ASSIGNMENT OF UNUSED CREDIT
3 AMOUNT.—Section 50 of such Code is amended by adding
4 at the end the following new subsection:

5 “(e) SALE OR ASSIGNMENT OF UNUSED CARBO-
6 NACEOUS FUELS FACILITY CREDIT AMOUNT.—

7 “(1) GENERAL RULE.—Any unused portion of a
8 carbonaceous fuels facility credit may be sold or as-
9 signed in accordance with regulations prescribed by
10 the Secretary.

11 “(2) TREATMENT OF SELLER.—

12 “(A) LIABILITY.—The sale or assignment
13 of any portion of a credit under paragraph (1)
14 shall not relieve the seller or assignor of any
15 penalty or interest charged under this title with
16 respect to such portion.

17 “(B) BASIS.—The basis of a carbonaceous
18 fuels facility shall not be adjusted by reason of
19 the sale or assignment of a credit under para-
20 graph (1).

21 “(3) TREATMENT OF ACQUIRER.—

22 “(A) CREDIT CLAIMED.—The credit (or
23 portion thereof) acquired under paragraph (1)
24 may be claimed only by the person acquiring
25 such credit in the taxable year of such person

1 in which such sale or assignment occurred and
 2 only if such person notifies the Secretary of the
 3 derivative source of such credit.

4 “(B) LIABILITY.—Such person shall not be
 5 subject to any penalty or interest in respect of
 6 such credit for which the seller or assignor re-
 7 mains subject under paragraph (2)(A).

8 “(C) ORDERING RULE.—

9 “(i) IN GENERAL.—Such credit shall
 10 be treated as a credit under this part al-
 11 lowable to such person and shall be used
 12 after the order of all other credits specified
 13 by section 38(d).

14 “(ii) LIMITATION ON
 15 CARRYFORWARDS.—No amount of a credit
 16 acquired under paragraph (1) may be
 17 treated as a business carryforward in any
 18 taxable year beginning after December 31,
 19 2012.

20 “(4) REGULATIONS.—Not later than 1 year
 21 after the date of the enactment of the Foreign Oil
 22 Displacement Act, the Secretary shall prescribe reg-
 23 ulations to carry out this subsection.”

24 (f) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to periods after the date of the

1 enactment of this Act under rules similar to the rules of
 2 section 48(m) of the Internal Revenue Code of 1986 (as
 3 in effect on the day before the date of the enactment of
 4 the Revenue Reconciliation Act of 1990).

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

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

10 “(4) QUALIFIED CARBONACEOUS FUEL.—

11 “(A) EXEMPTION.—For taxable years be-
 12 ginning after 90 days after the date of the en-
 13 actment of this paragraph and ending before
 14 December 31, 2012, the terms ‘taxable fuel’,
 15 ‘gasoline’, and ‘diesel fuel’ do not include quali-
 16 fied carbonaceous fuel or that portion of a
 17 blend that is qualified carbonaceous fuel.

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

23 “(C) OTHER DEFINITIONS.—For purposes
 24 of subparagraph (B), the terms ‘qualified fuel’
 25 and ‘carbonaceous fuels conversion facility’ have

1 the meaning given such terms by section
2 48(c)(2).”

3 (b) AVIATION FUEL.—Subsection (a) of section 4093
4 of such Code is amended by adding at the end the follow-
5 ing new sentence: “Such term does not include qualified
6 carbonaceous fuel (as defined by section 4083(a)(4)).”

7 (c) RETAIL USES.—Section 4041 of such Code is
8 amended by adding at the end the following new sub-
9 section:

10 “(n) CERTAIN CARBONACEOUS FUEL.—

11 “(1) EXEMPTION.—For taxable years beginning
12 after 90 days after the date of the enactment of this
13 subsection and ending before December 31, 2012, no
14 tax shall be imposed under this section on qualified
15 carbonaceous fuel or that portion of a blend that is
16 qualified carbonaceous fuel.

17 “(2) QUALIFIED CARBONACEOUS FUEL DE-
18 FINED.—For purposes of paragraph (1), the term
19 ‘qualified carbonaceous fuel’ has the meaning given
20 such term by section 4083(a)(4).”

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to fuels produced after the date
23 of the enactment of this Act.

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