

111TH CONGRESS  
2D SESSION

# S. 3338

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

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IN THE SENATE OF THE UNITED STATES

MAY 11, 2010

Mr. NELSON of Florida 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 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”.

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

8 (a) IN GENERAL.—Subparagraph (A) of section  
9 48(a)(3) of the Internal Revenue Code of 1986 (defining  
10 energy property) is amended by striking “or” at the end

1 of clause (vi), by inserting “or” at the end of clause (vii),  
 2 and by inserting after clause (vii) the following new clause:

3 “(viii) qualified advanced biofuel pro-  
 4 duction property,”.

5 (b) 30 PERCENT CREDIT.—Clause (i) of section  
 6 48(a)(2)(A) of the Internal Revenue Code of 1986 is  
 7 amended by striking “and” at the end of subclause (III)  
 8 and by inserting after subclause (IV) the following new  
 9 subclause:

10 “(V) qualified advanced biofuel  
 11 production property, and”.

12 (c) DEFINITIONS.—Subsection (c) of section 48 of  
 13 the Internal Revenue Code of 1986 is amended by adding  
 14 at the end the following new paragraph:

15 “(5) QUALIFIED ADVANCED BIOFUEL PRODUC-  
 16 TION PROPERTY.—

17 “(A) IN GENERAL.—The term ‘qualified  
 18 advanced biofuel production property’ means  
 19 property used in an advanced biofuel project.

20 “(B) ADVANCED BIOFUEL PROJECT.—

21 “(i) IN GENERAL.—The term ‘ad-  
 22 vanced biofuel project’ means a project cer-  
 23 tified by the Secretary of Energy as meet-  
 24 ing the following requirements:

1           “(I) The sole and exclusive pur-  
2           pose of the project is to produce ad-  
3           vanced biofuels for sale to unrelated  
4           persons (within the meaning of section  
5           45(e)(4)).

6           “(II) The advanced biofuels pro-  
7           duced will meet the requirements of  
8           section 211(o)(1)(B) of the Clean Air  
9           Act (42 U.S.C. 7545(o)(1)(B)).

10          “(III) The project will rely pri-  
11          marily on new or significantly im-  
12          proved technologies as compared to  
13          commercial technologies currently in  
14          service in the United States and used  
15          to produce advanced biofuels.

16          “(IV) Such other requirements as  
17          the Secretary of Energy by rule or  
18          regulation deems necessary to carry  
19          out the objectives of this section, in-  
20          cluding encouraging private invest-  
21          ment in projects which provide the  
22          greatest net impact in avoiding or re-  
23          ducing air pollutants or anthropogenic  
24          emissions of greenhouse gases, have  
25          the greatest readiness for commercial

1 employment, replication, and further  
 2 commercial use in the United States,  
 3 and will introduce new technologies  
 4 and fuel production processes in the  
 5 commercial market.

6 “(ii) RULE OR REGULATION.—Rules  
 7 or regulations issued by the Secretary of  
 8 Energy under this subparagraph shall be  
 9 issued not later than 120 days after the  
 10 date of the enactment of this section.

11 “(C) TERMINATION.—The term ‘qualified  
 12 advanced biofuel production property’ shall not  
 13 include any property placed in service after De-  
 14 cember 31, 2014.”.

15 (d) GRANTS IN LIEU OF TAX CREDIT.—

16 (1) IN GENERAL.—Section 1603(d) of the  
 17 American Recovery and Reinvestment Tax Act of  
 18 2009 is amended by inserting after paragraph (8)  
 19 the following new paragraph:

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

23 (2) APPLICABLE PERCENTAGE.—Section  
 24 1603(b)(2)(A) of such Act is amended by inserting  
 25 “and (9)” after “through (4)”.

1           (3) REINVESTMENT OF GRANT.—Section 1603  
 2           of such Act is amended by redesignating subsections  
 3           (i) and (j) as subsections (j) and (k), respectively,  
 4           and by inserting after subsection (h) the following  
 5           new subsection:

6           “(i) REINVESTMENT OF CERTAIN GRANTS.—No  
 7           grant for specified energy property described in subsection  
 8           (d)(9) shall be made under subsection (a) unless the grant  
 9           applicant certifies in the application that such payment  
 10          shall be reinvested in such property not later than 12  
 11          months after the date of such payment.”.

12          (e) GRANT INCLUDIBLE IN INCOME.—Section  
 13          48(d)(3) of the Internal Revenue Code of 1986 is amended  
 14          by striking “Any such grant” and inserting “Except for  
 15          a grant for specified energy property described in sub-  
 16          section (d)(9) of such section 1603, any such grant”.

17          (f) EFFECTIVE DATE.—The amendments made by  
 18          this section shall apply to periods after the date of the  
 19          enactment of this Act, in taxable years ending after such  
 20          date, under rules similar to the rules of section 48(m) of  
 21          the Internal Revenue Code of 1986 (as in effect on the  
 22          day before the date of the enactment of the Revenue Rec-  
 23          onciliation Act of 1990).

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