

114TH CONGRESS
1ST SESSION

S. 2271

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

NOVEMBER 10, 2015

Ms. STABENOW (for herself, Mr. FRANKEN, and Mr. COONS) 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 2015”.

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 produced by the taxpayer) equal to \$0.15
 15 per pound of biobased content of each renewable chemical
 16 produced by the taxpayer during the taxable year.

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

24 “(c) BIOBASED CONTENT.—For purposes of this sec-
 25 tion, the term ‘biobased content’ means, with respect to
 26 any renewable chemical, the biobased content of the total

1 mass of organic carbon in such chemical (expressed as a
2 percentage), determined by testing representative samples
3 using the American Society for Testing and Materials
4 (ASTM) D6866.

5 “(d) RENEWABLE CHEMICAL.—For purposes of this
6 section—

7 “(1) IN GENERAL.—The term ‘renewable chem-
8 ical’ means any chemical which—

9 “(A) is produced by the taxpayer in the
10 United States (or in a territory or possession of
11 the United States) from renewable biomass.
12 For purposes of this section, the term ‘renew-
13 able biomass’ has the meaning given such term
14 in section 9001(13) of the Farm Security and
15 Rural Investment Act of 2002 (7 U.S.C.
16 8101(13)),

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

18 “(i) for the production of chemical
19 products, polymers, plastics, or formulated
20 products, or

21 “(ii) as chemicals, polymers, plastics,
22 or formulated products,

23 “(C) has a biobased content percentage of
24 95 percent or higher,

1 “(D) is the product of, or is reliant upon,
2 biological conversion, thermal conversion, or a
3 combination of biological and thermal conver-
4 sion of renewable biomass,

5 “(E) is not sold or used for the production
6 of any food, feed, or fuel,

7 “(F) is not a combination of renewable
8 chemicals on the list under subparagraph (G)
9 (or added to such list under paragraph (2)) for
10 which a credit has been claimed by the taxpayer
11 in any taxable year under this section or section
12 48E, and

13 “(G) is acetic acid, acrylic acid, acyl glu-
14 tamate, adipic acid, algae oils, algae sugars,
15 1,4-butanediol (BDO), iso-butanol, n-butanol,
16 C10 and higher hydrocarbons produced from
17 olefin metathesis, carboxylic acids produced
18 from olefin metathesis, cellulosic sugar, diethyl
19 methylene malonate, dodecanedioic acid
20 (DDDA), esters produced from olefin metath-
21 esis, ethyl acetate, ethylene glycol, farnesene,
22 2,5-furandicarboxylic acid, gamma-butyro-
23 lactone, glucaric acid, hexamethylenediamine
24 (HMD), 3-hydroxy propionic acid, isoprene,
25 itaconic acid, levulinic acid,

polyhydroxyalkonate (PHA), polylactic acid (PLA), polyethylene furanoate (PEF), polyethylene terephthalate (PET), polyitaconic acid, polyols from vegetable oils, poly(xylitan levulinate ketal), 1,3-propanediol, 1,2-propanediol, rhamnolipids, succinic acid, terephthalic acid, or p-xylene.

“(2) ADDITIONAL RENEWABLE CHEMICALS.—

The Secretary may add chemicals to the list of renewable chemicals in paragraph (1)(G). Not later than 180 days after the enactment of this section, the Secretary, in consultation with the Secretary of Agriculture, shall establish a program to consider applications from taxpayers to add renewable chemicals to such list. Any chemical added to such list must meet the requirements set forth in subparagraphs (A) through (E) of paragraph (1) (without regard to the phrase ‘by the taxpayer’ in subparagraphs (A) and (B) thereof).

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

“(f) TERMINATION.—Notwithstanding any other provision of this section or section 48E, the Secretary may

1 not allocate any credit amount under this section to any
 2 taxable year which begins more than 5 years after the date
 3 of the enactment of this section.”.

4 (2) CREDIT TO BE PART OF GENERAL BUSI-
 5 NESS CREDIT.—Subsection (b) of section 38 of such
 6 Code is amended by striking “plus” at the end of
 7 paragraph (35), by striking the period at the end of
 8 paragraph (36) and inserting “, plus”, and by add-
 9 ing at the end the following new paragraph:

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

12 (b) INVESTMENT CREDIT IN LIEU OF PRODUCTION
 13 CREDIT.—

14 (1) IN GENERAL.—Section 46 of the Internal
 15 Revenue Code of 1986 is amended by striking “and”
 16 at the end of paragraph (5), by striking the period
 17 at the end of paragraph (6) and inserting “, and”,
 18 and by adding at the end the following new para-
 19 graph:

20 “(7) the renewable chemical production facili-
 21 ties credit.”.

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

1 **“SEC. 48E. INVESTMENT CREDIT FOR RENEWABLE CHEM-**
 2 **ICAL PRODUCTION FACILITIES.**

3 “(a) IN GENERAL.—For purposes of section 46, the
 4 renewable chemical production facilities credit for any tax-
 5 able year is an amount equal to 30 percent of the basis
 6 of any eligible property which is a part of a renewable
 7 chemical production facility placed in service by the tax-
 8 payer during such taxable year.

9 “(b) LIMITATION.—The amount of the credit deter-
 10 mined under subsection (a) with respect to a renewable
 11 chemical production facility of the taxpayer during any
 12 taxable year shall not exceed the credit amount allocated
 13 for purposes of this section by the Secretary to the tax-
 14 payer for such taxable year under subsection (e).

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

17 “(1) IN GENERAL.—The term ‘renewable chem-
 18 ical production facility’ means a facility used to
 19 produce renewable chemicals—

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

21 “(B) which is originally placed in service
 22 after the date of the enactment of this section
 23 and before the first day of the taxable year
 24 which begins 6 years after the date of the en-
 25 actment of this section, and

26 “(C) with respect to which—

1 “(i) no credit has been allowed under
2 section 45S, and

3 “(ii) the taxpayer makes an irrev-
4 ocable election to have this section apply.

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

7 “(A) which is—

8 “(i) tangible personal property, or

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

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

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

18 “(3) RENEWABLE CHEMICAL.—The term ‘re-
19 newable chemical’ has the meaning given such term
20 by section 45S(d).

21 “(d) SPECIAL RULES.—

22 “(1) DENIAL OF PRODUCTION CREDIT.—No
23 credit shall be allowed under section 45S for any
24 taxable year with respect to any renewable chemical
25 production facility.

1 “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-
 2 TURES RULES MADE APPLICABLE.—Rules similar to
 3 the rules of subsections (c)(4) and (d) of section 46
 4 (as in effect on the day before the enactment of the
 5 Revenue Reconciliation Act of 1990) shall apply for
 6 purposes of this section.

7 “(e) NATIONAL LIMITATION ON CREDITS FOR RE-
 8 NEWABLE CHEMICALS.—

9 “(1) IN GENERAL.—Not later than 180 days
 10 after the date of the enactment of this section, the
 11 Secretary, in consultation with the Secretary of Ag-
 12 riculture, shall establish a program to allocate credit
 13 amounts under this section and section 45S to appli-
 14 cants for taxable years ending after the date of the
 15 enactment of this section.

16 “(2) LIMITATIONS.—

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

20 “(B) TAXPAYER LIMITATION.—The
 21 amount of credits that may be allocated to any
 22 taxpayer for any taxable year under such pro-
 23 gram shall not exceed \$25,000,000. For pur-
 24 poses of the preceding sentence, all persons
 25 treated as a single employer under subsection

1 (a) or (b) of section 52, or subsection (m) or
2 (o) of section 414, shall be treated as one tax-
3 payer.

4 “(3) SELECTION CRITERIA.—In determining to
5 which taxpayers to make allocations of the credit
6 amount under such program, the Secretary shall
7 take into consideration—

8 “(A) the number of jobs created and main-
9 tained (directly and indirectly) in the United
10 States (including territories and possessions of
11 the United States) as result of such allocation
12 during the credit period and thereafter,

13 “(B) the degree to which the production of
14 the renewable chemical demonstrates reduced
15 dependence on imported feedstocks, petroleum,
16 non-renewable resources, or other fossil fuels,

17 “(C) the technological innovation involved
18 in the production method of the renewable
19 chemical,

20 “(D) the energy efficiency and reduction in
21 lifecycle greenhouse gases of the renewable
22 chemical or of the production method of the re-
23 newable chemical, and

24 “(E) whether there is a reasonable expect-
25 tation of commercial viability.

1 “(4) REDISTRIBUTION.—If a credit amount al-
2 located to a taxpayer for a taxable year with respect
3 to any renewable chemical or renewable chemical
4 production facility (determined without regard to
5 this paragraph) exceeds the amount of the credit
6 with respect to such chemical determined under this
7 section on the taxpayer’s return for such taxable
8 year—

9 “(A) the credit amount allocated to such
10 taxpayer for such taxable year with respect to
11 such renewable chemical shall be treated as
12 being the amount so determined on the tax-
13 payer’s return, and

14 “(B) such excess may be reallocated by the
15 Secretary consistent with the requirements of
16 this subsection.

17 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
18 retary shall, upon making an allocation of credit
19 amount under this section, publicly disclose the iden-
20 tity of the taxpayer and the amount of the credit
21 with respect to such taxpayer.

22 “(f) COORDINATION WITH PRODUCTION CREDIT FOR
23 RENEWABLE CHEMICALS.—

24 “(1) IN GENERAL.—If a taxpayer makes an
25 election under paragraph (2) with respect to a re-

1 newable chemical production facility, a credit shall
2 not be allowed under section 45S for any renewable
3 chemical produced by such facility.

4 “(2) ELECTION.—If no credit has been allowed
5 under section 45S with respect to a renewable chem-
6 ical produced by a renewable chemical production fa-
7 cility, a taxpayer may make an irrevocable election
8 to have this section apply with respect to such facil-
9 ity in lieu of section 45S with respect to such renew-
10 able chemical.

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

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

18 (c) CREDITS ALLOWABLE AGAINST ALTERNATIVE
19 MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) of
20 such Code is amended by redesignating clauses (vii)
21 through (ix) as clauses (ix) through (xi), respectively, and
22 by inserting after clause (vi) the following new clauses:

23 “(vii) the credit determined under sec-
24 tion 45S,

1 “(viii) the credit determined under
 2 section 46 to the extent that such credit is
 3 attributable to the renewable chemical pro-
 4 duction facilities credit under section
 5 48E,”.

6 (d) CLERICAL AMENDMENTS.—

7 (1) The table of sections for subpart D of part
 8 IV of subchapter A of chapter 1 of such Code is
 9 amended by adding at the end the following new
 10 item:

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

11 (2) The table of sections for subpart E of part
 12 IV of subchapter A of chapter 1 of such Code is
 13 amended by adding at the end the following new
 14 item:

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

15 (e) EFFECTIVE DATES.—

16 (1) PRODUCTION CREDIT.—The amendments
 17 made by subsection (a) shall apply to renewable
 18 chemicals produced after the date of the enactment
 19 of this Act, in taxable years ending after such date.

20 (2) INVESTMENT CREDIT.—The amendments
 21 made by subsection (b) shall apply to renewable
 22 chemical production facilities placed in service after

- 1 the date of the enactment of this Act, in taxable
- 2 years ending after such date.

