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114TH CONGRESS
2D SESSION

S. 3264

To amend the Internal Revenue Code of 1986 to modify the credit for production of electricity from renewable resources to allow a credit for certain open-loop biomass and trash facilities placed in service before the date of the enactment of this Act and to modify the definition of municipal solid waste.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. MENENDEZ (for himself, Ms. STABENOW, Mr. CARDIN, Ms. COLLINS, Mr. KING, Ms. AYOTTE, Ms. KLOBUCHAR, and Mrs. FEINSTEIN) 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 modify the credit for production of electricity from renewable resources to allow a credit for certain open-loop biomass and trash facilities placed in service before the date of the enactment of this Act and to modify the definition of municipal solid waste.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RULE FOR CERTAIN FACILITIES GENERATING ELECTRICITY FROM BIOMASS AND MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Section 45(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(12) SPECIAL RULE FOR CERTAIN QUALIFIED FACILITIES.—

"(A) IN GENERAL.—In the case of electricity produced at a qualified facility described in paragraph (3) or (7) of subsection (d) and placed in service before the date of the enactment of this paragraph, a taxpayer may elect to apply subsection (a)(2)(A)(ii) by substituting 'the period beginning after December 31, 2016, and ending before January 1, 2018' for 'the 10-year period beginning on the date the facility was originally placed in service'.

"(B) LIMITATION.—No credit shall be allowed under subsection (a) to any taxpayer making an election under this paragraph with respect to electricity produced and sold at a facility during any period which, when aggregated with all other periods for which a credit is allowed under this section with respect to electricity produced and sold at such facility, is in excess of 10 years.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2017.

SEC. 2. MODIFICATION TO DEFINITION OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Paragraph (6) of section 45(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(6) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903), except that such term does not include—

''(i) paper which is commonly recycled and which has been segregated from other solid waste (as so defined), or

''(ii) solid waste (as so defined) which is collected as part of a system which commingles commonly recycled paper with other solid waste which is not commonly recycled at any point from the time of collection through any materials recovery.

"(B) SPECIAL RULE WITH RESPECT TO INCIDENTAL AND RESIDUAL WASTE.—Subparagraph (A)(ii) shall not apply to—

"(i) solid waste (as so defined) which only contains an incidental amount of commonly recycled paper, and

"(ii) solid waste (as so defined) which is residual waste generated at a materials recovery facility that receives and processes only paper and other recyclable materials containing no more than an incidental amount of non-recyclable solid waste.

"(C) NO EFFECT ON EXISTING PROCESSES.—Nothing in subparagraph (A) shall be interpreted to require a State or a political subdivision of a State, directly or indirectly, to change the systems, processes, or equipment it uses to collect, treat, dispose, or otherwise use municipal solid waste, within the meaning of the Solid Waste Disposal Act (42 U.S.C. 6903 et seq.), nor require a change to the regulations that implement subtitle D of such Act (42 U.S.C. 6901 et seq.).".

(b) RULES WITH RESPECT TO ELECTRICITY PRODUCED FROM SOLID WASTE.—Subsection (e) of section

45 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

"(13) SOURCE OF MUNICIPAL SOLID WASTE FEEDSTOCK.—In the case of a qualified facility that produces electricity both from municipal solid waste and other solid waste that is not a qualified energy resource—

"(A) such facility shall be considered a qualified facility if it otherwise meets the requirements of subsection (d), and

"(B) subsection (a) shall only apply to that portion of the electricity produced from municipal solid waste.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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