

115TH CONGRESS
1ST SESSION

H. R. 340

To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified manufacturing facility construction costs and to allow a credit against tax for qualified manufacturing facility construction costs.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2017

Mr. SERRANO 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 allow a credit against tax for qualified manufacturing facility construction costs and to allow a credit against tax for qualified manufacturing facility construction costs.

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 “Next Generation Amer-
5 ican Manufacturing Act of 2017”.

1 **TITLE I—CONSUMER CREDIT**

2 **SEC. 101. CREDIT FOR RETAIL PURCHASE OF CERTAIN DO-**
 3 **MESTIC PRODUCTS.**

4 (a) IN GENERAL.—Subpart B of part IV of sub-
 5 chapter A of chapter 1 of the Internal Revenue Code of
 6 1986 is amended by adding at the end the following new
 7 section:

8 **“SEC. 30E. DOMESTIC MANUFACTURING CONSUMER CRED-**
 9 **IT.**

10 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 11 lowed as a credit against the tax imposed by this chapter
 12 for any taxable year an amount equal to the applicable
 13 percentage of the aggregate amount paid or incurred by
 14 the taxpayer for specified products during any portion
 15 such taxable year which is part of the eligible period.

16 “(b) APPLICABLE PERCENTAGE; ELIGIBLE PE-
 17 RIOD.—For purposes of this section—

18 “(1) APPLICABLE PERCENTAGE.—The term
 19 ‘applicable percentage’ means, with respect to any
 20 specified product, the percentage (not less than 5
 21 percent nor more than 20 percent) under subsection
 22 (e)(4) with respect to such product.

23 “(2) ELIGIBLE PERIOD.—The term ‘eligible pe-
 24 riod’ means, with respect to any specified product,
 25 the period (not less than 5 years nor more than 10

1 years) under subsection (e)(5) with respect to such
 2 product.

3 “(3) SEPARATE APPLICATION TO EACH SPECI-
 4 FIED PRODUCT.—Subsection (a) shall be applied
 5 separately with respect to each of the specified prod-
 6 ucts designated under subsection (e).

7 “(c) SPECIFIED PRODUCT.—For purposes of this sec-
 8 tion—

9 “(1) IN GENERAL.—The term ‘specified prod-
 10 uct’ means any designated domestic product—

11 “(A) the original use of which commences
 12 with the taxpayer, and

13 “(B) which is acquired by the taxpayer for
 14 use or lease, but not for resale.

15 “(2) DESIGNATED DOMESTIC PRODUCT.—The
 16 term ‘designated domestic product’ means any des-
 17 ignated product which has been certified by the Sec-
 18 retary as—

19 “(A) having been assembled in the United
 20 States, and

21 “(B) consisting at least 60 percent of com-
 22 ponents assembled or otherwise arising in the
 23 United States.

24 “(3) DESIGNATED PRODUCT.—The term ‘des-
 25 ignated product’ means the 10 products designated

1 by the Secretary, in consultation with the Commis-
2 sion, under subsection (e).

3 “(d) APPLICATION WITH OTHER CREDITS.—

4 “(1) BUSINESS CREDIT TREATED AS PART OF
5 GENERAL BUSINESS CREDIT.—So much of the credit
6 which would be allowed under subsection (a) for any
7 taxable year (determined without regard to this sub-
8 section) that is attributable to property used by the
9 taxpayer in the conduct of a trade or business shall
10 be treated as a credit listed in section 38(b) for such
11 taxable year (and not allowed under subsection (a)).

12 “(2) PERSONAL CREDIT.—For purposes of this
13 title, the credit allowed under subsection (a) for any
14 taxable year (determined after application of para-
15 graph (1)) shall be treated as a credit allowable
16 under subpart A for such taxable year.

17 “(e) SELECTION OF DESIGNATED PRODUCTS.—

18 “(1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Commission, shall designate 10 prod-
20 ucts for purposes of this section.

21 “(2) ELIGIBLE PRODUCTS.—A product shall
22 not be eligible for designation under this section un-
23 less—

1 “(A) such product represents an advance-
2 ment in science, technology, engineering, or
3 math, and

4 “(B) the designation of such product has
5 the potential to produce substantial long-term
6 job opportunities in the United States.

7 “(3) CRITERIA FOR DESIGNATION.—In making
8 designations of products under this subsection, the
9 Secretary shall take into consideration—

10 “(A) the number of jobs in the United
11 States that the Secretary estimates will result
12 (directly and indirectly) from the designation of
13 such product, and

14 “(B) the speed with which such jobs are
15 likely to be created.

16 “(4) DETERMINATION OF CREDIT PERCENT-
17 AGE.—The Secretary, in consultation with the Com-
18 mission, shall determine the applicable percentage
19 which applies for purposes of subsection (a) with re-
20 spect to each product designated under this sub-
21 section. Such percentage shall not be less than 5
22 percent and shall not be more than 20 percent. Such
23 percentage shall be determined on the basis of the
24 incentive needed with respect to each such product

1 taking into account the market factors with respect
2 to such product.

3 “(5) DETERMINATION OF PERIOD DURING
4 WHICH CREDIT ALLOWED.—The Secretary, in con-
5 sultation with the Commission, shall determine the
6 eligible period which applies for purposes of sub-
7 section (a) with respect to each product designated
8 under this subsection. Such period shall not be less
9 than 5 years and shall not be more than 10 years.
10 Such period shall be determined on the basis of the
11 incentive needed with respect to each such product
12 taking into account the market factors with respect
13 to such product.

14 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—
15 For purposes of this section—

16 “(1) COMMISSION.—The term ‘Commission’
17 means the 21st Century American Manufacturing
18 Commission established under section 102 of the
19 Next Generation American Manufacturing Act of
20 2017.

21 “(2) REDUCTION IN BASIS.—For purposes of
22 this subtitle, the basis of any property for which a
23 credit is allowable under subsection (a) shall be re-
24 duced by the amount of such credit so allowed (de-
25 termined without regard to subsection (d)).

1 “(3) NO DOUBLE BENEFIT.—The amount of
2 any deduction or other credit allowable under this
3 chapter with respect to any property shall be re-
4 duced by the amount of the credit allowed under
5 subsection (a) for such property (determined without
6 regard to subsection (d)).

7 “(4) PROPERTY USED BY TAX-EXEMPT ENTI-
8 TY.—In the case of property whose use is described
9 in paragraph (3) or (4) of section 50(b) and which
10 is not subject to a lease, the person who sold such
11 property to the person or entity using such property
12 shall be treated as the taxpayer that placed such ve-
13 hicle in service, but only if such person clearly dis-
14 closes to such person or entity in a document the
15 amount of any credit allowable under subsection (a)
16 with respect to such property (determined without
17 regard to subsection (d)). For purposes of subsection
18 (d), property to which this paragraph applies shall
19 be treated as property used by the taxpayer in the
20 conduct of a trade or business.

21 “(5) PROPERTY USED OUTSIDE UNITED
22 STATES, ETC., NOT QUALIFIED.—No credit shall be
23 allowable under subsection (a) with respect to any
24 property referred to in section 50(b)(1).

1 “(6) RECAPTURE.—The Secretary shall, by reg-
 2 ulations, provide for recapturing the benefit of any
 3 credit allowable under subsection (a) with respect to
 4 any property which ceases to be property eligible for
 5 such credit (including recapture in the case of a
 6 lease period of less than the economic life of the
 7 property).

8 “(7) ELECTION TO NOT TAKE CREDIT.—No
 9 credit shall be allowed under subsection (a) for any
 10 vehicle if the taxpayer elects to not have this section
 11 apply to such property.

12 “(g) TERMINATION.—This section shall not apply to
 13 property acquired after the date which is 10 years after
 14 the date of the enactment of this section.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 38(b) of such Code is amended by
 17 striking “plus” at the end of paragraph (35), by
 18 striking the period at the end of paragraph (36) and
 19 inserting “, plus”, and by adding at the end the fol-
 20 lowing new paragraph:

21 “(37) the portion of the domestic manufac-
 22 turing consumer credit to which section 30E(d)(1)
 23 applies.”.

24 (2) Section 1016(a) of such Code is amended
 25 by striking “and” at the end of paragraph (36), by

1 striking the period at the end of paragraph (37) and
2 inserting “, and”, and by adding at the end the fol-
3 lowing new paragraph:

4 “(38) to the extent provided in section
5 30E(f)(2).”.

6 (3) Section 6501(m) of such Code is amended
7 by inserting “30E(f)(7),” after “30D(e)(4),”.

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

“Sec. 30E. Domestic manufacturing consumer credit.”.

12 (c) CBO REPORT.—The Congressional Budget Office
13 shall, during the 3d, 5th, and 7th years after the effective
14 date of the domestic manufacturing consumer credit (de-
15 scribed in subsection (d)), report to Congress on the eco-
16 nomic effects of such credit. Such report shall include the
17 aggregate value of the domestic manufacturing consumer
18 credits determined with respect to taxpayers under section
19 30E of the Internal Revenue Code of 1986 and an esti-
20 mate of the economic activity stimulated by such credits.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to property acquired after the date
23 which is 1 year after the date on which the 21st Century
24 American Manufacturing Commission makes its rec-

1 ommendations to the Secretary of the Treasury under sec-
2 tion 102(b) of this Act.

3 **SEC. 102. ESTABLISHMENT OF 21ST CENTURY AMERICAN**
4 **MANUFACTURING COMMISSION.**

5 (a) IN GENERAL.—There is established a commission
6 to be known as the 21st Century American Manufacturing
7 Commission.

8 (b) DUTIES.—The Commission shall conduct re-
9 search regarding appropriate products to make eligible for
10 the tax credit provided by section 30E of the Internal Rev-
11 enue Code of 1986 and shall make recommendations to
12 the Secretary of the Treasury regarding which products
13 should be designated for purposes of such section and the
14 applicable percentage and eligible period which should be
15 determined with respect to each such product. The com-
16 mission shall make such recommendations to the Sec-
17 retary of the Treasury not later than 6 months after the
18 date of the enactment of this Act.

19 (c) MEMBERSHIP.—

20 (1) IN GENERAL.—The Commission shall be
21 composed of 10 members who shall be appointed by
22 the Secretary of the Treasury or his designee not
23 later than 30 days after the enactment of this Act.

24 (2) SELECTION.—In determining who to ap-
25 point to the Commission, the Secretary of the Treas-

1 ury shall consider a geographically diverse group of
2 individuals with experience in the areas of—

3 (A) managing manufacturing companies,
4 including businesses with fewer than 100 em-
5 ployees,

6 (B) conducting manufacturing-related re-
7 search and development,

8 (C) commercialization of scientific innova-
9 tion,

10 (D) managing supply chain providers,

11 (E) finance, and

12 (F) analyzing manufacturing policy and
13 economic competitiveness.

14 (3) POLITICAL AFFILIATION.—Not more than 5
15 members may be of the same political party.

16 (4) TERMS.—Each member shall be appointed
17 for the life of the Commission.

18 (5) VACANCIES.—A vacancy in the Commission
19 shall be filled in the manner in which the original
20 appointment was made.

21 (6) PAY OF MEMBERS.—

22 (A) IN GENERAL.—Members shall each be
23 entitled to receive the daily equivalent of the
24 maximum annual rate of basic pay for grade
25 GS–11 of the General Schedule for each day

(including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(7) PREVENTION OF CONFLICTS OF INTEREST AND NEPOTISM.—

(A) AGREEMENT.—The Secretary of the Treasury shall not appoint any individual to be a member of the Commission unless such individual has first signed an agreement with the Secretary to prevent conflicts of interest and nepotism. Such agreement shall include a requirement that the individual comply with the provisions of subparagraph (B) and shall include such penalties for failure to so comply as the Secretary determines appropriate.

(B) REQUIREMENTS.—A member of the Commission shall not, during the 5-year period beginning on the effective date of the domestic manufacturing consumer credit (described in section 101(d)), hold, directly or indirectly, any

1 interest in any person associated with any des-
2 ignated product, any component of any des-
3 ignated product, or any equipment to manufac-
4 ture any such product or component. An inter-
5 est held in any fund held by such member shall
6 be taken into account under the preceding sen-
7 tence unless such fund is a broad-based index
8 fund. Any interest held by such member prior
9 to the beginning of such 5-year period which is
10 not (consistent with the requirements of this
11 subparagraph) permitted to be held during such
12 period, shall be disposed of prior to such period.

13 (d) CHAIRPERSON.—The Chairperson of the Com-
14 mission shall be designated by the Secretary of the Treas-
15 ury (or his designee) at the time of appointment.

16 (e) STAFF.—Any staff of the Commission shall be ap-
17 pointed subject to the provisions of title 5, United States
18 Code, governing appointments in the competitive service,
19 and shall be paid in accordance with the provisions of
20 chapter 51 and subchapter III of chapter 53 of that title
21 relating to classification and General Schedule pay rates.

22 (f) TERMINATION.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the Commission shall terminate 30 days

1 after making recommendations to the Secretary of
2 the Treasury described in subsection (b).

3 (2) EXTENSION.—At the request of the Sec-
4 retary of the Treasury or his designee, the Commis-
5 sion shall continue in existence for such period at
6 the Secretary may request but not later than 1 year
7 after making such recommendations.

8 **TITLE II—MANUFACTURER** 9 **CREDIT**

10 **SEC. 201. CREDIT FOR MANUFACTURING FACILITY COSTS.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-
12 chapter A of chapter 1 of the Internal Revenue Code of
13 1986 is amended by adding at the end the following new
14 section:

15 **“SEC. 45S. MANUFACTURING FACILITY EXPENDITURES.**

16 “(a) GENERAL RULE.—For purposes of section 38,
17 in the case of an eligible business, the manufacturing facil-
18 ity expenditure credit for any taxable year is an amount
19 equal to 25 percent of the qualified facility construction
20 expenditures of the taxpayer for the taxable year.

21 “(b) ELIGIBLE BUSINESS.—For purposes of this sec-
22 tion—

23 “(1) IN GENERAL.—The term ‘eligible business’
24 means any corporation or partnership—

1 “(A) which is engaged in an active trade or
2 business,

3 “(B) which is headquartered in the United
4 States,

5 “(C) substantially all of the management
6 or administrative activities of which are per-
7 formed in the United States,

8 “(D) which has not (prior to placing into
9 service the manufacturing facility designated
10 for purposes of this section) placed in service a
11 manufacturing facility,

12 “(E) which is a start-up company, and

13 “(F) with respect to which all debt obliga-
14 tions issued by, and equity interests in, have a
15 rating of B minus (or its substantial equivalent)
16 or higher from a credit rating agency registered
17 with the Securities and Exchange Commission
18 as a nationally recognized statistical rating or-
19 ganization (as defined in section 3(a) of the Se-
20 curities Exchange Act of 1934).

21 “(2) START-UP COMPANY.—The term ‘start-up
22 company’ means any corporation or partnership—

23 “(A) which first has both gross receipts
24 and qualified research expenses (as defined in

1 section 41(b)) in a taxable year beginning after
2 December 31, 2016, or

3 “(B) which both gross receipts and quali-
4 fied research expenses (as so defined) in fewer
5 than 3 taxable years beginning after December
6 31, 2016, and before January 1, 2022.

7 “(c) QUALIFIED FACILITY CONSTRUCTION EXPENDI-
8 TURES.—For purposes of this section—

9 “(1) IN GENERAL.—The term ‘qualified facility
10 construction expenditures’ means amounts paid or
11 incurred by the taxpayer—

12 “(A) for the construction of a facility (des-
13 ignated for purposes of this section by the tax-
14 payer at such time and in such form and man-
15 ner as the Secretary shall prescribe) in the
16 United States to manufacture a qualified prod-
17 uct (including amounts for professional services
18 necessary for the planning of such construc-
19 tion), and

20 “(B) for the purchase of specialized equip-
21 ment for use at such facility and required for
22 the manufacture of such product.

23 “(2) QUALIFIED PRODUCT.—The term ‘quali-
24 fied product’ means any product which, prior to con-
25 struction of the facility with respect to which a cred-

1 it is allowed under this section, the taxpayer has
2 produced and sold to a bona fide purchaser, and
3 such purchaser has placed such product in service.

4 “(d) SPECIAL RULES.—For purposes of this sec-
5 tion—

6 “(1) RECAPTURE.—

7 “(A) IN GENERAL.—If, as of the close of
8 any taxable year, there is a recapture event
9 with respect to any facility of the taxpayer with
10 respect to which a credit was allowed under this
11 section, then the tax of the taxpayer under this
12 chapter for such taxable year shall be increased
13 by an amount equal to the product of—

14 “(i) the applicable recapture percent-
15 age, and

16 “(ii) the aggregate decrease in the
17 credits allowed under section 38 for all
18 prior taxable years which would have re-
19 sulted if the qualified facility construction
20 expenditures of the taxpayer described in
21 subsection (c)(1) with respect to such facil-
22 ity had been zero.

23 “(B) APPLICABLE RECAPTURE PERCENT-
24 AGE.—

1 “(i) IN GENERAL.—For purposes of
 2 this subsection, the applicable recapture
 3 percentage shall be determined in accord-
 4 ance with the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Year 1	100
Year 2	80
Year 3	60
Year 4	40
Year 5	20
Years 6 and thereafter	0.

5 “(ii) YEARS.—For purposes of clause
 6 (i), year 1 shall begin on the first day of
 7 the taxable year in which the facility with
 8 respect to which a credit was allowed
 9 under this subsection was placed in service.

10 “(C) RECAPTURE EVENT.—For purposes
 11 of this paragraph—

12 “(i) IN GENERAL.—A recapture event
 13 occurs with respect to any facility if—

14 “(I) the taxpayer becomes insol-
 15 vent, or

16 “(II) the taxpayer disposes of the
 17 facility to another person who, at this
 18 time of the disposition, is not an eligi-
 19 ble business.

20 “(ii) SPECIAL RULE FOR FACILITIES
 21 NOT PLACED IN SERVICE WITHIN 5

1 YEARS.—In the case of a facility with re-
2 spect to which a credit is allowed under
3 this section which is not placed in service
4 before the close of the 5th taxable year be-
5 ginning after the first taxable year for
6 which the credit was so allowed, a recap-
7 ture event shall be treated as having oc-
8 curred with respect to such facility in year
9 1.

10 “(2) CREDIT MAY BE ASSIGNED.—The amount
11 of qualified facility construction expenditures with
12 respect to a facility which would (but for this para-
13 graph) be taken into account under subsection (a)
14 for any taxable year by any person (hereafter in this
15 paragraph referred to as the ‘initial taxpayer’)—

16 “(A) may be taken into account by any
17 other person to whom such expenditures are as-
18 signed by the initial taxpayer, and

19 “(B) shall not be taken to account by ini-
20 tial taxpayer.

21 Any person to whom such expenditures are assigned
22 under subparagraph (A) shall be treated for pur-
23 poses of this title as the taxpayer with respect to
24 such expenditures.

1 “(3) CONTROLLED GROUP.—All members of the
2 same controlled group of corporations (within the
3 meaning of section 52(a)) and all persons under
4 common control (within the meaning of section
5 52(b)) shall be treated as 1 person for purposes of
6 this section.

7 “(4) PREDECESSOR.—Any reference in this sec-
8 tion to a corporation or partnership shall include a
9 reference to any predecessor of such corporation or
10 partnership.

11 “(5) DENIAL OF DOUBLE BENEFIT.—For pur-
12 poses of this subtitle, if a credit is allowed under
13 this section in connection with any expenditure for
14 any property, the basis of such property shall be re-
15 duced by the amount of the credit so allowed.”.

16 (b) DENIAL OF DOUBLE BENEFIT.—Section 280C of
17 such Code is amended by adding at the end the following
18 new subsection:

19 “(i) MANUFACTURING FACILITY EXPENDITURES.—
20 No deduction shall be allowed for that portion of the ex-
21 penses otherwise allowable as a deduction taken into ac-
22 count in determining the credit under section 45S for the
23 taxable year which is equal to the amount of the credit
24 determined for such taxable year under section 45S(a).”.

1 (c) CREDIT TO BE PART OF GENERAL BUSINESS

2 CREDIT.—Section 38(b) of the such Code, as amended by
3 this Act, is amended by striking “plus” at the end of para-
4 graph (36), by striking the period at the end of paragraph
5 (37) and inserting “, plus”, and by inserting after para-
6 graph (37) the following:

7 “(38) manufacturing facility expenditure credit
8 determined under section 45S(a).”.

9 (d) CONFORMING AMENDMENT.—Section 1016(a) of
10 such Code, as amended by this Act, is amended by striking
11 “and” at the end of paragraph (37), by striking the period
12 at the end of paragraph (38) and inserting “, and”, and
13 by adding at the end the following new paragraph:

14 “(39) to the extent provided in section
15 45S(d)(2).”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to amounts paid or incurred after
18 the date of the enactment of this Act.

○