

112TH CONGRESS
1ST SESSION

S. 1764

To amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2011

Ms. STABENOW 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 extend the qualifying advanced energy project credit.

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 “Make It in America
5 Tax Credit Act of 2011”.

6 **SEC. 2. EXTENSION AND MODIFICATION OF THE ADVANCED**
7 **ENERGY PROJECT CREDIT.**

8 (a) EXTENSION.—

9 (1) IN GENERAL.—Subsection (d) of section
10 48C of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new
2 paragraph:

3 “(6) ADDITIONAL 2011 ALLOCATIONS.—

4 “(A) IN GENERAL.—Not later than 180
5 days after the date of the enactment of this
6 paragraph, the Secretary, in consultation with
7 the Secretary of Energy, shall establish a pro-
8 gram to consider and award certifications for
9 qualified investments eligible for credits under
10 this section to qualifying advanced energy
11 project sponsors with respect to applications re-
12 ceived on or after the date of the enactment of
13 this paragraph.

14 “(B) LIMITATION.—The total amount of
15 credits that may be allocated under the pro-
16 gram described in subparagraph (A) shall not
17 exceed the 2011 allocation amount reduced by
18 so much of the 2011 allocation amount as is
19 taken into account as an increase in the limita-
20 tion described in paragraph (1)(B).

21 “(C) APPLICATION OF CERTAIN RULES.—
22 Rules similar to the rules of paragraphs (2),
23 (3), (4), and (5) shall apply for purposes of the
24 program described in subparagraph (A), except
25 that—

1 “(i) CERTIFICATION.—Applicants
2 shall have 2 years from the date that the
3 Secretary establishes such program to sub-
4 mit applications.

5 “(ii) SELECTION CRITERIA.—For pur-
6 poses of paragraph (3)(B)(i), the term ‘do-
7 mestic job creation (both direct and indi-
8 rect)’ means the creation of direct jobs in
9 the United States producing the property
10 manufactured at the manufacturing facility
11 described under subsection (c)(1)(A)(i),
12 and the creation of indirect jobs in the
13 manufacturing supply chain for such prop-
14 erty in the United States.

15 “(iii) REVIEW AND REDISTRIBU-
16 TION.—The Secretary shall conduct a sep-
17 arate review and redistribution under para-
18 graph (5) with respect to such program
19 not later than 4 years after the date of the
20 enactment of this paragraph.

21 “(D) 2011 ALLOCATION AMOUNT.—For
22 purposes of this subsection, the term ‘2011 allo-
23 cation amount’ means \$5,000,000,000.

24 “(E) MODIFICATION OF CREDIT PERCENT-
25 AGE.—For purposes of this paragraph, in ap-

1 plying for and making a determination of an al-
2 location from the 2011 allocation amount (de-
3 termined without regard to any amount taken
4 into account under paragraph (1)(B)), sub-
5 section (a) shall be applied by substituting ‘not
6 more than 30 percent (as determined by the
7 Secretary)’ for ‘30 percent’.

8 “(F) DIRECT PAYMENTS.—In lieu of any
9 qualifying advanced energy project credit which
10 would otherwise be determined under this sec-
11 tion with respect to an allocation to a taxpayer
12 under this paragraph, the Secretary shall, upon
13 the election of the taxpayer, make a grant to
14 the taxpayer in the amount of such credit as so
15 determined. Rules similar to the rules of section
16 50 shall apply with respect to any grant made
17 under this subparagraph.”.

18 (2) PORTION OF 2011 ALLOCATION ALLOCATED
19 TOWARD PENDING APPLICATIONS UNDER ORIGINAL
20 PROGRAM.—Subparagraph (B) of section 48C(d)(1)
21 of such Code is amended by inserting “(increased by
22 so much of the 2011 allocation amount (not in ex-
23 cess of \$1,500,000,000) as the Secretary determines
24 necessary to make allocations to qualified invest-
25 ments with respect to which qualifying applications

1 were submitted before the date of the enactment of
2 paragraph (6))” after “\$2,300,000,000”.

3 (3) CONFORMING AMENDMENT.—Paragraph (2)
4 of section 1324(b) of title 31, United States Code,
5 is amended by inserting “48C(d)(6)(F),” after
6 “36C,”.

7 (b) BIOBASED MANUFACTURING ELIGIBLE FOR
8 CREDIT.—

9 (1) IN GENERAL.—Clause (i) of section
10 48C(e)(1)(A) of the Internal Revenue Code of 1986
11 is amended by striking “or” at the end of subclause
12 (VI), by redesignating subclause (VII) as subclause
13 (VIII), and by inserting after subclause (VI) the fol-
14 lowing new subclause:

15 “(VII) qualifying biobased prod-
16 uct, or”.

17 (2) DEFINITION.—Subsection (c) of section
18 48C of such Code is amended by adding at the fol-
19 lowing new paragraph:

20 “(3) QUALIFYING BIOBASED PRODUCT.—

21 “(A) IN GENERAL.—The term ‘qualifying
22 biobased product’ means any product, including
23 a product that may be used as a petrochemical
24 alternative, the biobased content of which is not
25 less than—

1 “(i) 25 percent, or

2 “(ii) in any instance in which the De-
3 partment of Agriculture has established a
4 minimum content level for a designated
5 biobased item pursuant to section 9002 of
6 the Farm Security and Rural Investment
7 Act of 2002, such minimum content level.

8 “(B) EXCLUSION.—Such term shall not in-
9 clude the following:

10 “(i) Any product which is sold or used
11 as food, feed, fuel, or an ingredient there-
12 of.

13 “(ii) Any product which is primarily
14 composed of lignocellulosic matter and
15 which is sold or used as a paper or wood
16 product, unless such product is manufac-
17 tured from—

18 “(I) wood fiber harvested from
19 lands certified as well managed by any
20 forest management certification pro-
21 gram approved by the Secretary, or

22 “(II) wood fiber harvested from
23 Federal public lands, including Na-
24 tional Forest System and Bureau of
25 Land Management lands, in accord-

1 ance with an approved land manage-
 2 ment project and a valid timber sale
 3 or stewardship contract.

4 “(C) BIOBASED CONTENT.—The term
 5 ‘biobased content’ means, with respect to any
 6 qualifying biobased product, the amount of car-
 7 bon from biological sources contained in such
 8 product, as determined by the testing of prod-
 9 uct samples using the generally accepted meth-
 10 odology of the American Society of Testing and
 11 Materials D6866.”.

12 (c) NEW NAME FOR CREDIT TO REFLECT PUR-
 13 POSE.—

14 (1) IN GENERAL.—Paragraph (5) of section 46
 15 and subsection (a) of section 48C of the Internal
 16 Revenue Code of 1986 are each amended by striking
 17 “qualifying advanced energy project credit” and in-
 18 serting “Make It in America credit”.

19 (2) CLERICAL AMENDMENTS.—

20 (A) The heading for section 48C of such
 21 Code is amended by striking “**QUALIFYING**
 22 **ADVANCED ENERGY PROJECT CREDIT**” and
 23 inserting “**MAKE IT IN AMERICA CREDIT**”.

24 (B) The item relating to section 48C in the
 25 table of sections for subpart E of part IV of

1 subchapter A of chapter 1 of such Code is
2 amended by striking “Qualifying advanced en-
3 ergy project credit” and inserting “Make It in
4 America credit”.

5 (d) **EFFECTIVE DATE.**—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act.

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