

117TH CONGRESS
1ST SESSION

S. 2461

To amend the Internal Revenue Code of 1986 to make qualified biogas property and qualified manure resource recovery property eligible for the energy credit and to permit renewable energy bonds to finance qualified biogas property, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2021

Mr. BROWN (for himself and Mr. THUNE) 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 make qualified biogas property and qualified manure resource recovery property eligible for the energy credit and to permit renewable energy bonds to finance qualified biogas property, 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 “Agriculture Environ-
5 mental Stewardship Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Incentives and encouragement for the con-
2 servation and appropriate handling of nutrients con-
3 tained in organic matter are necessary.

4 (2) Biogas systems will save Federal, State, and
5 local taxpayers money by converting waste into use-
6 ful products, such as fuel, fertilizer, thermal heat,
7 feedstock for hydrogen fuel cells, and renewable
8 chemicals.

9 (3) Manure resource recovery systems will save
10 Federal, State, and local taxpayers money by recov-
11 ering the nutrients contained in organic matter from
12 their source, rather than recovering the nutrients
13 after they have entered landfills or waterways.

14 **SEC. 3. ENERGY CREDIT FOR QUALIFIED BIOGAS PROP-**
15 **ERTY AND QUALIFIED MANURE RESOURCE**
16 **RECOVERY PROPERTY.**

17 (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-
18 nal Revenue Code of 1986 is amended by striking “or”
19 at the end of clause (vii) and by adding at the end the
20 following new clauses:

21 “(ix) qualified biogas property, or

22 “(x) qualified manure resource recov-
23 ery property,”.

24 (b) 30-PERCENT CREDIT.—Section 48(a)(2)(A)(i) of
25 such Code is amended by striking “and” at the end of

1 subclause (IV), by striking “and” at the end of subclause
 2 (V), and by adding at the end the following new sub-
 3 clauses:

4 “(VI) qualified biogas property,
 5 and
 6 “(VII) qualified manure resource
 7 recovery property, and”.

8 (c) DEFINITIONS.—Section 48(c) of such Code is
 9 amended by adding at the end the following new para-
 10 graphs:

11 “(6) QUALIFIED BIOGAS PROPERTY.—

12 “(A) IN GENERAL.—The term ‘qualified
 13 biogas property’ means property comprising a
 14 system which—

15 “(i) uses anaerobic digesters, or other
 16 biological, chemical, thermal, or mechanical
 17 processes (alone or in combination), to
 18 convert biomass (as defined in section
 19 45K(c)(3)) into a gas which consists of not
 20 less than 52 percent methane, and

21 “(ii) captures such gas for use as a
 22 fuel.

23 “(B) INCLUSION OF CERTAIN CLEANING
 24 AND CONDITIONING EQUIPMENT.—Such term
 25 shall include any property which cleans and

1 conditions the gas referred to in subparagraph
2 (A) for use as a fuel.

3 “(C) TERMINATION.—No credit shall be
4 determined under this section with respect to
5 any qualified biogas property for any period
6 after December 31, 2023.

7 “(7) QUALIFIED MANURE RESOURCE RECOVERY
8 PROPERTY.—

9 “(A) IN GENERAL.—The term ‘qualified
10 manure resource recovery property’ means
11 property comprising a system which uses phys-
12 ical, biological, chemical, thermal, or mechanical
13 processes to recover the nutrients nitrogen and
14 phosphorus from a non-treated digestate or ani-
15 mal manure by reducing or separating at least
16 50 percent of the concentration of such nutri-
17 ents, excluding any reductions during the incin-
18 eration, storage, composting, or field application
19 of the non-treated digestate or animal manure.

20 “(B) INCLUSION OF CERTAIN PROCESSING
21 EQUIPMENT.—Such term shall include—

22 “(i) any property which is used to re-
23 cover the nutrients referred to in subpara-
24 graph (A), such as—

25 “(I) biological reactors,

1 “(II) crystallizers,
2 “(III) water filtration membrane
3 systems and other water purifiers,
4 “(IV) evaporators,
5 “(V) distillers,
6 “(VI) decanter centrifuges, and
7 “(VII) equipment that facilitates
8 the process of removing and
9 dewatering suspended and dissolved
10 solids, ammonia stripping, gasifi-
11 cation, or ozonation, and
12 “(ii) any thermal drier which treats
13 the nutrients recovered by the processes re-
14 ferred to in subparagraph (A).

15 “(C) TERMINATION.—No credit shall be
16 determined under this section with respect to
17 any qualified manure resource recovery prop-
18 erty for any period after December 31, 2023.”.

19 (d) DENIAL OF DOUBLE BENEFIT FOR QUALIFIED
20 BIOGAS PROPERTY.—Section 45(e) of such Code is
21 amended by adding at the end the following new para-
22 graph:

23 “(12) COORDINATION WITH ENERGY CREDIT
24 FOR QUALIFIED BIOGAS PROPERTY.—The term
25 ‘qualified facility’ shall not include any facility which

1 produces electricity from gas produced by qualified
2 biogas property (as defined in section 48(c)(6)) if a
3 credit is determined under section 48 with respect to
4 such property for the taxable year or any prior tax-
5 able year.”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to periods after December 31,
8 2020, in taxable years ending after such date, under rules
9 similar to the rules of section 48(m) of such Code (as in
10 effect on the day before the date of the enactment of the
11 Revenue Reconciliation Act of 1990).

12 **SEC. 4. STUDY OF BIOGAS AND NUTRIENT REUSE.**

13 (a) IN GENERAL.—The Secretary of the Treasury
14 shall enter into an agreement with the National Renewable
15 Energy Laboratory to undertake a study of biogas that
16 addresses the following:

17 (1) The quality of biogas, including a compari-
18 son of biogas to natural gas and the identification
19 of any components of biogas which make biogas un-
20 suitable for injection into existing natural gas pipe-
21 lines.

22 (2) Methods for obtaining the highest energy
23 content in biogas, including the use of co-digestion
24 and identifying the optimal feed mixture.

1 (3) Recommendations for the expansion of
2 biogas production, including an analysis of the ex-
3 tent to which increasing the methane content of
4 biogas would result in the greater use of biogas and
5 an analysis of how the expanded use of biogas could
6 help meet the growing energy needs of the United
7 States.

8 (4) Methods for productive use of nutrients re-
9 covered from qualified manure resource recovery
10 property that benefits the agricultural economy.

11 (b) REPORT.—Not later than 2 years after the date
12 of the enactment of this Act, the Secretary shall submit
13 to Congress a report on the study conducted under sub-
14 section (a).

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