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1ST SESSION

S. 1841

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2019

Mr. COONS (for himself, Mr. MORAN, Mr. KING, Ms. COLLINS, Mr. CARPER, Ms. MURKOWSKI, Mr. HEINRICH, Ms. ERNST, Mr. GARDNER, Ms. STABENOW, Mr. CRAPO, and Mr. BENNET) 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 publicly traded partnership ownership structure to energy power generation projects and transportation fuels, 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 “Financing Our Energy
5 Future Act”.

1 **SEC. 2. EXTENSION OF PUBLICLY TRADED PARTNERSHIP**
 2 **OWNERSHIP STRUCTURE TO ENERGY POWER**
 3 **GENERATION PROJECTS, TRANSPORTATION**
 4 **FUELS, AND RELATED ENERGY ACTIVITIES.**

5 (a) IN GENERAL.—Subparagraph (E) of section
 6 7704(d)(1) of the Internal Revenue Code of 1986 is
 7 amended—

8 (1) by striking “income and gains derived from
 9 the exploration” and inserting “income and gains
 10 derived from the following:

11 “(i) MINERALS, NATURAL RE-
 12 SOURCES, ETC.—The exploration”;

13 (2) by inserting “or” before “industrial
 14 source”;

15 (3) by inserting a period after “carbon diox-
 16 ide”; and

17 (4) by striking “, or the transportation or stor-
 18 age” and all that follows and inserting the following:

19 “(ii) RENEWABLE ENERGY.—The gen-
 20 eration of electric power (including the
 21 leasing of tangible personal property used
 22 for such generation) exclusively utilizing
 23 any resource described in section 45(c)(1)
 24 or energy property described in section 48
 25 (determined without regard to any termi-
 26 nation date), or in the case of a facility de-

scribed in paragraph (3) or (7) of section 45(d) (determined without regard to any placed in service date or date by which construction of the facility is required to begin), the accepting or processing of such resource.

“(iii) ENERGY STORAGE PROPERTY.—
The sale of electric power, capacity, resource adequacy, demand response capabilities, or ancillary services that is produced or made available from any equipment or facility (operating as a single unit or as an aggregation of units) the principal function of which is to—

“(I) use mechanical, chemical, electrochemical, hydroelectric, or thermal processes to store energy that was generated at one time for conversion to electricity at a later time, or

“(II) store thermal energy for direct use for heating or cooling at a later time in a manner that avoids the need to use electricity at that later time.

1 “(iv) COMBINED HEAT AND POWER.—

2 The generation, storage, or distribution of
3 thermal energy exclusively utilizing prop-
4 erty described in section 48(c)(3) (deter-
5 mined without regard to subparagraphs
6 (B) and (D) thereof and without regard to
7 any placed in service date).

8 “(v) RENEWABLE THERMAL EN-

9 ERGY.—The generation, storage, or dis-
10 tribution of thermal energy exclusively
11 using any resource described in section
12 45(c)(1) or energy property described in
13 clause (i) or (iii) of section 48(a)(3)(A).

14 “(vi) WASTE HEAT TO POWER.—The
15 use of recoverable waste energy, as defined
16 in section 371(5) of the Energy Policy and
17 Conservation Act (42 U.S.C. 6341(5)) (as
18 in effect on the date of the enactment of
19 the Financing Our Energy Future Act).

20 “(vii) RENEWABLE FUEL INFRA-
21 STRUCTURE.—The storage or transpor-
22 tation of any fuel described in subsection
23 (b), (c), (d), or (e) of section 6426.

24 “(viii) RENEWABLE FUELS.—The pro-
25 duction, storage, or transportation of any

1 renewable fuel described in section
2 211(o)(1)(J) of the Clean Air Act (42
3 U.S.C. 7545(o)(1)(J)) (as in effect on the
4 date of the enactment of the Financing
5 Our Energy Future Act) or section
6 40A(d)(1).

7 “(ix) FUEL DERIVED FROM CAP-
8 TURED CARBON OXIDES.—The production,
9 storage, or transportation of any fuel
10 which—

11 “(I) uses carbon oxides captured
12 from an anthropogenic source or the
13 atmosphere as its primary feedstock,
14 and

15 “(II) is determined by the Sec-
16 retary, in consultation with the Sec-
17 retary of Energy and the Adminis-
18 trator of the Environmental Protec-
19 tion Agency, to achieve a reduction of
20 not less than a 60 percent in lifecycle
21 greenhouse gas emissions (as defined
22 in section 211(o)(1)(H) of the Clean
23 Air Act) compared to baseline lifecycle
24 greenhouse gas emissions (as defined
25 in section 211(o)(1)(C) of such Act).

1 This clause shall not apply to any fuel
2 which uses as its primary feedstock carbon
3 oxide which is deliberately released from
4 naturally-occurring subsurface springs.

5 “(x) RENEWABLE CHEMICALS.—The
6 production, storage, or transportation of
7 any qualifying renewable chemical (as de-
8 fined in paragraph (6)).

9 “(xi) ENERGY EFFICIENT BUILD-
10 INGS.—The audit and installation through
11 contract or other agreement of any energy
12 efficient building property described in sec-
13 tion 179D(c)(1).

14 “(xii) GASIFICATION WITH SEQUES-
15 TRATION.—The production of any product
16 or the generation of electric power from a
17 project—

18 “(I) which meets the require-
19 ments of subparagraphs (A) and (B)
20 of section 48B(c)(1), and

21 “(II) not less than 75 percent of
22 the total carbon oxide emissions of
23 which is qualified carbon oxide (as de-
24 fined in section 45Q(c)) which is dis-

posed of or utilized as provided in paragraph (7).

“(xiii) CARBON CAPTURE AND SEQUESTRATION.—

“(I) POWER GENERATION FACILITIES.—The generation or storage of electric power (including associated income from the sale or marketing of energy, capacity, resource adequacy, and ancillary services) produced from any power generation facility which is, or from any power generation unit within, a qualified facility which is described in section 45Q(d) and not less than 50 percent (30 percent in the case of a facility or unit placed in service before January 1, 2019) of the total carbon oxide emissions of which is qualified carbon oxide which is disposed of or utilized as provided in paragraph (7).

“(II) OTHER FACILITIES.—The sale of any good or service from any facility (other than a power generation facility) which is a qualified facility

1 described in section 45Q(d) and the
 2 captured qualified carbon oxide (as so
 3 defined) of which is disposed of as
 4 provided in paragraph (7).”.

5 (b) RENEWABLE CHEMICAL.—

6 (1) IN GENERAL.—Section 7704(d) of such
 7 Code is amended by adding at the end the following
 8 new paragraph:

9 “(6) QUALIFYING RENEWABLE CHEMICAL.—

10 “(A) IN GENERAL.—The term ‘qualifying
 11 renewable chemical’ means any renewable chem-
 12 ical (as defined in section 9001 of the Farm Se-
 13 curity and Rural Investment Act of 2002 (7
 14 U.S.C. 8101))—

15 “(i) which is produced by the taxpayer
 16 in the United States or in a territory or
 17 possession of the United States,

18 “(ii) which is the product of, or reli-
 19 ant upon, biological conversion, thermal
 20 conversion, or a combination of biological
 21 and thermal conversion, of renewable bio-
 22 mass (as defined in section 9001(13) of
 23 the Farm Security and Rural Investment
 24 Act of 2002),

1 “(iii) the biobased content of which is
 2 95 percent or higher,

3 “(iv) which is sold or used by the tax-
 4 payer—

5 “(I) for the production of chem-
 6 ical products, polymers, plastics, or
 7 formulated products, or

8 “(II) as chemicals, polymers,
 9 plastics, or formulated products,

10 “(v) which is not sold or used for the
 11 production of any food, feed, or fuel, and

12 “(vi) which is—

13 “(I) acetic acid, acetone, acrylic
 14 acid, acyl glutamate, adipic acid, algae
 15 oils, algae sugars, 1,4-butanediol
 16 (BDO), iso-butanol, n-butanol, C3-C9
 17 aldehydes, C3-C9 ketones, C10 and
 18 higher hydrocarbons produced from
 19 olefin metathesis, carboxylic acids pro-
 20 duced from olefin metathesis, cellu-
 21 losic sugar, diethyl methylene malo-
 22 nate, dodecanedioic acid (DDDA),
 23 esters produced from olefin metath-
 24 esis, ethyl acetate, ethylene glycol,
 25 farnesene, 2,5-furandicarboxylic acid,

1 gamma-butyrolactone, glucaric acid,
2 hexamethylenediamine (HMD), 3-hy-
3 droxy propionic acid, isoamylene, iso-
4 butene, isoprene, isopropanol, itaconic
5 acid, lactide, levulinic acid, modified
6 vegetable oils (oligomers or polymers)
7 as produced from olefin metathesis,
8 polyhydroxyalkonate (PHA), polylactic
9 acid (PLA), polyethylene furanoate
10 (PEF), polyethylene terephthalate
11 (PET), polyitaconic acid, polyols from
12 vegetable oils, poly(xylitan levulinate
13 ketal), 1,3-propanediol, 1,2-
14 propanediol, rhamnolipids, short and
15 medium chain carboxylic acids pro-
16 duced from anaerobic digestion, suc-
17 cinic acid, terephthalic acid, vegetable
18 fatty acid derived from ethyl esters
19 containing vegetable oil, or p-Xylene,
20 or

21 “(II) any chemical not described
22 in clause (i) which is a chemical listed
23 by the Secretary for purposes of this
24 paragraph.

1 “(B) BIOBASED CONTENT.—For purposes
2 of subparagraph (A)(iii), the term ‘biobased
3 content percentage’ means, with respect to any
4 renewable chemical, the biobased content of
5 such chemical (expressed as a percentage) de-
6 termined by testing representative samples
7 using the American Society for Testing and
8 Materials (ASTM) D6866.”.

9 (2) LIST OF OTHER QUALIFYING RENEWABLE
10 CHEMICALS.—Not later than 180 days after the date
11 of the enactment of this Act, the Secretary of the
12 Treasury (or the Secretary’s delegate), in consulta-
13 tion with the Secretary of Agriculture, shall establish
14 a program to consider applications from taxpayers
15 for the listing of chemicals under section
16 7704(d)(6)(A)(vi)(II) of the Internal Revenue Code
17 of 1986 (as added by paragraph (1)).

18 (c) DISPOSAL AND UTILIZATION OF CAPTURED CAR-
19 BON OXIDE.—Section 7704(d) of such Code, as amended
20 by subsection (b), is amended by adding at the end the
21 following new paragraph:

22 “(7) DISPOSAL AND UTILIZATION OF CAPTURED
23 CARBON OXIDE.—For purposes of clauses (xii)(III)
24 and (xiii)(I) of paragraph (1)(E), carbon oxide is

1 disposed of or utilized as provided in this paragraph
2 if such carbon oxide is—

3 “(A) placed into secure geological storage
4 (as determined under section 45Q(f)(2)),

5 “(B) used as a tertiary injectant (as de-
6 fined in section 45Q(e)(3)) in a qualified en-
7 hanced oil or natural gas recovery project (as
8 defined in section 45Q(e)(2)) and placed into
9 secure geological storage (as so determined), or

10 “(C) utilized in a manner described in sec-
11 tion 45Q(f)(5).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act, in taxable years ending after such date.

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