

110TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide a credit for the production of a cellulosic biofuel.

IN THE SENATE OF THE UNITED STATES

Mr. SALAZAR (for himself, Mrs. LINCOLN, Mr. SMITH, and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for the production of a cellulosic biofuel.

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. CREDIT FOR PRODUCTION OF CELLULOSIC**
4 **BIOFUEL.**

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

1 **“SEC. 30D. CELLULOSIC BIOFUEL PRODUCTION.**

2 “(a) GENERAL RULE.—There shall be allowed as a
3 credit against the tax imposed by this chapter for the tax-
4 able year an amount equal to \$1.28 for each gallon of
5 qualified cellulosic biofuel production.

6 “(b) QUALIFIED CELLULOSIC BIOFUEL PRODUC-
7 TION.—For purposes of this section, the term ‘qualified
8 cellulosic biofuel production’ means any cellulosic biofuel
9 which is produced in the United States by the taxpayer
10 and which during the taxable year—

11 “(1) is sold by the taxpayer to another per-
12 son—

13 “(A) for use by such other person in the
14 production of a qualified cellulosic biofuel mix-
15 ture in such other person’s trade or business
16 (other than casual off-farm production),

17 “(B) for use by such other person as a fuel
18 in a trade or business, or

19 “(C) who sells such cellulosic biofuel at re-
20 tail to another person and places such cellulosic
21 biofuel in the fuel tank of such other person, or

22 “(2) is used or sold by the taxpayer for any
23 purpose described in paragraph (1).

24 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
25 poses of this section—

1 “(1) CELLULOSIC BIOFUEL.—The term ‘cel-
2 lulosic biofuel’ means any liquid transportation fuel
3 derived from any lignocellulosic or hemicellulosic
4 mater (other than food starch) that is available on
5 a renewable or recurring basis.

6 “(2) QUALIFIED CELLULOSIC BIOFUEL MIX-
7 TURE.—The term ‘qualified cellulosic biofuel mix-
8 ture’ means a mixture of cellulosic biofuel and gaso-
9 line which—

10 “(A) is sold by the person producing such
11 mixture to any person for use as a fuel, or

12 “(B) is used as a fuel by the person pro-
13 ducing such mixture.

14 “(3) CELLULOSIC BIOFUEL NOT USED AS A
15 FUEL.—If any credit is allowed under subsection (a)
16 and any person does not use such cellulosic biofuel
17 for a purpose described in subsection (b), then there
18 is hereby imposed on such person a tax equal to
19 \$1.28 for each gallon of such cellulosic biofuel.

20 “(4) PASS-THRU IN THE CASE OF ESTATES AND
21 TRUSTS.—Under regulations prescribed by the Sec-
22 retary, rules similar to the rules of subsection (d) of
23 section 52 shall apply.

24 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
25 shall be allowed under this section to any taxpayer

1 with respect to any cellulosic biofuel if a credit or
2 payment is allowed with respect to such fuel to such
3 taxpayer under section 40, 40A, 6426, or 6427(e).

4 “(d) LIMITATION BASED ON AMOUNT OF TAX.—The
5 credit allowed under subsection (a) for any taxable year
6 shall not exceed the excess of—

7 “(1) the sum of the regular tax liability (as de-
8 fined in section 26(b)) plus the tax imposed by sec-
9 tion 55, over

10 “(2) the sum of the credits allowable under sub-
11 part A and sections 27, 30, 30B, and 30C.

12 “(e) CARRYFORWARD AND CARRYBACK OF UNUSED
13 CREDIT.—

14 “(1) IN GENERAL.—If the credit allowable
15 under subsection (a) exceeds the limitation imposed
16 by subsection (d) for such taxable year (hereinafter
17 in this section referred to as the ‘unused credit
18 year’) reduced by the sum of the credits allowable
19 under subpart A, such excess shall be—

20 “(A) carried back to the taxable year pre-
21 ceding the unused credit year, and

22 “(B) carried forward to each of the 20 tax-
23 able years following the unused credit year.

24 “(2) TRANSITION RULE.—The credit under
25 subsection (a) may not be carried to a taxable year

1 beginning before the date of the enactment of this
2 section.

3 “(f) APPLICATION OF SECTION.—This section shall
4 apply with respect to qualified cellulosic biofuel produc-
5 tion—

6 “(1) after the date of the enactment of this sec-
7 tion, and

8 “(2) before the date on which the Secretary of
9 Energy certifies that 1,000,000,000 gallons of cel-
10 lulosic biofuels have been produced in the United
11 States after such date.”.

12 (b) DEDUCTION ALLOWED FOR UNUSED CREDIT.—
13 Section 196(e) of such Code is amended by adding at the
14 end the following new subsection:

15 “(d) DEDUCTION ALLOWED FOR CELLULOSIC
16 BIOFUEL PRODUCTION CREDIT.—

17 “(1) IN GENERAL.—If any portion of the credit
18 allowed under section 30D for any taxable year has
19 not, after the application of section 30D(d), been al-
20 lowed to the taxpayer as a credit under such section
21 for any taxable year, an amount equal to such credit
22 not so allowed shall be allowed to the taxpayer as a
23 deduction for the first taxable year following the last
24 taxable year for which such credit could, under sec-
25 tion 30D(e), have been allowed as a credit.

1 “(2) TAXPAYER’S DYING OR CEASING TO
2 EXIST.—If a taxpayer dies or ceases to exist before
3 the first taxable year following the last taxable year
4 for which the credit could, under section 30D(e),
5 have been allowed as a credit, the amount described
6 in paragraph (1) (or the proper portion thereof)
7 shall, under regulations prescribed by the Secretary,
8 be allowed to the taxpayer as a deduction for the
9 taxable year in which such death or cessation oc-
10 curs.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1)(A) Section 87 of the Internal Revenue Code
13 of 1986 is amended by striking “and” at the end of
14 paragraph (1), by striking the period at the end of
15 paragraph (2) and inserting “, and”, and by adding
16 at the end the following new paragraph:

17 “(3) the cellulosic biofuel production credit de-
18 termined with respect to the taxpayer under section
19 30D(a).”.

20 (B) The heading of section 87 of such Code is
21 amended by striking “**AND BIODIESEL FUELS**
22 **CREDITS**” and inserting “, **BIODIESEL FUELS,**
23 **AND CELLULOSIC BIOFUELS CREDITS**”.

24 (C) The item relating to section 87 is the table
25 of sections for part II of subchapter B of chapter 1

1 of such Code is amended by striking “and biodiesel
2 fuels credits” and inserting “, biodiesel fuels, and
3 cellulosic biofuels credits”.

4 (2) The table of sections for subpart B of part
5 IV of subchapter A of chapter 1 of such Code is
6 amended by inserting after the item relating to sec-
7 tion 40A the following new item:

“Sec. 30D. Cellulosic biofuel production.”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to fuel produced after the date of
10 the enactment of this Act.