

Calendar No. **639**

111TH CONGRESS
2^D SESSION

H. R. 4168

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2010

Received; read the first time

NOVEMBER 15, 2010

Read the second time and placed on the calendar

AN ACT

To amend the Internal Revenue Code of 1986 to expand the definition of cellulosic biofuel to include algae-based biofuel for purposes of the cellulosic biofuel producer credit and the special allowance for cellulosic biofuel plant property.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Algae-based Renewable
3 Fuel Promotion Act of 2010”.

4 **SEC. 2. ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR**
5 **PURPOSES OF THE CELLULOSIC BIOFUEL**
6 **PRODUCER CREDIT, ETC.**

7 (a) IN GENERAL.—Subclause (I) of section
8 40(b)(6)(E)(i) of the Internal Revenue Code of 1986 is
9 amended to read as follows:

10 “(I) is derived solely from quali-
11 fied feedstocks, and”.

12 (b) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR
13 ALGAE.—Paragraph (6) of section 40(b) of such Code is
14 amended by redesignating subparagraphs (F), (G), and
15 (H) as subparagraphs (H), (I), and (J), respectively, and
16 by inserting after subparagraph (E) the following new
17 subparagraphs:

18 “(F) QUALIFIED FEEDSTOCK.—For pur-
19 poses of this paragraph, the term ‘qualified
20 feedstock’ means—

21 “(i) any lignocellulosic or
22 hemicellulosic matter that is available on a
23 renewable or recurring basis, and

24 “(ii) any cultivated algae,
25 cyanobacteria, or lemna.

1 “(G) SPECIAL RULES FOR ALGAE.—In the
2 case of fuel which is derived from feedstock de-
3 scribed in subparagraph (F)(ii) and which is
4 sold by the taxpayer to another person for re-
5 fining by such other person into a fuel which
6 meets the requirements of subparagraph
7 (E)(i)(II)—

8 “(i) such sale shall be treated as de-
9 scribed in subparagraph (C)(i),

10 “(ii) such fuel shall be treated as
11 meeting the requirements of subparagraph
12 (E)(i)(II) in the hands of such taxpayer,
13 and

14 “(iii) except as provided in this sub-
15 paragraph, such fuel (and any fuel derived
16 from such fuel) shall not be taken into ac-
17 count under subparagraph (C) with respect
18 to the taxpayer or any other person.”.

19 (c) ALGAE TREATED AS A QUALIFIED FEEDSTOCK
20 FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL
21 PLANT PROPERTY.—

22 (1) IN GENERAL.—Subparagraph (A) of section
23 168(l)(2) of such Code is amended by striking “sole-
24 ly to produce cellulosic biofuel” and inserting “solely

1 to produce second generation biofuel (as defined in
2 section 40(b)(6)(E))”.

3 (2) CONFORMING AMENDMENTS.—Subsection
4 (l) of section 168 of such Code is amended—

5 (A) by striking “cellulosic biofuel” each
6 place it appears in the text thereof and insert-
7 ing “second generation biofuel”,

8 (B) by striking paragraph (3) and redesign-
9 ating paragraphs (4) through (8) as para-
10 graphs (3) through (7), respectively,

11 (C) by striking “CELLULOSIC” in the
12 heading of such subsection and inserting “SEC-
13 OND GENERATION”, and

14 (D) by striking “CELLULOSIC” in the head-
15 ing of paragraph (2) and inserting “SECOND
16 GENERATION”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 40 of such Code, as amended by
19 subsection (b), is amended—

20 (A) by striking “cellulosic biofuel” each
21 place it appears in the text thereof and insert-
22 ing “second generation biofuel”,

23 (B) by striking “CELLULOSIC” in the
24 headings of subsections (b)(6), (b)(6)(E), and

1 (d)(3)(D) and inserting “SECOND GENERA-
2 TION”, and

3 (C) by striking “CELLULOSIC” in the head-
4 ings of subsections (b)(6)(C), (b)(6)(D),
5 (b)(6)(H), (d)(6), and (e)(3) and inserting
6 “SECOND GENERATION”.

7 (2) Clause (ii) of section 40(b)(6)(E) of such
8 Code is amended by striking “Such term shall not”
9 and inserting “The term ‘second generation biofuel’
10 shall not”.

11 (3) Paragraph (1) of section 4101(a) of such
12 Code is amended by striking “cellulosic biofuel” and
13 inserting “second generation biofuel”.

14 (e) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to fuels sold or used after the date of the
18 enactment of this Act.

19 (2) APPLICATION TO BONUS DEPRECIATION.—
20 The amendments made by subsection (c) shall apply
21 to property placed in service after the date of the en-
22 actment of this Act.

23 **SEC. 3. PAYGO COMPLIANCE.**

24 The budgetary effects of this Act, for the purpose of
25 complying with the Statutory Pay-As-You-Go Act of 2010,

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