

112TH CONGRESS  
1ST SESSION

# S. 748

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 2011

Mr. NELSON of Florida (for himself, Mr. BINGAMAN, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Algae-Based Renew-  
5 able Fuel Promotion Act of 2011”.

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

4 (a) IN GENERAL.—Subclause (I) of section  
 5 40(b)(6)(E)(i) of the Internal Revenue Code of 1986 is  
 6 amended to read as follows:

7 “(I) is derived solely by, or from,  
 8 qualified feedstocks, and”.

9 (b) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR  
 10 ALGAE.—Paragraph (6) of section 40(b) of the Internal  
 11 Revenue Code of 1986 is amended by redesignating sub-  
 12 paragraphs (F), (G), and (H) as subparagraphs (H), (I),  
 13 and (J), respectively, and by inserting after subparagraph  
 14 (E) the following new subparagraphs:

15 “(F) QUALIFIED FEEDSTOCK.—For pur-  
 16 poses of this paragraph, the term ‘qualified  
 17 feedstock’ means—

18 “(i) any lignocellulosic or hemicellulosic  
 19 matter that is available on a renewable  
 20 or recurring basis, and

21 “(ii) any cultivated algae, cyanobacte-  
 22 ria, or lemna.

23 “(G) SPECIAL RULES FOR ALGAE.—In the  
 24 case of fuel which is derived by, or from, feed-  
 25 stock described in subparagraph (F)(ii) and  
 26 which is sold by the taxpayer to another person

1 for refining by such other person into a fuel  
 2 which meets the requirements of subparagraph  
 3 (E)(i)(II)—

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

6 “(ii) such fuel shall be treated as  
 7 meeting the requirements of subparagraph  
 8 (E)(i)(II) in the hands of such taxpayer,  
 9 and

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

15 (c) ALGAE TREATED AS A QUALIFIED FEEDSTOCK  
 16 FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL  
 17 PLANT PROPERTY.—

18 (1) IN GENERAL.—Subparagraph (A) of section  
 19 168(l)(2) of the Internal Revenue Code of 1986 is  
 20 amended by striking “solely to produce cellulosic  
 21 biofuel” and inserting “solely to produce second gen-  
 22 eration biofuel (as defined in section 40(b)(6)(E))”.

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

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

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

7 (C) by striking “CELLULOSIC” in the  
8 heading of such subsection and inserting “SEC-  
9 OND GENERATION”, and

10 (D) by striking “CELLULOSIC” in the head-  
11 ing of paragraph (2) and inserting “SECOND  
12 GENERATION”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Section 40 of the Internal Revenue Code of  
15 1986, as amended by subsection (b), is amended—

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

19 (B) by striking “CELLULOSIC” in the  
20 headings of subsections (b)(6), (b)(6)(E), and  
21 (d)(3)(D) and inserting “SECOND GENERA-  
22 TION”, and

23 (C) by striking “CELLULOSIC” in the head-  
24 ings of subsections (b)(6)(C), (b)(6)(D),

1 (b)(6)(H), (d)(6), and (e)(3) and inserting  
2 “SECOND GENERATION”.

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

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

10 (e) EFFECTIVE DATE.—

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

15 (2) APPLICATION TO BONUS DEPRECIATION.—  
16 The amendments made by subsection (c) shall apply  
17 to property placed in service after the date of the en-  
18 actment of this Act.

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