

118TH CONGRESS
2D SESSION

H. R. 8971

To amend the Internal Revenue Code of 1986 to allow an investment credit
for certain domestic infant formula manufacturing facilities.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2024

Mr. NUNN of Iowa (for himself and Ms. HOULAHAN) introduced the following
bill; which was referred to the Committee on Ways and Means, and in
addition to the Committee on Agriculture, for a period to be subsequently
determined by the Speaker, in each case for consideration of such provi-
sions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to allow an
investment credit for certain domestic infant formula
manufacturing facilities.

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 “Investing in New Fam-
5 ilies And Newborns Through Tax Credit Act” or the “IN-
6 FANT Tax Credit Act”.

1 **SEC. 2. DOMESTIC INFANT FORMULA MANUFACTURING IN-**
 2 **VESTMENT CREDIT.**

3 (a) IN GENERAL.—Subpart E of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 is amended by inserting after section 48E the fol-
 6 lowing new section:

7 **“SEC. 48F. DOMESTIC INFANT FORMULA MANUFACTURING**
 8 **INVESTMENT CREDIT.**

9 “(a) ESTABLISHMENT OF CREDIT.—For purposes of
 10 section 46, the domestic infant formula manufacturing in-
 11 vestment credit for any taxable year is an amount equal
 12 to 25 percent of the qualified investment for such taxable
 13 year with respect to any domestic infant formula manufac-
 14 turing facility of an eligible taxpayer.

15 “(b) QUALIFIED INVESTMENT.—

16 “(1) IN GENERAL.—For purposes of subsection
 17 (a), the qualified investment with respect to any do-
 18 mestic infant formula manufacturing facility for any
 19 taxable year is the basis of any qualified property
 20 placed in service by the taxpayer during such taxable
 21 year which is part of a domestic infant formula
 22 manufacturing facility.

23 “(2) QUALIFIED PROPERTY.—

24 “(A) IN GENERAL.—For purposes of this
 25 subsection, the term ‘qualified property’ means
 26 property—

1 “(i) which is tangible property,

2 “(ii) with respect to which deprecia-
3 tion (or amortization in lieu of deprecia-
4 tion) is allowable,

5 “(iii) which is—

6 “(I) constructed, reconstructed,
7 or erected by the taxpayer, or

8 “(II) acquired by the taxpayer if
9 the original use of such property com-
10 mences with the taxpayer, and

11 “(iv) which is integral to the operation
12 of the domestic infant formula manufac-
13 turing facility.

14 “(B) BUILDINGS AND STRUCTURAL COM-
15 PONENTS.—

16 “(i) IN GENERAL.—The term ‘quali-
17 fied property’ includes any building or its
18 structural components which otherwise sat-
19 isfy the requirements under subparagraph
20 (A).

21 “(ii) EXCEPTION.—Clause (i) shall
22 not apply with respect to a building or por-
23 tion of a building used for offices, adminis-
24 trative services, or other functions unre-
25 lated to manufacturing.

1 “(3) DOMESTIC INFANT FORMULA MANUFAC-
2 TURING FACILITY.—For purposes of this section—

3 “(A) IN GENERAL.—The term ‘domestic
4 infant formula manufacturing facility’ means a
5 facility the primary purpose of which is the
6 manufacturing of eligible infant formula.

7 “(B) ELIGIBLE INFANT FORMULA.—The
8 term ‘eligible infant formula’ means infant for-
9 mula that—

10 “(i) may lawfully be sold in the
11 United States, and

12 “(ii) is manufactured in the United
13 States.

14 “(4) COORDINATION WITH REHABILITATION
15 CREDIT; CERTAIN QUALIFIED PROGRESS EXPENDI-
16 TURES RULES MADE APPLICABLE.—Rules similar to
17 the rules of paragraphs (3) and (4) of section
18 48D(b) shall apply for purposes of this section.

19 “(c) ELIGIBLE TAXPAYER.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the term ‘eligible taxpayer’ means a taxpayer—

22 “(A) described in section 48D(c), and

23 “(B) with a total global revenue for the
24 taxable year which does not exceed
25 \$750,000,000.

1 “(2) AGGREGATION RULES.—For purposes of
 2 this paragraph, all persons which are treated as a
 3 single employer under subsections (a) and (b) of sec-
 4 tion 52 shall be treated as a single taxpayer.”.

5 (b) ELECTIVE PAYMENT AND TRANSFER OF CRED-
 6 IT.—Section 6417 of such Code is amended—

7 (1) in subsection (b), by adding at the end the
 8 following new paragraph:

9 “(13) the domestic infant formula manufac-
 10 turing investment credit under section 48F.”, and

11 (2) in subsection (d)(1)—

12 (A) in subparagraph (E), by striking “(C),
 13 or (D)” each place it appears and inserting
 14 “(C), (D), or (E)”,

15 (B) by redesignating subparagraph (E) as
 16 subparagraph (F), and

17 (C) by inserting after subparagraph (D)
 18 the following new subparagraph:

19 “(E) ELECTION WITH RESPECT TO DOMES-
 20 TIC INFANT FORMULA MANUFACTURING IN-
 21 VESTMENT CREDIT.—If a taxpayer other than
 22 an entity described in subparagraph (A) makes
 23 an election under this subparagraph with re-
 24 spect to any taxable year in which such tax-
 25 payer has, after the date of the enactment of

1 this subparagraph, placed in service qualified
 2 property which is part of a domestic infant for-
 3 mula manufacturing facility (as defined in sec-
 4 tion 48F(b)(3)), such taxpayer shall be treated
 5 as an applicable entity for purposes of this sec-
 6 tion for such taxable year, but only with respect
 7 to the credit described in subsection (b)(13).”.

8 (c) INCLUSION IN INVESTMENT CREDIT.—Section 46
 9 of such Code is amended in paragraph (6) by striking
 10 “and”, in paragraph (7) by striking the period and insert-
 11 ing “, and”, and by adding at the end the following new
 12 paragraph:

13 “(8) the domestic infant formula manufacturing
 14 investment credit.”.

15 (d) CLERICAL AMENDMENT.—The table of sections
 16 for subpart E of part IV of subchapter A of chapter 1
 17 of such Code is amended by inserting after the item relat-
 18 ing to section 48E the following new item:

“Sec. 48F. Domestic infant formula manufacturing investment credit.”.

19 (e) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to property placed in service after
 21 March 1, 2022.

22 **SEC. 3. INFANT FORMULA PRODUCTION CREDIT.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-
 24 chapter A of the Internal Revenue Code of 1986 is amend-
 25 ed by adding at the end the following new section:

1 **“SEC. 45BB. INFANT FORMULA PRODUCTION CREDIT.**

2 “(a) IN GENERAL.—In the case of a qualified tax-
3 payer, for purposes of section 38, the infant formula pro-
4 duction credit for any taxable year is an amount equal
5 to the product of—

6 “(1) the amount in pounds of eligible infant
7 formula manufactured by such taxpayer and sold for
8 use in the United States during such taxable year,
9 multiplied by

10 “(2) \$1.50.

11 “(b) QUALIFIED TAXPAYER.—For purposes of this
12 section, the term ‘qualified taxpayer’ means, with respect
13 to a taxable year—

14 “(1) a taxpayer if such taxpayer’s total global
15 revenue for the preceding taxable year does not ex-
16 ceed \$500,000,000, or

17 “(2) a taxpayer to whom a credit was allowed
18 under this section in the preceding taxable year.

19 “(c) ELIGIBLE INFANT FORMULA DEFINED.—For
20 purposes of this section, the term ‘eligible infant formula’
21 has the meaning given such term in section 48F(b)(3)(B).

22 “(d) AGGREGATION RULES.—For purposes of this
23 section, all persons which are treated as a single employer
24 under subsections (a) and (b) of section 52 shall be treated
25 as a single taxpayer.

1 “(e) COORDINATION WITH INVESTMENT CREDIT.—
 2 Infant formula produced at a facility with respect to which
 3 a credit was allowed under section 48F shall not be taken
 4 into account for purposes of subsection (a).”.

5 (b) CREDIT MADE TRANSFERABLE.—Section
 6 6418(f)(1) of such Code (as amended by section 2) is
 7 amended by adding at the end the following new clause:
 8 “(xii) The infant formula production
 9 credit determined under section 45BB.”.

10 (c) ELECTIVE PAYMENT OF CREDIT.—Section
 11 6417(b) of such Code (as amended by section 2) is amend-
 12 ed by adding at the end the following new paragraph:
 13 “(14) The infant formula production credit de-
 14 termined under section 45BB.”.

15 (d) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 16 NESS CREDIT.—Section 38(b) is amended by striking
 17 “plus” at the end of paragraph (40), by striking the period
 18 at the end of paragraph (41) and inserting “, plus”, and
 19 by adding at the end the following new paragraph:

20 “(42) in the case of an eligible taxpayer (as de-
 21 fined in section 48F), the infant formula production
 22 credit determined under section 45BB(a).”.

23 (e) CLERICAL AMENDMENT.—The table of sections
 24 for subpart D of part IV of subchapter A of the Internal

1 Revenue Code of 1986 is amended by adding at the end
2 the following new item:

“Sec. 45BB. Infant formula production credit.”.

3 (f) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to formula manufactured after the
5 date of the enactment of this Act.

6 **SEC. 4. REPORTS TO CONGRESS.**

7 Not later than 1 year after the date of the enactment
8 of this Act and annually thereafter, the Secretary of Agri-
9 culture shall submit to Congress a report that includes—

10 (1) with respect to the year preceding the re-
11 port, the number of persons that—

12 (A) operated a domestic infant formula
13 manufacturing facility (as defined in section
14 48F(b)(3) of the Internal Revenue Code of
15 1986); and

16 (B) received funding under a rural devel-
17 opment program of the Department of Agri-
18 culture;

19 (2) a description of any barriers that would pre-
20 vent a person that operates such a facility from ac-
21 cessing such funding and the resources the Secretary
22 requires to address such barriers; and

- 1 (3) an assessment of the impact that domestic
- 2 infant formula manufacturing facilities have on the
- 3 communities in which such facilities are located.

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