

117TH CONGRESS
1ST SESSION

S. 985

To amend the Internal Revenue Code of 1986 to provide direct payments of the renewable electricity production credit, the energy credit, and the carbon oxide sequestration credit.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mr. CARPER (for himself, Mr. WHITEHOUSE, and Mr. HEINRICH) 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 provide direct payments of the renewable electricity production credit, the energy credit, and the carbon oxide sequestration credit.

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 “Save America’s Clean
5 Energy Jobs Act”.

1 **SEC. 2. DIRECT PAYMENT OF RENEWABLE ELECTRICITY**
 2 **PRODUCTION CREDIT AND ENERGY CREDIT.**

3 (a) RENEWABLE ELECTRICITY PRODUCTION CRED-
 4 IT.—

5 (1) IN GENERAL.—Section 45(e) of the Internal
 6 Revenue Code of 1986 is amended by adding at the
 7 end the following new paragraph:

8 “(12) ELECTION FOR DIRECT PAYMENT.—

9 “(A) IN GENERAL.—In the case of any ap-
 10 plicable facility, the amount of any credit deter-
 11 mined under subsection (a) with respect to such
 12 facility for any taxable year during the period
 13 described in paragraph (2)(A)(ii) of such sub-
 14 section shall, at the election of the taxpayer, be
 15 treated as a payment equal to such amount
 16 which is made by the taxpayer against the tax
 17 imposed by chapter 1 for such taxable year.

18 “(B) APPLICABLE FACILITY.—For pur-
 19 poses of this paragraph, the term ‘applicable fa-
 20 cility’ means a qualified facility—

21 “(i) the construction of which began
 22 before January 1, 2023, and

23 “(ii) which is originally placed in serv-
 24 ice after March 25, 2021.

25 “(C) FORM AND EFFECT OF ELECTION.—

1 “(i) IN GENERAL.—An election under
2 subparagraph (A) shall be made in such
3 manner as the Secretary may prescribe
4 and not later than the due date (including
5 extensions) for the return of tax for the
6 taxable year in which the qualified facility
7 is originally placed in service. Such elec-
8 tion, once made, shall be irrevocable with
9 respect to such qualified facility for the pe-
10 riod described in subsection (a)(2)(A)(ii).

11 “(ii) EFFECT.—Any election under
12 subparagraph (A) shall, for any taxable
13 year during the period described in sub-
14 section (a)(2)(A)(ii), reduce the amount of
15 the credit which would (but for this para-
16 graph) be allowable under this section with
17 respect to such qualified facility for such
18 taxable year to zero.

19 “(D) APPLICATION TO PARTNERSHIPS AND
20 S CORPORATIONS.—In the case of a partnership
21 or S corporation which makes an election under
22 subparagraph (A)—

23 “(i) such subparagraph shall apply
24 with respect to such partnership or cor-
25 poration without regard to the fact that no

1 tax is imposed by chapter 1 on such part-
 2 nership or corporation, and

3 “(ii)(I) in the case of a partnership,
 4 each partner’s distributive share of the
 5 credit determined under subsection (a)
 6 with respect to the qualified facility shall
 7 be deemed to be zero, and

8 “(II) in the case of a S corporation,
 9 each shareholder’s pro rata share of the
 10 credit determined under subsection (a)
 11 with respect to the qualified facility shall
 12 be deemed to be zero.”.

13 (2) EFFECTIVE DATE.—The amendment made
 14 by this subsection shall apply to facilities placed in
 15 service after March 25, 2021.

16 (b) ENERGY CREDIT.—

17 (1) IN GENERAL.—Section 48 of the Internal
 18 Revenue Code of 1986 is amended by adding at the
 19 end the following new subsection:

20 “(e) ELECTION FOR DIRECT PAYMENT.—

21 “(1) IN GENERAL.—In the case of any applica-
 22 ble property placed in service during any taxable
 23 year, the amount of any credit determined under
 24 subsection (a) with respect to such property for such
 25 taxable year shall, at the election of the taxpayer, be

1 treated as a payment equal to such amount which is
2 made by the taxpayer against the tax imposed by
3 chapter 1 for such taxable year (regardless of wheth-
4 er such tax would have been on such taxpayer).

5 “(2) APPLICABLE PROPERTY.—For purposes of
6 this subsection, the term ‘applicable property’ means
7 any energy property (including any qualified prop-
8 erty which is treated as energy property pursuant to
9 subsection (a)(5))—

10 “(A) the construction of which began be-
11 fore January 1, 2023, and

12 “(B) which is originally placed in service
13 after March 25, 2021.

14 Such term shall not include any property if a credit
15 for qualified progress expenditures has been allowed
16 with respect to such property before the date of any
17 election under paragraph (1).

18 “(3) FORM AND EFFECT OF ELECTION.—

19 “(A) IN GENERAL.—An election under
20 paragraph (1) shall be made in such manner as
21 the Secretary may prescribe and not later than
22 the due date (including extensions) for the re-
23 turn of tax for the taxable year in which the ap-
24 plicable property is originally placed in service.

1 Such election, once made, shall be irrevocable
2 with respect to the applicable property.

3 “(B) EFFECT.—Any election under para-
4 graph (1) shall reduce the amount of the credit
5 which would (but for this subsection) be allow-
6 able under this section with respect to such ap-
7 plicable property for the taxable year in which
8 such property is placed in service to zero.

9 The reduction in credit under subparagraph (B)
10 shall not be taken into account for purposes of
11 applying section 50(a) with respect to such
12 property.

13 “(4) APPLICATION TO PARTNERSHIPS AND S
14 CORPORATIONS.—Rules similar to the rules of sec-
15 tion 45(e)(12)(D) shall apply for purposes of this
16 subsection.

17 “(5) REGULATIONS AND GUIDANCE.—The Sec-
18 retary shall prescribe such regulations and guidance
19 as may be necessary to carry out this subsection, in-
20 cluding regulations or guidance to relating to report-
21 ing on the use of applicable property for purposes of
22 administering the recapture under section 50(a) of
23 any refund made by reason of this section.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to property placed in
3 service after March 25, 2021.

4 (c) CARBON OXIDE SEQUESTRATION CREDIT.—

5 (1) IN GENERAL.—Section 45Q(f) of the Inter-
6 nal Revenue Code of 1986 is amended by adding at
7 the end the following new paragraph:

8 “(8) ELECTION FOR DIRECT PAYMENT.—

9 “(A) IN GENERAL.—In the case of any ap-
10 plicable equipment, the amount of any credit
11 determined under subsection (a) with respect to
12 any qualified carbon oxide captured by such
13 equipment for any taxable year during the ap-
14 plicable period shall, at the election of the tax-
15 payer, be treated as a payment equal to such
16 amount which is made by the taxpayer against
17 the tax imposed by chapter 1 for such taxable
18 year.

19 “(B) APPLICABLE EQUIPMENT.—For pur-
20 poses of this paragraph, the term ‘applicable
21 equipment’ means carbon capture equipment—

22 “(i) which is originally placed in serv-
23 ice after March 25, 2021, at a qualified fa-
24 cility the construction of which began be-
25 fore January 1, 2023, and

1 “(ii)(I) the construction of which
2 began before January 1, 2023, or

3 “(II) which was placed in service at a
4 qualified facility the original planning and
5 design of which included such equipment.

6 “(C) APPLICABLE PERIOD.—For purposes
7 of this paragraph, the term ‘applicable period’
8 means the 12-year period beginning on the date
9 that the applicable equipment was originally
10 placed in service.

11 “(D) FORM AND EFFECT OF ELECTION.—

12 “(i) IN GENERAL.—An election under
13 subparagraph (A) shall be made in such
14 manner as the Secretary may prescribe
15 and not later than the due date (including
16 extensions) for the return of tax for the
17 taxable year in which the applicable equip-
18 ment is originally placed in service. Such
19 election, once made, shall be irrevocable
20 with respect to such applicable equipment
21 for the applicable period.

22 “(ii) EFFECT.—Any election under
23 subparagraph (A) shall, for any taxable
24 year during the applicable period, reduce
25 the amount of the credit which would (but

1 for this paragraph) be allowable under this
2 section with respect to such applicable
3 equipment for such taxable year to zero.

4 “(E) APPLICATION TO PARTNERSHIPS AND
5 S CORPORATIONS.—In the case of a partnership
6 or S corporation which makes an election under
7 subparagraph (A)—

8 “(i) such subparagraph shall apply
9 with respect to such partnership or cor-
10 poration without regard to the fact that no
11 tax is imposed by chapter 1 on such part-
12 nership or corporation, and

13 “(ii)(I) in the case of a partnership,
14 each partner’s distributive share of the
15 credit determined under subsection (a)
16 with respect to the qualified carbon oxide
17 captured using such applicable equipment
18 shall be deemed to be zero, and

19 “(II) in the case of a S corporation,
20 each shareholder’s pro rata share of the
21 credit determined under subsection (a)
22 with respect to the qualified carbon oxide
23 captured using such applicable equipment
24 shall be deemed to be zero.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to property placed in
3 service after March 25, 2021.

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