

115TH CONGRESS  
1ST SESSION

# S. 988

To amend the Internal Revenue Code of 1986 to make qualified biogas property and qualified manure resource recovery property eligible for the energy credit and to permit new clean renewable energy bonds to finance qualified biogas property, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 27, 2017

Mr. BROWN (for himself and Mr. ROBERTS) 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 make qualified biogas property and qualified manure resource recovery property eligible for the energy credit and to permit new clean renewable energy bonds to finance qualified biogas property, and for other purposes.

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 “Agriculture Environ-  
5       mental Stewardship Act of 2017”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) Incentives and encouragement for the con-  
2           servation and appropriate handling of nutrients con-  
3           tained in organic matter are necessary.

4           (2) Biogas systems will save Federal, State, and  
5           local taxpayers money by converting waste into use-  
6           ful products, such as fuel, fertilizer, thermal heat,  
7           feedstock for hydrogen fuel cells, and renewable  
8           chemicals.

9           (3) Manure resource recovery systems will save  
10          Federal, State, and local taxpayers money by recov-  
11          ering the nutrients contained in organic matter from  
12          their source, rather than recovering the nutrients  
13          after they have entered landfills or waterways.

14 **SEC. 3. ENERGY CREDIT FOR QUALIFIED BIOGAS PROP-**  
15 **ERTY AND QUALIFIED MANURE RESOURCE**  
16 **RECOVERY PROPERTY.**

17          (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
18          nal Revenue Code of 1986 is amended by striking “or”  
19          at the end of clause (vi) and by adding at the end the  
20          following new clauses:

21                               “(viii) qualified biogas property, or

22                               “(ix) qualified manure resource recov-  
23                               ery property,”.

24          (b) 30-PERCENT CREDIT.—Section 48(a)(2)(A)(i) of  
25          such Code is amended by striking “and” at the end of

1 subclause (III), by striking “and” at the end of subclause  
 2 (IV), and by adding at the end the following new sub-  
 3 clauses:

4                                   “(V) qualified biogas property,  
 5                                   and  
 6                                   “(VI) qualified manure resource  
 7                                   recovery property, and”.

8           (c) DEFINITIONS.—Section 48(c) of such Code is  
 9 amended by adding at the end the following new para-  
 10 graphs:

11                   “(5) QUALIFIED BIOGAS PROPERTY.—

12                                   “(A) IN GENERAL.—The term ‘qualified  
 13 biogas property’ means property comprising a  
 14 system which—

15                                   “(i) uses anaerobic digesters, or other  
 16 biological, chemical, thermal, or mechanical  
 17 processes (alone or in combination), to  
 18 convert biomass (as defined in section  
 19 45K(c)(3)) into a gas which consists of not  
 20 less than 52 percent methane, and

21                                   “(ii) captures such gas for use as a  
 22 fuel.

23                                   “(B) INCLUSION OF CERTAIN CLEANING  
 24 AND CONDITIONING EQUIPMENT.—Such term  
 25 shall include any property which cleans and

1 conditions the gas referred to in subparagraph  
2 (A) for use as a fuel.

3 “(C) TERMINATION.—No credit shall be  
4 determined under this section with respect to  
5 any qualified biogas property for any period  
6 after December 31, 2021.

7 “(6) QUALIFIED MANURE RESOURCE RECOVERY  
8 PROPERTY.—

9 “(A) IN GENERAL.—The term ‘qualified  
10 manure resource recovery property’ means  
11 property comprising a system which uses phys-  
12 ical, biological, chemical, thermal, or mechanical  
13 processes to recover the nutrients nitrogen and  
14 phosphorus from a non-treated digestate or ani-  
15 mal manure by reducing or separating at least  
16 50 percent of the concentration of such nutri-  
17 ents, excluding any reductions during the incin-  
18 eration, storage, composting, or field application  
19 of the non-treated digestate or animal manure.

20 “(B) INCLUSION OF CERTAIN PROCESSING  
21 EQUIPMENT.—Such term shall include—

22 “(i) any property which is used to re-  
23 cover the nutrients referred to in subpara-  
24 graph (A), such as—

25 “(I) biological reactors,

1 “(II) crystallizers,  
2 “(III) reverse osmosis mem-  
3 branes and other water purifiers,  
4 “(IV) evaporators,  
5 “(V) distillers,  
6 “(VI) decanter centrifuges, and  
7 “(VII) equipment that facilitates  
8 the process of dissolved air flotation,  
9 ammonia stripping, gasification, or  
10 ozonation, and

11 “(ii) any thermal drier which treats  
12 the nutrients recovered by the processes re-  
13 ferred to in subparagraph (A).

14 “(C) TERMINATION.—No credit shall be  
15 determined under this section with respect to  
16 any qualified manure resource recovery prop-  
17 erty for any period after December 31, 2021.”.

18 (d) DENIAL OF DOUBLE BENEFIT FOR QUALIFIED  
19 BIOGAS PROPERTY.—Section 45(e) of such Code is  
20 amended by adding at the end the following new para-  
21 graph:

22 “(12) COORDINATION WITH ENERGY CREDIT  
23 FOR QUALIFIED BIOGAS PROPERTY.—The term  
24 ‘qualified facility’ shall not include any facility which  
25 produces electricity from gas produced by qualified

1 biogas property (as defined in section 48(c)(5)) if a  
2 credit is determined under section 48 with respect to  
3 such property for the taxable year or any prior tax-  
4 able year.”.

5 (e) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to periods after December 31,  
7 2016, in taxable years ending after such date, under rules  
8 similar to the rules of section 48(m) of such Code (as in  
9 effect on the day before the date of the enactment of the  
10 Revenue Reconciliation Act of 1990).

11 **SEC. 4. NEW CLEAN RENEWABLE ENERGY BONDS FOR**  
12 **QUALIFIED BIOGAS PROPERTY AND QUALI-**  
13 **FIED MANURE RESOURCE RECOVERY PROP-**  
14 **ERTY.**

15 (a) IN GENERAL.—Section 54C(d)(1) of the Internal  
16 Revenue Code of 1986 is amended by inserting “, a quali-  
17 fied biogas property (as defined in section 48(c)(5)), or  
18 a qualified manure resource recovery property (as defined  
19 in section 48(c)(6))” before “owned by”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to obligations issued after the date  
22 of the enactment of this Act.

23 **SEC. 5. STUDY OF BIOGAS AND NUTRIENT REUSE.**

24 (a) IN GENERAL.—The Secretary of the Treasury  
25 shall enter into an agreement with the National Renewable

1 Energy Laboratory to undertake a study of biogas that  
2 addresses the following:

3 (1) The quality of biogas, including a compari-  
4 son of biogas to natural gas and the identification  
5 of any components of biogas which make biogas un-  
6 suitable for injection into existing natural gas pipe-  
7 lines.

8 (2) Methods for obtaining the highest energy  
9 content in biogas, including the use of co-digestion  
10 and identifying the optimal feed mixture.

11 (3) Recommendations for the expansion of  
12 biogas production, including an analysis of the ex-  
13 tent to which increasing the methane content of  
14 biogas would result in the greater use of biogas and  
15 an analysis of how the expanded use of biogas could  
16 help meet the growing energy needs of the United  
17 States.

18 (4) Methods for productive use of nutrients re-  
19 covered from qualified manure resource recovery  
20 property that benefit the agricultural economy.

21 (b) REPORT.—Not later than 2 years after the date  
22 of the enactment of this Act, the Secretary shall submit  
23 to Congress a report on the study conducted under sub-  
24 section (a).

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