

114TH CONGRESS  
1ST SESSION

# H. R. 255

To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified manufacturing facility construction costs and to allow a credit against tax for qualified manufacturing facility construction costs.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2015

Mr. HONDA introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified manufacturing facility construction costs and to allow a credit against tax for qualified manufacturing facility construction costs.

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 “Next Generation Amer-  
5 ican Manufacturing Act of 2015”.

1       **TITLE I—CONSUMER CREDIT**

2       **SEC. 101. CREDIT FOR RETAIL PURCHASE OF CERTAIN DO-**  
 3               **MESTIC PRODUCTS.**

4           (a) IN GENERAL.—Subpart B of part IV of sub-  
 5 chapter A of chapter 1 of the Internal Revenue Code of  
 6 1986 is amended by adding at the end the following new  
 7 section:

8       **“SEC. 30E. DOMESTIC MANUFACTURING CONSUMER CRED-**  
 9               **IT.**

10       “(a) ALLOWANCE OF CREDIT.—There shall be al-  
 11 lowed as a credit against the tax imposed by this chapter  
 12 for any taxable year an amount equal to the applicable  
 13 percentage of the aggregate amount paid or incurred by  
 14 the taxpayer for specified products during any portion  
 15 such taxable year which is part of the eligible period.

16       “(b) APPLICABLE PERCENTAGE; ELIGIBLE PE-  
 17 RIOD.—For purposes of this section—

18           “(1) APPLICABLE PERCENTAGE.—The term  
 19 ‘applicable percentage’ means, with respect to any  
 20 specified product, the percentage (not less than 5  
 21 percent nor more than 20 percent) determined by  
 22 the Commission under subsection (e)(4) with respect  
 23 to such product.

24           “(2) ELIGIBLE PERIOD.—The term ‘eligible pe-  
 25 riod’ means, with respect to any specified product,

1 the period (not less than 5 years nor more than 10  
2 years) determined by the Commission under sub-  
3 section (e)(5) with respect to such product.

4 “(3) SEPARATE APPLICATION TO EACH SPECI-  
5 FIED PRODUCT.—Subsection (a) shall be applied  
6 separately with respect to each of the specified prod-  
7 ucts designated under subsection (e).

8 “(c) SPECIFIED PRODUCT.—For purposes of this sec-  
9 tion—

10 “(1) IN GENERAL.—The term ‘specified prod-  
11 uct’ means any designated domestic product—

12 “(A) the original use of which commences  
13 with the taxpayer, and

14 “(B) which is acquired by the taxpayer for  
15 use or lease, but not for resale.

16 “(2) DESIGNATED DOMESTIC PRODUCT.—The  
17 term ‘designated domestic product’ means any des-  
18 ignated product which has been certified by the Sec-  
19 retary as—

20 “(A) having been assembled in the United  
21 States, and

22 “(B) consisting at least 60 percent of com-  
23 ponents assembled or otherwise arising in the  
24 United States.

1           “(3) DESIGNATED PRODUCT.—The term ‘des-  
2           ignated product’ means the 10 products designated  
3           by the Secretary, in consultation with the Commis-  
4           sion, under subsection (e).

5           “(d) APPLICATION WITH OTHER CREDITS.—

6           “(1) BUSINESS CREDIT TREATED AS PART OF  
7           GENERAL BUSINESS CREDIT.—So much of the credit  
8           which would be allowed under subsection (a) for any  
9           taxable year (determined without regard to this sub-  
10          section) that is attributable to property used by the  
11          taxpayer in the conduct of a trade or business shall  
12          be treated as a credit listed in section 38(b) for such  
13          taxable year (and not allowed under subsection (a)).

14          “(2) PERSONAL CREDIT.—For purposes of this  
15          title, the credit allowed under subsection (a) for any  
16          taxable year (determined after application of para-  
17          graph (1)) shall be treated as a credit allowable  
18          under subpart A for such taxable year.

19          “(e) SELECTION OF DESIGNATED PRODUCTS.—

20          “(1) IN GENERAL.—The Secretary, in consulta-  
21          tion with the Commission, shall designate 10 prod-  
22          ucts for purposes of this section.

23          “(2) ELIGIBLE PRODUCTS.—A product shall  
24          not be eligible for designation under this section un-  
25          less—

1           “(A) such product represents an advance-  
2           ment in science, technology, engineering, or  
3           math, and

4           “(B) the designation of such product has  
5           the potential to produce substantial long-term  
6           job opportunities in the United States.

7           “(3) CRITERIA FOR DESIGNATION.—In making  
8           designations of products under this subsection, the  
9           Secretary shall take into consideration—

10           “(A) the number of jobs in the United  
11           States that the Secretary estimates will result  
12           (directly and indirectly) from the designation of  
13           such product, and

14           “(B) the speed with which such jobs are  
15           likely to be created.

16           “(4) DETERMINATION OF CREDIT PERCENT-  
17           AGE.—The Secretary, in consultation with the Com-  
18           mission, shall determine the applicable percentage  
19           which applies for purposes of subsection (a) with re-  
20           spect to each product designated under this sub-  
21           section. Such percentage shall not be less than 5  
22           percent and shall not be more than 20 percent. Such  
23           percentage shall be determined on the basis of the  
24           incentive needed with respect to each such product

1 taking into account the market factors with respect  
2 to such product.

3 “(5) DETERMINATION OF PERIOD DURING  
4 WHICH CREDIT ALLOWED.—The Secretary, in con-  
5 sultation with the Commission, shall determine the  
6 eligible period which applies for purposes of sub-  
7 section (a) with respect to each product designated  
8 under this subsection. Such period shall not be less  
9 than 5 years and shall not be more than 10 years.  
10 Such period shall be determined on the basis of the  
11 incentive needed with respect to each such product  
12 taking into account the market factors with respect  
13 to such product.

14 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—  
15 For purposes of this section—

16 “(1) COMMISSION.—The term ‘Commission’  
17 means the 21st Century American Manufacturing  
18 Commission established under section 3 of the Mar-  
19 ket Based Manufacturing Incentives Act of 2013.

20 “(2) REDUCTION IN BASIS.—For purposes of  
21 this subtitle, the basis of any property for which a  
22 credit is allowable under subsection (a) shall be re-  
23 duced by the amount of such credit so allowed (de-  
24 termined without regard to subsection (d)).

1           “(3) NO DOUBLE BENEFIT.—The amount of  
2           any deduction or other credit allowable under this  
3           chapter with respect to any property shall be re-  
4           duced by the amount of the credit allowed under  
5           subsection (a) for such property (determined without  
6           regard to subsection (d)).

7           “(4) PROPERTY USED BY TAX-EXEMPT ENTI-  
8           TY.—In the case of property whose use is described  
9           in paragraph (3) or (4) of section 50(b) and which  
10          is not subject to a lease, the person who sold such  
11          property to the person or entity using such property  
12          shall be treated as the taxpayer that placed such ve-  
13          hicle in service, but only if such person clearly dis-  
14          closes to such person or entity in a document the  
15          amount of any credit allowable under subsection (a)  
16          with respect to such property (determined without  
17          regard to subsection (d)). For purposes of subsection  
18          (d), property to which this paragraph applies shall  
19          be treated as property used by the taxpayer in the  
20          conduct of a trade or business.

21          “(5) PROPERTY USED OUTSIDE UNITED  
22          STATES, ETC., NOT QUALIFIED.—No credit shall be  
23          allowable under subsection (a) with respect to any  
24          property referred to in section 50(b)(1).

1           “(6) RECAPTURE.—The Secretary shall, by reg-  
2           ulations, provide for recapturing the benefit of any  
3           credit allowable under subsection (a) with respect to  
4           any property which ceases to be property eligible for  
5           such credit (including recapture in the case of a  
6           lease period of less than the economic life of the  
7           property).

8           “(7) ELECTION TO NOT TAKE CREDIT.—No  
9           credit shall be allowed under subsection (a) for any  
10          vehicle if the taxpayer elects to not have this section  
11          apply to such property.

12          “(g) TERMINATION.—This section shall not apply to  
13          property acquired after the date which is 10 years after  
14          the date of the enactment of this section.”.

15          (b) CONFORMING AMENDMENTS.—

16                (1) Section 38(b) of such Code is amended by  
17                striking “plus” at the end of paragraph (35), by  
18                striking the period at the end of paragraph (36) and  
19                inserting “, plus”, and by adding at the end the fol-  
20                lowing new paragraph:

21                       “(37) the portion of the domestic manufac-  
22                       turing consumer credit to which section 30E(d)(1)  
23                       applies.”.

24                (2) Section 1016(a) of such Code is amended  
25                by striking “and” at the end of paragraph (36), by



1 striking the period at the end of paragraph (37) and  
2 inserting “, and”, and by adding at the end the fol-  
3 lowing new paragraph:

4 “(38) to the extent provided in section  
5 30E(f)(2).”.

6 (3) Section 6501(m) of such Code is amended  
7 by inserting “30E(f)(7),” after “30D(e)(4),”.

8 (4) The table of sections for subpart B of part  
9 IV of subchapter A of chapter 1 of such Code is  
10 amended by adding at the end the following new  
11 item:

“Sec. 30E. Domestic manufacturing consumer credit.”.

12 (c) CBO REPORT.—The Congressional Budget Office  
13 shall, during the 3d, 5th, and 7th years after the effective  
14 date of the domestic manufacturing consumer credit (de-  
15 scribed in subsection (d)), report to Congress on the eco-  
16 nomic effects of such credit. Such report shall include the  
17 aggregate value of the domestic manufacturing consumer  
18 credits determined with respect to taxpayers under section  
19 30E of the Internal Revenue Code of 1986 and an esti-  
20 mate of the economic activity stimulated by such credits.

21 (d) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to property acquired after the date  
23 which is 1 year after the date on which the 21st Century  
24 American Manufacturing Commission makes its rec-

1 ommendations to the Secretary of the Treasury under sec-  
2 tion 3(b) of this Act.

3 **SEC. 102. ESTABLISHMENT OF 21ST CENTURY AMERICAN**  
4 **MANUFACTURING COMMISSION.**

5 (a) IN GENERAL.—There is established a commission  
6 to be known as the 21st Century American Manufacturing  
7 Commission.

8 (b) DUTIES.—The Commission shall conduct re-  
9 search regarding appropriate products to make eligible for  
10 the tax credit provided by section 30E of the Internal Rev-  
11 enue Code of 1986 and shall make recommendations to  
12 the Secretary of the Treasury regarding which products  
13 should be designated for purposes of such section and the  
14 applicable percentage and eligible period which should be  
15 determined with respect to each such product. The com-  
16 mission shall make such recommendations to the Sec-  
17 retary of the Treasury not later than 6 months after the  
18 date of the enactment of this Act.

19 (c) MEMBERSHIP.—

20 (1) IN GENERAL.—The Commission shall be  
21 composed of 10 members who shall be appointed by  
22 the Secretary of the Treasury or his designee not  
23 later than 30 days after the enactment of this Act.

24 (2) SELECTION.—In determining who to ap-  
25 point to the Commission, the Secretary of Treasury

1 shall consider a geographically diverse group of indi-  
2 viduals with experience in the areas of—

3 (A) managing manufacturing companies,  
4 including businesses with fewer than 100 em-  
5 ployees,

6 (B) conducting manufacturing-related re-  
7 search and development,

8 (C) commercialization of scientific innova-  
9 tion,

10 (D) managing supply chain providers,

11 (E) finance, and

12 (F) analyzing manufacturing policy and  
13 economic competitiveness.

14 (3) POLITICAL AFFILIATION.—Not more than 5  
15 members may be of the same political party.

16 (4) TERMS.—Each member shall be appointed  
17 for the life of the Commission.

18 (5) VACANCIES.—A vacancy in the Commission  
19 shall be filled in the manner in which the original  
20 appointment was made.

21 (6) PAY OF MEMBERS.—

22 (A) IN GENERAL.—Members shall each be  
23 entitled to receive the daily equivalent of the  
24 maximum annual rate of basic pay for grade  
25 GS–11 of the General Schedule for each day

1 (including travel time) during which they are  
2 engaged in the actual performance of duties  
3 vested in the Commission.

4 (B) TRAVEL EXPENSES.—Each member  
5 shall receive travel expenses, including per diem  
6 in lieu of subsistence, in accordance with appli-  
7 cable provisions under subchapter I of chapter  
8 57 of title 5, United States Code.

9 (7) PREVENTION OF CONFLICTS OF INTEREST  
10 AND NEPOTISM.—

11 (A) AGREEMENT.—The Secretary of the  
12 Treasury shall not appoint any individual to be  
13 a member of the Commission unless such indi-  
14 vidual has first signed an agreement with the  
15 Secretary to prevent conflicts of interest and  
16 nepotism. Such agreement shall include a re-  
17 quirement that the individual comply with the  
18 provisions of subparagraph (B) and shall in-  
19 clude such penalties for failure to so comply as  
20 the Secretary determines appropriate.

21 (B) REQUIREMENTS.—A member of the  
22 Commission shall not, during the 5-year period  
23 beginning on the effective date of the domestic  
24 manufacturing consumer credit (described in  
25 section 2(d)), hold, directly or indirectly, any

1 interest in any person associated with any des-  
2 igned product, any component of any des-  
3 igned product, or any equipment to manufac-  
4 ture any such product or component. An inter-  
5 est held in any fund held by such member shall  
6 be taken into account under the preceding sen-  
7 tence unless such fund is a broad-based index  
8 fund. Any interest held by such member prior  
9 to the beginning of such 5-year period which is  
10 not (consistent with the requirements of this  
11 subparagraph) permitted to be held during such  
12 period, shall be disposed of prior to such period.

13 (d) CHAIRPERSON.—The Chairperson of the Com-  
14 mission shall be designated by the Secretary of the Treas-  
15 ury (or his designee) at the time of appointment.

16 (e) STAFF.—Any staff of the Commission shall be ap-  
17 pointed subject to the provisions of title 5, United States  
18 Code, governing appointments in the competitive service,  
19 and shall be paid in accordance with the provisions of  
20 chapter 51 and subchapter III of chapter 53 of that title  
21 relating to classification and General Schedule pay rates.

22 (f) TERMINATION.—

23 (1) IN GENERAL.—Except as provided in para-  
24 graph (2), the Commission shall terminate 30 days

1 after making recommendations to the Secretary of  
2 the Treasury described in subsection (b).

3 (2) EXTENSION.—At the request of the Sec-  
4 retary of the Treasury or his designee, the Commis-  
5 sion shall continue in existence for such period at  
6 the Secretary may request but not later than 1 year  
7 after making such recommendations.

8 **TITLE II—MANUFACTURER**  
9 **CREDIT**

10 **SEC. 201. CREDIT FOR MANUFACTURING FACILITY COSTS.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-  
12 chapter A of chapter 1 of the Internal Revenue Code of  
13 1986 is amended by adding at the end the following new  
14 section:

15 **“SEC. 45S. MANUFACTURING FACILITY EXPENDITURES.**

16 “(a) GENERAL RULE.—For purposes of section 38,  
17 in the case of an eligible business, the manufacturing facil-  
18 ity expenditure credit for any taxable year is an amount  
19 equal to 25 percent of the qualified facility construction  
20 expenditures of the taxpayer for the taxable year.

21 “(b) ELIGIBLE BUSINESS.—For purposes of this sec-  
22 tion—

23 “(1) IN GENERAL.—The term ‘eligible business’  
24 means any corporation or partnership—

1           “(A) which is engaged in an active trade or  
2           business,

3           “(B) which is headquartered in the United  
4           States,

5           “(C) substantially all of the management  
6           or administrative activities of which are per-  
7           formed in the United States,

8           “(D) which has not (prior to placing into  
9           service the manufacturing facility designated  
10          for purposes of this section) placed in service a  
11          manufacturing facility,

12          “(E) which is a start-up company, and

13          “(F) with respect to which all debt obliga-  
14          tions issued by, and equity interests in, have a  
15          rating of B minus (or its substantial equivalent)  
16          or higher from a credit rating agency registered  
17          with the Securities and Exchange Commission  
18          as a nationally recognized statistical rating or-  
19          ganization (as defined in section 3(a) of the Se-  
20          curities Exchange Act of 1934).

21          “(2) START-UP COMPANY.—The term ‘start-up  
22          company’ means any corporation or partnership—

23                 “(A) which first has both gross receipts  
24                 and qualified research expenses (as defined in

1 section 41(b) in a taxable year beginning after  
2 December 31, 2012, or

3 “(B) which both gross receipts and quali-  
4 fied research expenses (as so defined) in fewer  
5 than 3 taxable year beginning after December  
6 31, 2012, and before January 1, 2018.

7 “(c) QUALIFIED FACILITY CONSTRUCTION EXPENDI-  
8 TURES.—For purposes of this section—

9 “(1) IN GENERAL.—The term ‘qualified facility  
10 construction expenditures’ means amounts paid or  
11 incurred by the taxpayer—

12 “(A) for the construction of a facility (des-  
13 ignated for purposes of this section by the tax-  
14 payer at such time and in such form and man-  
15 ner as the Secretary shall prescribe) in the  
16 United States to manufacture a qualified prod-  
17 uct (including amounts for professional services  
18 necessary for the planning of such construc-  
19 tion), and

20 “(B) for the purchase of specialized equip-  
21 ment for use at such facility and required for  
22 the manufacture of such product.

23 “(2) QUALIFIED PRODUCT.—The term ‘quali-  
24 fied product’ means any product which, prior to con-  
25 struction of the facility with respect to which a cred-



1 it is allowed under this section, the taxpayer has  
2 produced and sold to a bona fide purchaser, and  
3 such purchaser has placed such product in service.

4 “(d) SPECIAL RULES.—For purposes of this sec-  
5 tion—

6 “(1) RECAPTURE.—

7 “(A) IN GENERAL.—If, as of the close of  
8 any taxable year, there is a recapture event  
9 with respect to any facility of the taxpayer with  
10 respect to which a credit was allowed under this  
11 section, then the tax of the taxpayer under this  
12 chapter for such taxable year shall be increased  
13 by an amount equal to the product of—

14 “(i) the applicable recapture percent-  
15 age, and

16 “(ii) the aggregate decrease in the  
17 credits allowed under section 38 for all  
18 prior taxable years which would have re-  
19 sulted if the qualified facility construction  
20 expenditures of the taxpayer described in  
21 subsection (c)(1) with respect to such facil-  
22 ity had been zero.

23 “(B) APPLICABLE RECAPTURE PERCENT-  
24 AGE.—

1                   “(i) IN GENERAL.—For purposes of  
 2                   this subsection, the applicable recapture  
 3                   percentage shall be determined in accord-  
 4                   ance with the following table:

<b>“If the recapture event occurs in:</b>	<b>The applicable recapture percentage is:</b>
Year 1 .....	100
Year 2 .....	80
Year 3 .....	60
Year 4 .....	40
Year 5 .....	20
Years 6 and thereafter .....	0.

5                   “(ii) YEARS.—For purposes of clause  
 6                   (i), year 1 shall begin on the first day of  
 7                   the taxable year in which the facility with  
 8                   respect to which a credit was allowed  
 9                   under this subsection was placed in service.

10                   “(C) RECAPTURE EVENT.—For purposes  
 11                   of this paragraph—

12                   “(i) IN GENERAL.—A recapture event  
 13                   occurs with respect to any facility if—

14                   “(I) the taxpayer becomes insol-  
 15                   vent, or

16                   “(II) the taxpayer disposes of the  
 17                   facility to another person who, at this  
 18                   time of the disposition, is not an eligi-  
 19                   ble business.

20                   “(ii) SPECIAL RULE FOR FACILITIES  
 21                   NOT PLACED IN SERVICE WITHIN 5

1           YEARS.—In the case of a facility with re-  
2           spect to which a credit is allowed under  
3           this section which is not placed in service  
4           before the close of the 5th taxable year be-  
5           ginning after the first taxable year for  
6           which the credit was so allowed, a recap-  
7           ture event shall be treated as having oc-  
8           curred with respect to such facility in year  
9           1.

10           “(2) CREDIT MAY BE ASSIGNED.—The amount  
11           of qualified facility construction expenditures with  
12           respect to a facility which would (but for this para-  
13           graph) be taken into account under subsection (a)  
14           for any taxable year by any person (hereafter in this  
15           paragraph referred to as the ‘initial taxpayer’)—

16                   “(A) may be taken into account by any  
17                   other person to whom such expenditures are as-  
18                   signed by the initial taxpayer, and

19                   “(B) shall not be taken to account by ini-  
20                   tial taxpayer.

21           Any person to whom such expenditures are assigned  
22           under subparagraph (A) shall be treated for pur-  
23           poses of this title as the taxpayer with respect to  
24           such expenditures.

1           “(3) CONTROLLED GROUP.—All members of the  
2 same controlled group of corporations (within the  
3 meaning of section 52(a)) and all persons under  
4 common control (within the meaning of section  
5 52(b)) shall be treated as 1 person for purposes of  
6 this section.

7           “(4) PREDECESSOR.—Any reference in this sec-  
8 tion to a corporation or partnership shall include a  
9 reference to any predecessor of such corporation or  
10 partnership.

11           “(5) DENIAL OF DOUBLE BENEFIT.—For pur-  
12 poses of this subtitle, if a credit is allowed under  
13 this section in connection with any expenditure for  
14 any property, the basis of such property shall be re-  
15 duced by the amount of the credit so allowed.”.

16           (b) DENIAL OF DOUBLE BENEFIT.—Section 280C of  
17 such Code is amended by inserting after subsection (h)  
18 the following new subsection:

19           “(i) MANUFACTURING FACILITY EXPENDITURES.—  
20 No deduction shall be allowed for that portion of the ex-  
21 penses otherwise allowable as a deduction taken into ac-  
22 count in determining the credit under section 45S for the  
23 taxable year which is equal to the amount of the credit  
24 determined for such taxable year under section 45S(a).”.

1           (c) CREDIT TO BE PART OF GENERAL BUSINESS  
2 CREDIT.—Section 38(b) of the such Code, as amended by  
3 this Act, is amended by striking “plus” at the end of para-  
4 graph (36), by striking the period at the end of paragraph  
5 (37) and inserting “, plus”, and by inserting after para-  
6 graph (37) the following:

7                   “(38) manufacturing facility expenditure credit  
8           determined under section 45S(a).”.

9           (d) CONFORMING AMENDMENT.—Section 1016(a) of  
10 such Code, as amended by this Act, is amended by striking  
11 “and” at the end of paragraph (37), by striking the period  
12 at the end of paragraph (38) and inserting “, and”, and  
13 by adding at the end the following new paragraph:

14                   “(39) to the extent provided in section  
15           45S(d)(2).”.

16           (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to amounts paid or incurred after  
18 the date of the enactment of this Act.

○