

118TH CONGRESS  
1ST SESSION

# S. 2641

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mr. COONS (for himself, Mr. MORAN, Mr. KING, Mr. BRAUN, Mr. WARNER, and Ms. STABENOW) 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 extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, 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 “Financing Our Energy  
5 Future Act”.

1 **SEC. 2. GREEN ENERGY PUBLICLY TRADED PARTNER-**  
2 **SHIPS.**

3 (a) IN GENERAL.—Section 7704(d)(1)(E) of the In-  
4 ternal Revenue Code of 1986 is amended—

5 (1) by striking “income and gains derived from  
6 the exploration” and inserting “income and gains  
7 derived from—

8 “(i) the exploration”,

9 (2) by inserting “or” before “industrial  
10 source”, and

11 (3) by striking “, or the transportation or stor-  
12 age” and all that follows and inserting the following:

13 “(ii) the generation of electric power  
14 or thermal energy exclusively using any  
15 qualified energy resource (as defined in  
16 section 45(c)(1)),

17 “(iii) the operation of energy property  
18 (as defined in section 48(a)(3), determined  
19 without regard to any date by which the  
20 construction of the facility is required to  
21 begin),

22 “(iv) in the case of a facility described  
23 in paragraph (3) or (7) of section 45(d)  
24 (determined without regard to any placed  
25 in service date or date by which construc-  
26 tion of the facility is required to begin),

1 the accepting or processing of open-loop  
2 biomass or municipal solid waste,

3 “(v) the storage of electric power or  
4 thermal energy exclusively using equipment  
5 (other than equipment primarily used in  
6 the transportation of goods or individuals  
7 and not for the production of electricity)  
8 which—

9 “(I) uses batteries, compressed  
10 air, pumped hydropower, hydrogen  
11 storage (including hydrolysis and elec-  
12 trolysis), thermal energy storage, re-  
13 generative fuel cells, flywheels, capaci-  
14 tors, superconducting magnets, or  
15 other technologies identified by the  
16 Secretary, after consultation with the  
17 Secretary of Energy, to store energy  
18 for conversion to electricity and has a  
19 capacity of not less than 5 kilowatt  
20 hours, or

21 “(II) stores thermal energy to  
22 heat or cool (or provide hot water for  
23 use in) a structure (other than for use  
24 in a swimming pool),

1           “(vi) the generation, storage, or dis-  
2           tribution of electric power or thermal en-  
3           ergy exclusively using energy property that  
4           is combined heat and power system prop-  
5           erty (as defined in section 48(c)(3), deter-  
6           mined without regard to subparagraph  
7           (B)(iii) thereof and without regard to any  
8           date by which the construction of the facil-  
9           ity is required to begin),

10           “(vii) the transportation or storage  
11           of—

12                   “(I) any fuel described in sub-  
13                   section (b), (c), (d), (e), or (k) of sec-  
14                   tion 6426, or

15                   “(II) liquified hydrogen (includ-  
16                   ing qualified clean hydrogen, as de-  
17                   fined in section 45V(c)(2)),

18           “(viii) the conversion of renewable bio-  
19           mass (as defined in subparagraph (I) of  
20           section 211(o)(1) of the Clean Air Act (as  
21           in effect on the date of the enactment of  
22           this clause)) into renewable fuel (as de-  
23           fined in subparagraph (J) of such section  
24           as so in effect), or the storage or transpor-  
25           tation of such fuel,

1           “(ix) the production, storage, or  
2 transportation of any fuel which—

3           “(I) uses as its primary feedstock  
4 carbon oxides captured from an an-  
5 thropogenic source or the atmosphere,

6           “(II) does not use as its primary  
7 feedstock carbon oxide which is delib-  
8 erately released from naturally occur-  
9 ring subsurface springs, and

10          “(III) is determined by the Sec-  
11 retary, after consultation with the  
12 Secretary of Energy and the Adminis-  
13 trator of the Environmental Protec-  
14 tion Agency, to achieve a reduction of  
15 not less than a 60 percent in lifecycle  
16 greenhouse gas emissions (as defined  
17 in section 211(o)(1)(H) of the Clean  
18 Air Act, as in effect on the date of the  
19 enactment of this clause) compared to  
20 baseline lifecycle greenhouse gas emis-  
21 sions (as defined in section  
22 211(o)(1)(C) of such Act, as so in ef-  
23 fect),

24          “(x) the generation of electric power  
25 from a qualifying gasification project (as

1 defined in section 48B(c)(1) without re-  
2 gard to subparagraph (C)) that is de-  
3 scribed in section 48B(d)(1)(B),

4 “(xi) in the case of a qualified facility  
5 (as defined in section 45Q(d), without re-  
6 gard to any date by which construction of  
7 the facility is required to begin) not less  
8 than 50 percent (30 percent in the case of  
9 a facility placed in service before January  
10 1, 2022) of the total carbon oxide produc-  
11 tion of which is qualified carbon oxide (as  
12 defined in section 45Q(c))—

13 “(I) the generation, availability  
14 for such generation, or storage of elec-  
15 tric power at such facility, or

16 “(II) the capture of carbon diox-  
17 ide by such facility,

18 “(xii) the generation of electric power  
19 or energy from any advanced nuclear facil-  
20 ity (as defined in section 45J(d)(2), deter-  
21 mined by substituting ‘December 31, 2018’  
22 for ‘December 31, 1993’), or

23 “(xiii) the production, storage, or  
24 transportation of any renewable chemical  
25 which—

1 “(I) is produced in the United  
2 States (or in a territory or possession  
3 of the United States) from renewable  
4 biomass,

5 “(II) is not less than 95 percent  
6 biobased content,

7 “(III) is not sold or used for the  
8 production of any food, feed, fuel, or  
9 pharmaceuticals,

10 “(IV) is approved to use the  
11 USDA Certified Biobased Product  
12 label under section 9002(b) of the  
13 Farm Security and Rural Investment  
14 Act of 2002 (7 U.S.C. 8102(b)), and

15 “(V) is a chemical intermediate  
16 (as such term is defined in section  
17 3201.109 of title 7, Code of Federal  
18 Regulations (or successor regula-  
19 tions)),”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2023.

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