

109TH CONGRESS  
1ST SESSION

# S. 1077

To amend the Internal Revenue Code of 1986 to provide a renewable liquid fuels tax credit, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 19, 2005

Mrs. LINCOLN 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 provide a renewable liquid fuels tax credit, 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. RENEWABLE LIQUID FUELS EXCISE TAX CRED-**

4 **IT.**

5 (a) IN GENERAL.—Subchapter B of chapter 65 of the  
6 Internal Revenue Code of 1986 (relating to rules of special  
7 application) is amended by inserting after section 6426  
8 the following new section:

1 **“SEC. 6426A. CREDIT FOR RENEWABLE LIQUID FUELS.**

2       “(a) ALLOWANCE OF CREDITS.—There shall be al-  
3 lowed as a credit against the tax imposed by section 4081  
4 an amount equal to the renewable liquid mixture credit.

5       “(b) RENEWABLE LIQUID MIXTURE CREDIT.—

6           “(1) IN GENERAL.—For purposes of this sec-  
7 tion, the renewable liquid mixture credit is the prod-  
8 uct of the applicable amount and the number of gal-  
9 lons of renewable liquid used by the taxpayer in pro-  
10 ducing any renewable liquid mixture for sale or use  
11 in a trade or business of the taxpayer.

12           “(2) APPLICABLE AMOUNT.—For purposes of  
13 this section, the applicable amount is \$1.00.

14           “(3) RENEWABLE LIQUID MIXTURE.—For pur-  
15 poses of this section, the term ‘renewable liquid mix-  
16 ture’ means a mixture of renewable liquid and tax-  
17 able fuel which—

18           “(A) is sold by the taxpayer producing  
19 such mixture to any person for use as a fuel or  
20 feedstock, or

21           “(B) is used as a fuel or feedstock by the  
22 taxpayer producing such mixture.

23 For purposes of subparagraph (A), a mixture pro-  
24 duced by any person at a refinery prior to a taxable  
25 event which includes renewable liquid shall be treat-  
26 ed as sold at the time of its removal from the refin-

1       ery (and only at such time) or sold to another per-  
2       son for use as a fuel or feedstock.

3       “(c) OTHER DEFINITIONS.—For purposes of this  
4 subsection:

5           “(1) RENEWABLE LIQUID.—The term ‘renew-  
6       able liquid’ means liquid hydrocarbons derived from  
7       waste and byproduct streams including: agricultural  
8       byproducts and wastes, aqua-culture products pro-  
9       duced from waste streams, food processing plant by-  
10      products, municipal solid and semi-solid waste  
11      streams, industrial waste streams, automotive scrap  
12      waste streams, and as further provided by regula-  
13      tions.

14          “(2) TAXABLE FUEL.—The term ‘taxable fuel’  
15      has the meaning given such term by section  
16      4083(a)(1).

17          “(3) FEEDSTOCK.—The term ‘feedstock’ means  
18      any precursor material subject to further processing  
19      to make a petrochemical, solvent, or other hydro-  
20      carbon which has the effect of displacing conven-  
21      tional crude oil, or products produced from conven-  
22      tional crude oil.

23          “(4) ADDITIONAL DEFINITIONS.—Any term  
24      used in this section which is also used in section

1       40B shall have the meaning given such term by sec-  
2       tion 40B.

3       “(d) CERTIFICATION FOR RENEWABLE LIQUID  
4 FUEL.—No credit shall be allowed under this section un-  
5 less the taxpayer obtains a certification (in such form and  
6 manner as prescribed by the Secretary) from the producer  
7 of the renewable liquid fuel, which identifies the product  
8 produced.

9       “(e) MIXTURE NOT USED AS FUEL, ETC.—

10       “(1) IMPOSITION OF TAX.—If—

11               “(A) any credit was determined under this  
12 section with respect to renewable liquid used in  
13 the production of any renewable liquid mixture,  
14 and

15               “(B) any person—

16                       “(i) separates the renewable liquid  
17 from the mixture, or

18                       “(ii) without separation, uses the mix-  
19 ture other than as a fuel,

20 then there is hereby imposed on such person a  
21 tax equal to the product of the applicable  
22 amount and the number of gallons of such re-  
23 newable liquid.

24       “(2) APPLICABLE LAWS.—All provisions of law,  
25 including penalties, shall, insofar as applicable and

1 not inconsistent with this section, apply in respect of  
2 any tax imposed under paragraph (1) as if such tax  
3 were imposed by section 4081 and not by this sec-  
4 tion.

5 “(f) COORDINATION WITH EXEMPTION FROM EX-  
6 CISE TAX.—Rules similar to the rules under section 40(c)  
7 shall apply for purposes of this section.

8 “(g) TERMINATION.—This section shall not apply to  
9 any sale, use, or removal for any period after December  
10 31, 2010.”.

11 (b) REGISTRATION REQUIREMENT.—Section  
12 4101(a)(1) of the Internal Revenue Code of 1986 (relating  
13 to registration) is amended by inserting “and every person  
14 producing or importing renewable liquid as defined in sec-  
15 tion 6426A(c)(1)” before “shall register with the Sec-  
16 retary”.

17 (c) PAYMENTS.—Section 6427 of the Internal Rev-  
18 enue Code of 1986 is amended by inserting after sub-  
19 section (f) the following new subsection:

20 “(g) RENEWABLE LIQUID USED TO PRODUCE MIX-  
21 TURE.—

22 “(1) USED TO PRODUCE A MIXTURE.—If any  
23 person produces a mixture described in section  
24 6426A in such person’s trade or business, the Sec-  
25 retary shall pay (without interest) to such person an

1 amount equal to the renewable liquid mixture credit  
2 with respect to such mixture.

3 “(2) COORDINATION WITH OTHER REPAYMENT  
4 PROVISIONS.—No amount shall be payable under  
5 paragraph (1) with respect to any mixture with re-  
6 spect to which an amount is allowed as a credit  
7 under section 6426A.

8 “(3) TERMINATION.—This subsection shall not  
9 apply with respect to any renewable liquid fuel mix-  
10 ture (as defined in section 6426A(b)(3) sold or used  
11 after December 31, 2010).”.

12 (d) CONFORMING AMENDMENT.—The last sentence  
13 of section 9503(b)(1) is amended by striking “section  
14 6426” and inserting “sections 6426 and 6426A”.

15 (e) CLERICAL AMENDMENT.—The table of sections  
16 for subchapter B of chapter 65 of the Internal Revenue  
17 Code of 1986 is amended by inserting after the item relat-  
18 ing to section 6426 the following new item:

“Sec. 6426A. Credit for renewable liquid fuels.”.

19 (f) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as otherwise pro-  
21 vided in this subsection, the amendments made by  
22 this section shall apply to fuel sold or used after De-  
23 cember 31, 2005.

1           (2)     REGISTRATION     REQUIREMENT.—The  
2           amendment made by subsection (b) shall take effect  
3           on January 1, 2006.

4     **SEC. 2. RENEWABLE LIQUID INCOME TAX CREDIT.**

5           (a) IN GENERAL.—Subpart D of part IV of sub-  
6     chapter A of chapter 1 of the Internal Revenue Code of  
7     1986 (relating to business related credits) is amended by  
8     inserting after section 40A the following new section:

9     **“SEC. 40B. RENEWABLE LIQUID USED AS FUEL.**

10           “(a) GENERAL RULE.—For purposes of section 38,  
11     the renewable liquid credit determined under this section  
12     for the taxable year is an amount equal to the sum of—

13                   “(1) the renewable liquid mixture credit, plus

14                   “(2) the renewable liquid credit.

15           “(b) DEFINITION OF RENEWABLE LIQUID MIXTURE  
16     CREDIT AND RENEWABLE LIQUID CREDIT.—For pur-  
17     poses of this section—

18                   “(1) RENEWABLE LIQUID MIXTURE CREDIT.—

19                           “(A) IN GENERAL.—The renewable liquid  
20     mixture credit of any taxpayer for any taxable  
21     year is \$1.00 for each gallon of renewable liquid  
22     fuel used by the taxpayer in the production of  
23     a qualified renewable liquid fuel mixture.

24                           “(B) QUALIFIED RENEWABLE LIQUID MIX-  
25     TURE.—The term ‘qualified renewable liquid

1 mixture' means a mixture of renewable liquid  
2 and taxable fuel (as defined in section  
3 4083(a)(1)), which—

4 “(i) is sold by the taxpayer producing  
5 such a mixture to any person for use as a  
6 fuel or feedstock, or

7 “(ii) is used as a fuel or feedstock by  
8 the taxpayer producing such mixture.

9 “(C) SALE OR USE MUST BE IN TRADE OR  
10 BUSINESS, ETC.—Renewable liquid used in the  
11 production of a qualified renewable liquid fuel  
12 mixture shall be taken into account—

13 “(i) only if the sale or use described  
14 in subparagraph (B) is in a trade or busi-  
15 ness of the taxpayer, and

16 “(ii) for the taxable year in which  
17 such sale or use occurs.

18 “(2) RENEWABLE LIQUID CREDIT.—

19 “(A) IN GENERAL.—The renewable liquid  
20 credit of any taxpayer for any taxable year is  
21 \$1.00 for each gallon of renewable liquid which  
22 is not in a mixture with taxable fuel and which  
23 during the taxable year—

24 “(i) is used by the taxpayer as a fuel  
25 or feedstock in a trade or business, or

1                   “(ii) is sold by the taxpayer at retail  
2                   to a person and placed in the fuel tank of  
3                   such person’s vehicle.

4                   “(B) USER CREDIT NOT TO APPLY TO RE-  
5                   NEWABLE LIQUID SOLD AT RETAIL.—No credit  
6                   shall be allowed under subparagraph (A)(i) with  
7                   respect to any renewable liquid which was sold  
8                   in a retail sale described in subparagraph  
9                   (A)(ii).

10                  “(c) CERTIFICATION FOR RENEWABLE LIQUID.—No  
11                  credit shall be allowed under this section unless the tax-  
12                  payer obtains a certification (in such form and manner  
13                  as prescribed by the Secretary) from the producer or im-  
14                  porter of the renewable liquid fuel which identifies the  
15                  product produced and percentage of renewable liquid fuel  
16                  in the product.

17                  “(d) COORDINATION WITH CREDIT AGAINST EXCISE  
18                  TAX.—The amount of the credit determined under this  
19                  section with respect to any renewable liquid fuel shall be  
20                  properly reduced to take into account any benefit provided  
21                  with respect to such renewable liquid fuel solely by reason  
22                  of the application of section 6426A or 6427(g).

23                  “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
24                  poses of this section, the term ‘renewable liquid’ means  
25                  liquid hydrocarbons derived from waste and byproduct

1 streams including: agricultural byproducts and wastes, ag-  
2 riculture materials produced from waste streams, food  
3 processing plant byproducts, municipal solid and semi-  
4 solid waste streams, industrial waste streams, automotive  
5 scrap waste streams, as further provided by regulations.

6 “(f) MIXTURE OR RENEWABLE LIQUID NOT USED  
7 AS A FUEL, ETC.—

8 “(1) MIXTURES.—If—

9 “(A) any credit was determined under this  
10 section with respect to renewable liquid used in  
11 the production of any qualified renewable liquid  
12 mixture, and

13 “(B) any person—

14 “(i) separates the renewable liquid  
15 from the mixture, or

16 “(ii) without separation, uses the mix-  
17 ture other than as a fuel,

18 then there is hereby imposed on such per-  
19 son a tax equal to the product of the rate  
20 applicable under subsection (b)(1)(A) and  
21 the number of gallons of such renewable  
22 liquid in such mixture.

23 “(2) RENEWABLE LIQUID.—If—

1           “(A) any credit was determined under this  
2           section with respect to the retail sale of any re-  
3           newable liquid, and

4           “(B) any person mixes such renewable liq-  
5           uid or uses such renewable liquid other than as  
6           a fuel, then there is hereby imposed on such  
7           person a tax equal to the product of the rate  
8           applicable under subsection (b)(2)(A) and the  
9           number of gallons of such renewable liquid.

10          “(3) APPLICABLE LAWS.—All provisions of law,  
11          including penalties, shall, insofar as applicable and  
12          not inconsistent with this section, apply in respect of  
13          any tax imposed under subparagraph (A) or (B) as  
14          if such tax were imposed by section 4081 and not  
15          by this chapter.

16          “(g) PASS-THRU IN THE CASE OF ESTATES AND  
17          TRUSTS.—Under regulations prescribed by the Secretary,  
18          rules similar to the rules of subsection (d) of section 52  
19          shall apply.

20          “(h) TERMINATION.—This section shall not apply to  
21          any sale or use after December 31, 2010.”.

22          (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
23          NESS CREDIT.—Section 38(b) of the Internal Revenue  
24          Code of 1986 (relating to current year business credit),  
25          is amended by striking “plus” at the end of paragraph

1 (18), by striking the period at the end of paragraph (17),  
2 and inserting “, plus”, and by inserting after paragraph  
3 (19) the following new paragraph:

4           “(20) The renewable liquid credit determined  
5           under section 40B.”.

6           (c) CLERICAL AMENDMENT.—The table of sections  
7 for subpart D of part IV of subchapter A of chapter I  
8 of the Internal Revenue Code of 1986 is amended by in-  
9 serting after the item relating to section 40A the following  
10 new item:

          “Sec. 40B. Renewable liquid used as fuel.”.

11           (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to fuel produced, and sold as used,  
13 after December 31, 2005.

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