

110TH CONGRESS
2D SESSION

H. R. 5858

To amend the Internal Revenue Code of 1986 to provide incentives for carbon sequestration.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2008

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

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for carbon sequestration.

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 “Combating Climate
5 Change Through Individual Action Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Agricultural, grassland, and forestry prac-
9 tices play an essential role in capturing atmospheric
10 carbon and sequestering it as soil organic matter.

1 (2) Released carbon can be captured through
2 improved grassland management, tree planting, for-
3 est preservation, and enhanced agronomic and irri-
4 gation practices.

5 (3) Promoting increased natural carbon sinks
6 could have a significant impact on the world's pro-
7 jected carbon emissions from the burning of fossil
8 fuels.

9 (4) Certain agricultural and forestry practices
10 can reduce greenhouse gases: (A) avoiding emissions
11 by maintaining existing carbon storage in trees and
12 soils; (B) increasing carbon storage by, e.g., tree
13 planting, conversion from conventional to conserva-
14 tion tillage practices on agricultural lands;

15 (5) The large potentials exist through known
16 cropping and land management practices such as
17 adoption of no-till, reduced fallow and use of cover
18 crops, and conservation set-asides with perennial
19 grasses and trees.

20 **SEC. 3. CARBON SEQUESTRATION AND SOIL CONSERVA-**
21 **TION CREDIT.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 (relating to business related credits) is amended by
25 adding at the end the following new section:

1 **“SEC. 450. CARBON SEQUESTRATION AND SOIL CONSERVA-**
2 **TION.**

3 “(a) IN GENERAL.—For purposes of section 38, in
4 the case of a taxpayer engaged in the business of farming,
5 the credit determined under this section for the taxable
6 year is an amount equal to 30 percent of the qualified
7 carbon sequestration and soil conservation expenditures
8 for the taxable year which are paid or incurred with re-
9 spect to the land used in such farming.

10 “(b) LIMITATION.—The credit allowed with respect
11 to a taxpayer under this section for a taxable year shall
12 not exceed an amount equal to \$10,000, reduced by the
13 sum of the credits allowed with respect to the taxpayer
14 under subsection (a) for all preceding taxable years.

15 “(c) QUALIFIED CARBON SEQUESTRATION AND SOIL
16 CONSERVATION EXPENSES.—For purposes of this sec-
17 tion—

18 “(1) IN GENERAL.—The term ‘qualified carbon
19 sequestration and soil conservation expenditures’
20 means amounts paid or incurred to sequester carbon
21 and conserve soil, including—

22 “(A) expenditures described in section
23 175(c),

24 “(B) conservation tillage expenditures,

25 “(C) cover cropping expenditures,

1 “(D) amounts paid or incurred to increase
2 the nitrogen use efficiency (other than use of
3 nitrogen fertilizers) of land used in farming,
4 and

5 “(E) amounts paid or incurred for multiple
6 year rotations, including introduction of a pe-
7 rennial that reduces carbon loss and tillage,
8 builds soil tilth, and increases carbon capture
9 capacity.

10 “(2) CONSERVATION TILLAGE EXPENDI-
11 TURES.—The term ‘conservation tillage expendi-
12 tures’ means any expenditures paid or incurred for
13 a tilling and planting method in which at least 30
14 percent of the previous crop residue remains on the
15 soil after planting the current crop. Such term in-
16 cludes the following tilling practices: no till, ridge
17 till, minimum till, and mulch till.

18 “(3) COVER CROPPING EXPENDITURES.—The
19 term ‘cover cropping expenditures’ means expendi-
20 tures paid or incurred for the preparation and seed-
21 ing of land for any grass, legume, or small grain—

22 “(A) which is not the primary crop of the
23 taxpayer,

24 “(B) the primary purpose of which is to
25 achieve one or more of the following: reduction

1 in erosion; maintenance or improvement in soil
2 fertility, tilth, and structure,

3 “(C) a purpose of which may be interrup-
4 tion of pest cycles or conservation of water.

5 “(d) PER ACRE CREDIT ALTERNATIVE.—

6 “(1) IN GENERAL.—Not later than 180 days
7 after the date of the enactment of this section, the
8 Secretary shall, in consultation with the Secretary of
9 Agriculture, establish an alternative procedure for
10 determining the credit under subsection (a), which,
11 at the election of the taxpayer, shall be treated as
12 the amount determined under subsection (a).

13 “(2) PROCEDURE DESCRIBED.—(A) The Sec-
14 retary shall establish credit amounts to apply to land
15 used in farming on a per acre basis with respect to
16 each method of carbon sequestration and soil con-
17 servation described in subsection (c)(1).

18 “(B) Such credit amounts shall be based on the
19 efficacy of the method in sequestering carbon and
20 preventing soil erosion.

21 “(C) No such credit amount may exceed \$15
22 per acre.

23 “(D) The Secretary shall prescribe rules similar
24 to the rules of paragraphs (1) through (4) of sub-

1 section (e) to apply for purposes of the procedure es-
2 tablished under this subsection.

3 “(3) ELECTION.—An election to use such alter-
4 native method shall be made in such form and man-
5 ner as the Secretary may prescribe, and shall apply
6 to the taxable year for which made and for all subse-
7 quent taxable years.

8 “(e) DEFINITION AND SPECIAL RULES.—

9 “(1) LAND USED IN FARMING.—For purposes
10 of this section, land shall be treated as used in farm-
11 ing only if such land is used (before or simulta-
12 neously with the expenditures described in sub-
13 section (c)(1)) by the taxpayer or his tenant for the
14 production of crops, fruits, or other agricultural
15 products or for the sustenance of livestock.

16 “(2) EXPENDITURES MUST BE CONSISTENT
17 WITH SOIL CONSERVATION PLAN.—Notwithstanding
18 any other provision of this section, subsection (a)
19 shall not apply to any expenditures unless such ex-
20 penditures are consistent with—

21 “(A) the plan (if any) approved by the Soil
22 Conservation Service of the Department of Ag-
23 riculture for the area in which the land is lo-
24 cated, or

1 “(B) if there is no plan described in clause
2 (i), any soil conservation plan of a comparable
3 State agency.

4 “(3) BASIS ADJUSTMENT.—For purposes of
5 this subtitle, if a credit is determined under this sec-
6 tion for any expenditure with respect to any prop-
7 erty, the increase in the basis of such property which
8 would (but for this paragraph) result from such ex-
9 penditure shall be reduced by the amount of the
10 credit so determined.

11 “(4) DENIAL OF DOUBLE BENEFIT.—No deduc-
12 tion or other credit shall be allowed under this chap-
13 ter for any amount taken into account in deter-
14 mining the credit under this section.

15 “(f) TERMINATION.—This section shall not apply to
16 taxable years beginning after December 31, 2013.”.

17 (b) CREDIT MADE PART OF GENERAL BUSINESS
18 CREDIT.—Subsection (b) of section 38 of such Code (re-
19 lating to current year business credit) is amended by strik-
20 ing “plus” at the end of paragraph (30), by striking the
21 period at the end of paragraph (31) and inserting “plus”,
22 and by adding at the end the following new paragraph:

23 “(32) the carbon sequestration and soil con-
24 servation credit determined under section 450(a).”.

1 (c) CONFORMING AMENDMENTS.—Subsection (a) of
2 section 1016 of such Code (relating to adjustments to
3 basis) is amended by striking “and” at the end of para-
4 graph (35), by striking the period at the end of paragraph
5 (36) and inserting “and”, and by adding at the end the
6 following new paragraph:

7 “(37) to the extent provided in section
8 450(e).”.

9 (d) CLERICAL AMENDMENT.—The table of sections
10 for subpart D of part IV of subchapter A of chapter 1
11 of such Code is amended by adding at the end the fol-
12 lowing new item:

“Sec. 450. Carbon sequestration and soil conservation.”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to expenditures paid or incurred
15 after December 31, 2008.

16 **SEC. 4. QUALIFYING PLANTING EXPENDITURE CREDIT.**

17 (a) IN GENERAL.—Subpart B of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 (relating to other credits) is amended by adding at
20 the end the following new section:

21 **“SEC. 30D. QUALIFIED PLANTING EXPENDITURE CREDIT.**

22 “(a) ALLOWANCE OF CREDIT.—There shall be al-
23 lowed as a credit against the tax imposed by this chapter
24 for the taxable year an amount equal to 10 percent of the

1 qualified planting expenditures of the taxpayer for the tax-
2 able year.

3 “(b) LIMITATIONS.—The amount taken into account
4 under subsection (a) for any taxable year shall not ex-
5 ceed—

6 “(1) in the case of expenditures paid or in-
7 curred by the taxpayer with respect to an area which
8 is included under section 121 as part of the tax-
9 payer’s principal residence, \$5,000,

10 “(2) in the case of expenditures paid or in-
11 curred by the taxpayer in the course of, or with re-
12 spect to, a trade or business carried on by the tax-
13 payer, \$50,000, and

14 “(3) in any other case, zero.

15 “(c) QUALIFIED PLANTING EXPENDITURES.—For
16 purposes of this section—

17 “(1) IN GENERAL.—The term ‘qualifying plant-
18 ing expenditures’ means expenditures paid or in-
19 curred—

20 “(A) for the purchase and planting of any
21 tree, plant, shrub, or bush which meets the re-
22 quirements of paragraph (2), and

23 “(B) for the purchase and installation of a
24 vegetated roof system.

1 Such term shall not include expenditures relating to
2 any property which is held by the taxpayer for use
3 in a trade or business or for the production of in-
4 come, or which is property described in section
5 1221(a)(1) in the hands of the taxpayer.

6 “(2) TREES, PLANTS, SHRUBS, OR BUSHES.—A
7 tree, plant, shrub, or bush satisfies the requirements
8 of the paragraph if such tree, plant, shrub, or bush
9 is certified, in accordance with guidance prescribed
10 by the Secretary (after consultation with the Admin-
11 istrator of the Environmental Protection Agency and
12 the Secretary of Agriculture), to be quick-growing,
13 appropriate for the region in which it is planted, and
14 effective in capturing carbon.

15 “(3) VEGETATED ROOF SYSTEM.—The term
16 ‘vegetated roof system’ means a system by which
17 vegetation growing in a substrate is integrated with
18 the roof (or portion thereof) of a building owned by
19 the taxpayer.

20 “(d) APPLICATION WITH OTHER CREDITS.—The
21 credit allowed under subsection (a) for any taxable year
22 shall not exceed the excess (if any) of—

23 “(1) the regular tax liability (as defined in sec-
24 tion 26(b)) reduced by the sum of the credits allow-

1 able under subpart A and sections 27, 30, 30B, and
2 30C, over

3 “(2) the tentative minimum tax for the taxable
4 year.

5 “(e) DEFINITION AND SPECIAL RULES.—For pur-
6 poses of this section—

7 “(1) PRINCIPAL RESIDENCE.—The term ‘prin-
8 cipal residence’ has the same meaning as when used
9 in section 121, except that no ownership require-
10 ment shall be imposed.

11 “(2) JOINT OCCUPANCY, COOPERATIVE HOUS-
12 ING CORPORATIONS, AND CONDOMINIUM MANAGE-
13 MENT ASSOCIATIONS.—Rules similar to the rules of
14 paragraphs (4), (5), and (6) of section 25D(e) shall
15 apply.

16 “(3) EXPENDITURES OUTSIDE UNITED
17 STATES.—The credit under this section shall not be
18 allowed with respect to expenditures paid or incurred
19 for areas located outside the United States.

20 “(4) BASIS ADJUSTMENT.—For purposes of
21 this subtitle, if a credit is allowed under this section
22 for an expenditure, the increase in basis which would
23 result (but for this subsection) from such expendi-
24 ture shall be reduced by the amount of credit al-
25 lowed under this section.

1 “(f) TERMINATION.—This section shall not apply to
2 taxable years beginning after December 31, 2013.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subsection (a) of section 1016, as amended
5 by section 3, is amended by striking “and” at the
6 end of paragraph (36), by striking the period at the
7 end of paragraph (37) and inserting “and”, and by
8 adding at the end the following new paragraph:

9 “(38) to the extent provided in section
10 30D(e)(4).”.

11 (2) The table of sections for subpart B of part
12 IV of subchapter A of chapter 1 of such Code is
13 amended by inserting after the item relating to sec-
14 tion 30C the following new item:

“Sec. 30D. Qualified planting expenditure credit.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to expenditures paid or incurred
17 after December 31, 2008.

18 **SEC. 5. GRASSLAND, RANGELAND, AND FOREST CONSERVA-**
19 **TION CREDIT.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act, the Secretary of the
22 Treasury, in consultation with the Department of Agri-
23 culture, shall establish an appropriate tax credit, with re-
24 spect to land located in the United States, for—

1 (1) the conversion of cropland to pasture for
2 grazing purposes or to grassland or rangeland, and

3 (2) reforestation and afforestation of land—

4 (A) which is not held by the taxpayer for
5 the planting, cultivating, caring for, and cutting
6 of trees for sale or use in the commercial pro-
7 duction of timber products, and

8 (B) with trees which are not held by the
9 taxpayer for use in a trade or business or for
10 the production of income.

11 (b) OTHER RULES RELATING TO CREDIT.—

12 (1) CREDIT TO BE PER ACRE.—The Secretary
13 shall establish credit amounts to apply to land on a
14 per acre basis with respect to each method of con-
15 servation described in subsection (a).

16 (2) PURSUANT TO APPROVED PLAN.—Such
17 methods must be pursuant to a plan submitted by
18 the taxpayer and approved by the Secretaries of the
19 Treasury and Agriculture.

20 (3) BASIS FOR CREDIT AMOUNTS.—Credit
21 amount shall be based on—

22 (A) the efficacy of the method in seques-
23 tering carbon and preventing soil erosion,

24 (B) the expenditures relating to such
25 method, and

1 (C) the number of years the taxpayer cer-
2 tifies to the Secretary or ensures (by conserva-
3 tion easement or otherwise) that the applicable
4 land will remain subject to the approved plan.

5 (4) RECAPTURE.—The Secretary shall provide
6 for recapturing the benefit of any credit allowed
7 under this section with respect to any property that
8 ceases to be used in accordance with the approved
9 plan.

10 (5) DENIAL OF DOUBLE BENEFIT AND BASIS
11 ADJUSTMENT.—The Secretary shall provide—

12 (A) an appropriate basis adjustment for
13 property with respect to which such credit is al-
14 lowed, and

15 (B) rules disallowing such deductions and
16 other credits as may be appropriate to avoid al-
17 lowing additional tax benefits for the same con-
18 servation method or expenses.

19 (c) EFFECTIVE DATE.—The credit established by the
20 Secretary shall apply to taxable years beginning after De-
21 cember 31, 2008.

22 **SEC. 6. CARBON SEQUESTRATION CREDIT REPORT.**

23 (a) IN GENERAL.—In the case of any substantial
24 change in the carbon sequestration market (including the
25 enactment into law of a carbon cap and trade program),

1 the Secretary of the Treasury shall, in consultation with
2 any appropriate Federal officers, study such change and
3 any effect of such change on the efficiency of, and need
4 for, the credits allowed under section 5 of this Act and
5 sections 45O and 30D of the Internal Revenue Code of
6 1986.

7 (b) REPORT.—As soon as practicable after sufficient
8 opportunity to observe the effect of such change in the
9 carbon sequestration market, the Secretary shall submit
10 a report to Congress containing the results of the study
11 conducted under subsection (a) and any recommendations
12 of the Secretary for modifying such credits based on such
13 results.

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