

118TH CONGRESS
1ST SESSION

S. 3521

To amend the Internal Revenue Code of 1986 to establish a credit for the domestic production of rare earth magnets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2023

Ms. CORTEZ MASTO (for herself and Mr. MULLIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to establish a credit for the domestic production of rare earth magnets, 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 “Rare Earth Magnet
5 Manufacturing Production Tax Credit Act of 2023”.

6 **SEC. 2. CREDIT FOR PRODUCTION OF RARE EARTH**
7 **MAGNETS.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding after section 45AA the fol-
 2 lowing:

3 **“SEC. 45BB. CREDIT FOR PRODUCTION OF RARE EARTH**
 4 **MAGNETS.**

5 “(a) IN GENERAL.—

6 “(1) ALLOWANCE OF CREDIT.—For purposes of
 7 section 38, the credit for production of rare earth
 8 magnets determined under this section for any tax-
 9 able year is an amount equal to the sum of the cred-
 10 it amounts determined under subsection (b) with re-
 11 spect to rare earth magnets which are—

12 “(A) manufactured or produced by the tax-
 13 payer, and

14 “(B) sold by such taxpayer to an unrelated
 15 person during the taxable year.

16 “(2) UNRELATED PERSON.—

17 “(A) IN GENERAL.—For purposes of this
 18 subsection, a taxpayer shall be treated as selling
 19 rare earth magnets to an unrelated person if
 20 such magnet is sold to such person by a person
 21 related to the taxpayer.

22 “(B) ELECTION.—

23 “(i) IN GENERAL.—At the election of
 24 the taxpayer (in such form and manner as
 25 the Secretary may prescribe), a sale of rare

1 earth magnets by such taxpayer to a re-
2 lated person shall be deemed to have been
3 made to an unrelated person.

4 “(ii) REQUIREMENT.—As a condition
5 of, and prior to, any election described in
6 clause (i), the Secretary may require such
7 information or registration as the Sec-
8 retary deems necessary for purposes of
9 preventing duplication, fraud, or any im-
10 proper or excessive amount determined
11 under paragraph (1).

12 “(b) CREDIT AMOUNT.—

13 “(1) IN GENERAL.—The amount determined
14 under this subsection is—

15 “(A) \$20 per kilogram of rare earth
16 magnets manufactured or produced in the
17 United States by the taxpayer during the tax-
18 able year which are not described in subpara-
19 graph (B), and

20 “(B) \$30 per kilogram of rare earth
21 magnets manufactured or produced in the
22 United States by the taxpayer during the tax-
23 able year if not less than 90 percent of the com-
24 ponent rare earth materials of such magnets
25 are produced within the United States.

1 “(2) PHASE-OUT.—

2 “(A) IN GENERAL.—In the case of any
3 rare earth magnet manufactured or produced
4 after December 31, 2032, the amount deter-
5 mined under this subsection with respect to
6 such rare earth magnet shall be equal to the
7 product of—

8 “(i) the amount determined under
9 paragraph (1) with respect to such rare
10 earth magnet, as determined without re-
11 gard to this subsection, multiplied by

12 “(ii) the phase-out percentage de-
13 scribed in subparagraph (B).

14 “(B) PHASE-OUT PERCENTAGE.—The
15 phase-out percentage described in this para-
16 graph is—

17 “(i) in the case of any rare earth
18 magnet manufactured or produced in cal-
19 endar year 2033, 70 percent,

20 “(ii) in the case of any rare earth
21 magnet manufactured or produced in cal-
22 endar year 2034 or 2035, 35 percent, or

23 “(iii) in the case of any rare earth
24 magnet manufactured or produced after
25 December 31, 2035, 0 percent.

1 “(c) DEFINITIONS.—For the purposes of this sec-
2 tion—

3 “(1) RARE EARTH MAGNET.—The term ‘rare
4 earth magnet’ means a permanent magnet com-
5 prised of—

6 “(A) an alloy of neodymium, iron, and
7 boron, which may also include praseodymium,
8 terbium, or dysprosium, or

9 “(B) an alloy of samarium and cobalt,
10 which may also include gadolinium or any asso-
11 ciated host mineral of a component rare earth
12 material.

13 “(2) COMPONENT RARE EARTH MATERIAL.—
14 The term ‘component rare earth material’ means ne-
15 odmium, praseodymium, dysprosium, terbium, sa-
16 marium, gadolinium, and cobalt.

17 “(3) MANUFACTURED.—The term ‘manufac-
18 tured’ means the manufacturing of a rare earth
19 magnet, including the alloying, reduction, strip cast-
20 ing, milling, sintering, recycling, pressing, and
21 metallization of component rare earth material.

22 “(4) NON-ALLIED FOREIGN NATION.—The term
23 ‘non-allied foreign nation’ has the meaning given to
24 the term ‘covered nation’ in section 4872(d) of title
25 10, United States Code.

1 “(5) UNITED STATES AND POSSESSION OF THE
2 UNITED STATES.—The terms ‘United States’ and
3 ‘possession of the United States’ have the meaning
4 given such terms in section 638.

5 “(d) SPECIAL RULES.—

6 “(1) RESTRICTION ON COMPONENT
7 SOURCING.—No credit shall be allowed under this
8 section with respect to a rare earth magnet if any
9 component rare earth material used to manufacture
10 or produce such magnet is produced in a non-allied
11 foreign nation.

12 “(2) TRADE OR BUSINESS REQUIREMENT.—No
13 credit shall be allowed under this section with re-
14 spect to a rare earth magnet unless such magnet is
15 manufactured or produced in the ordinary course of
16 a trade or business of the taxpayer.

17 “(e) ELECTIVE PAYMENT FOR PRODUCTION OF
18 RARE EARTH MAGNETS.—

19 “(1) IN GENERAL.—In the case of a taxpayer
20 making an election (at such time and in such man-
21 ner as the Secretary may provide) under this sub-
22 section with respect to any portion of the credit al-
23 lowed under subsection (a), such taxpayer shall be
24 treated as making a payment against the tax im-

1 posed by this subtitle for the taxable year equal to
2 the amount of such portion of the credit.

3 “(2) TIMING.—The payment described in para-
4 graph (1) shall be treated as made on the later of
5 the due date of the return of tax for the taxable year
6 or the date on which such return is filed.”.

7 (b) CREDIT TO BE PART OF GENERAL BUSINESS
8 CREDIT.—Section 38(b) of the Internal Revenue Code of
9 1986 is amended by striking “plus” at the end of para-
10 graph (40), by striking the period at the end of paragraph
11 (41) and inserting “, plus”, and by adding at the end the
12 following new paragraph:

13 “(42) the credit for production of rare earth
14 magnets determined under section 45BB(a).”.

15 (c) CONFORMING AMENDMENT.—The table of sec-
16 tions for subpart D of part IV of subchapter A of chapter
17 1 of the Internal Revenue Code of 1986 is amended by
18 inserting after the item relating to section 45AA the fol-
19 lowing new item:

“Sec. 45BB. Credit for production of rare earth magnets.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this Act shall apply to taxable years beginning after De-
22 cember 31, 2023.

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