



October 29, 2021

## Member Alert: What's In the Build Back Better Reconciliation Bill for Biogas?

House Democrats just released a draft of the long-awaited [Build Back Better \(BBB\) Budget Reconciliation package](#) that has consumed most of Congress's energy for the past two months, and it contains excellent news for the biogas industry.

**We are very excited to report that BBB contains the creation of a new Investment Tax Credit (ITC) for Biogas to RNG/Heat projects!** The ABC has been working on this legislation passed for over a decade, and it demonstrates recognition from Congress for the vital role biogas plays within domestic energy policy. This will increase the profitability of all RNG projects and also allow new projects to be developed. Not to be ignored in the excitement, the package contains several other initiatives which can also accelerate growth of the biogas industry. While we are still combing through the 1,684-page draft, we wanted to share our preliminary findings on items important to ABC Members.

### The Path Forward

One very important caveat: the bill released yesterday is NOT final. This draft package was crafted by the House, Senate, and White House leadership with the intent of emerging in a near-final form and able to pass both chambers of Congress on the wings of the Democrats' razor-thin majorities. However, crafting this large piece of legislation in a manner that threads the needle between the relatively conservative priorities of Senators Joe Manchin (WV) and Kyrsten Sinema (AZ) and the social policy goals of the more progressive Democrats in the House has been a herculean task.

As such, despite optimism that BBB is very near the finish line, further action will need to wait. Congress recessed for the weekend late last night without voting on the package, and President Biden has flown to Europe to meet with foreign leaders. The plan, as stated by Speaker Pelosi, is for BBB and the bipartisan infrastructure bill to be voted on when Congress returns next week. But, as we have seen over the past two months with this bill, Congressional deadlines are malleable. While the ABC is excited about what this bill could do for the biogas industry, passage of it is not yet definite.

### Biogas Related Tax Credits

The draft BBB bill includes:

- **NEW ITC for Non-Electricity Biogas (i.e., Biogas-RNG, Biogas-Heat, etc.)!** The ITC is available through December 31, 2026 at a base credit rate of 6% and bonus rate of 30% that can be achieved by satisfying prevailing wage and apprenticeship requirements. Achievement of domestic content requirements unlock an additional 2% to 10% credit. Note: biogas must contain at least 52% methane, but can be concentrated to achieve that threshold.
- **Extension of the Biogas-Electricity Production Tax Credit (PTC)** through December 31, 2026 at a base credit rate of 0.5 cents/kilowatt hour, or a bonus credit rate of 2.5 cents/kilowatt hour for entities that meet prevailing wage and apprenticeship requirements. There is also an additional bonus based on meeting domestic content requirements. (This modifies the 1.2 cents per kWh credit set to expire this year.)
- **Extension of the Biogas-Electricity ITC option** through December 31, 2026 at a base credit rate of 6% and bonus rate of 30% that can be achieved by satisfying prevailing wage and apprenticeship requirements. Achievement of domestic content requirements unlock an additional 2% to 10% credit. (This modifies the 30% flat credit set to expire this year.)
- **Alternative Fuel Excise Tax Credit:** We're still going through the text, but at first reading don't see this 50 cents/gallon credit included--likely because the new Biogas-RNG/Heat ITC is envisioned to replace this credit. At this point, we assume the e \$0.50/gallon fuel credit expires on December 31, 2021. We'll let you know more as we learn more.
- **Extension of the Alternative Fuel Vehicle Refueling Property Credit** through December 31, 2031. This used to be a 30%/\$30,000 ITC. Now, beginning in 2022, the provision expands the credit for zero-emissions charging and refueling infrastructure by providing a base credit of 6% for expenses up to \$100,000 and 4% for allowable

expenses in excess of such limitation (i.e., it allows a credit for expenses beyond the limit if certain requirements are met). The provision provides an alternative bonus credit level of 30% for expenses up to \$100,000 and 20% thereafter.

- **NEW ITC for Energy Storage Technology** which uses storage technology to store energy for conversion to electricity and has a minimum capacity of 5 kWh, or stores energy to heat or cool a structure. The ITC is available through December 31, 2026 at a base credit rate of 6% and bonus rate of 30% that can be achieved by satisfying prevailing wage and apprenticeship requirements. Achievement of domestic content requirements unlock an additional 2% to 10% credit.
- **Extension of the Combined Heat and Power ITC** through December 31, 2026 at a base credit rate of 6% and bonus rate of 30% that can be achieved by satisfying prevailing wage and apprenticeship requirements. Achievement of domestic content requirements unlock at additional 2% to 10% credit. (This modifies the 30% flat credit set to expire this year.)
- **Extension of the Fuel Cell ITC** through December 31, 2026 at a base credit rate of 6% and bonus rate of 30% that can be achieved by satisfying prevailing wage and apprenticeship requirements. Achievement of domestic content requirements unlock at additional 2% to 10% credit. (This modifies the 30% flat credit set to expire this year.)

#### USDA - REAP Program

In the draft, the USDA's Rural Energy for America Program (REAP) is funded at \$1.965 billion, \$295 million of which is designated for anaerobic digesters and other underutilized renewable energy technologies within the overall REAP program. Furthermore, the match requirement for REAP grants has been reduced from 75% to 50%. This a result of our continued work to establish a REAP Reserve fund for underfunded technologies like biogas. This funding is expected to last for nearly ten years, as no disbursements will be made toward any work done after September 30, 2031.

#### Other Programs

**The Clean Electricity Performance Program was NOT included in this package.** It would have incentivized utilities to transition to clean energy and penalize those who do not.

The Federal Policy team at ABC will continue to monitor developments with BBB and keep membership informed as the reconciliation package moves toward completion. If you have questions, please do not hesitate to contact [Maureen](#) or [Markus](#).