

115TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

IN THE SENATE OF THE UNITED STATES

Mr. SCOTT (for himself, Mr. GRAHAM, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

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. MODIFICATIONS OF CREDIT FOR PRODUCTION**
4 **FROM ADVANCED NUCLEAR POWER FACILI-**
5 **TIES.**

6 (a) TREATMENT OF UNUTILIZED LIMITATION
7 AMOUNTS.—Section 45J(b) of the Internal Revenue Code
8 of 1986 is amended—

1 (1) in paragraph (4), by inserting “or any
2 amendment to” after “enactment of”, and

3 (2) by adding at the end the following new
4 paragraph:

5 “(5) ALLOCATION OF UNUTILIZED LIMITA-
6 TION.—

7 “(A) IN GENERAL.—Any unutilized na-
8 tional megawatt capacity limitation shall be al-
9 located by the Secretary under paragraph (3)
10 as rapidly as is practicable after December 31,
11 2020—

12 “(i) first to facilities placed in service
13 on or before such date to the extent that
14 such facilities did not receive an allocation
15 equal to their full nameplate capacity, and

16 “(ii) then to facilities placed in service
17 after such date in the order in which such
18 facilities are placed in service.

19 “(B) UNUTILIZED NATIONAL MEGAWATT
20 CAPACITY LIMITATION.—The term ‘unutilized
21 national megawatt capacity limitation’ means
22 the excess (if any) of—

23 “(i) 6,000 megawatts, over

24 “(ii) the aggregate amount of national
25 megawatt capacity limitation allocated by

1 the Secretary before January 1, 2021, re-
2 duced by any amount of such limitation
3 which was allocated to a facility which was
4 not placed in service before such date.

5 “(C) COORDINATION WITH OTHER PROVI-
6 SIONS.—In the case of any unutilized national
7 megawatt capacity limitation allocated by the
8 Secretary pursuant to this paragraph—

9 “(i) such allocation shall be treated
10 for purposes of this section in the same
11 manner as an allocation of national mega-
12 watt capacity limitation, and

13 “(ii) subsection (d)(1)(B) shall not
14 apply to any facility which receives such al-
15 location.”.

16 (b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
17 TITIES.—

18 (1) IN GENERAL.—Section 45J of such Code is
19 amended—

20 (A) by redesignating subsection (e) as sub-
21 section (f), and

22 (B) by inserting after subsection (d) the
23 following new subsection:

24 “(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
25 TITIES.—

1 “(1) IN GENERAL.—If, with respect to a credit
2 under subsection (a) for any taxable year—

3 “(A) the taxpayer would be a qualified
4 public entity, and

5 “(B) such entity elects the application of
6 this paragraph for such taxable year with re-
7 spect to all (or any portion specified in such
8 election) of such credit,

9 the eligible project partner specified in such election
10 (and not the qualified public entity) shall be treated
11 as the taxpayer for purposes of this title with re-
12 spect to such credit (or such portion thereof).

13 “(2) DEFINITIONS.—For purposes of this sub-
14 section—

15 “(A) QUALIFIED PUBLIC ENTITY.—The
16 term ‘qualified public entity’ means—

17 “(i) a Federal, State, or local govern-
18 ment entity, or any political subdivision,
19 agency, or instrumentality thereof,

20 “(ii) a mutual or cooperative electric
21 company described in section 501(c)(12) or
22 section 1381(a)(2), or

23 “(iii) a not-for-profit electric utility
24 which has or had received a loan or loan

1 guarantee under the Rural Electrification
2 Act of 1936.

3 “(B) ELIGIBLE PROJECT PARTNER.—The
4 term ‘eligible project partner’ means—

5 “(i) any person responsible for, or
6 participating in, the design or construction
7 of the advanced nuclear power facility to
8 which the credit under subsection (a) re-
9 lates,

10 “(ii) any person who participates in
11 the provision of the nuclear steam supply
12 system to the advanced nuclear power fa-
13 cility to which the credit under subsection
14 (a) relates,

15 “(iii) any person who participates in
16 the provision of nuclear fuel to the ad-
17 vanced nuclear power facility to which the
18 credit under subsection (a) relates, or

19 “(iv) any person who has an owner-
20 ship interest in such facility.

21 “(3) SPECIAL RULES.—

22 “(A) APPLICATION TO PARTNERSHIPS.—In
23 the case of a credit under subsection (a) which
24 is determined at the partnership level—

1 “(i) for purposes of paragraph (1)(A),
2 a qualified public entity shall be treated as
3 the taxpayer with respect to such entity’s
4 distributive share of such credit, and

5 “(ii) the term ‘eligible project partner’
6 shall include any partner of the partner-
7 ship.

8 “(B) TAXABLE YEAR IN WHICH CREDIT
9 TAKEN INTO ACCOUNT.—In the case of any
10 credit (or portion thereof) with respect to which
11 an election is made under paragraph (1), such
12 credit shall be taken into account in the first
13 taxable year of the eligible project partner end-
14 ing with, or after, the qualified public entity’s
15 taxable year with respect to which the credit
16 was determined.

17 “(C) TREATMENT OF TRANSFER UNDER
18 PRIVATE USE RULES.—For purposes of section
19 141(b)(1), any benefit derived by an eligible
20 project partner in connection with an election
21 under this subsection shall not be taken into ac-
22 count as a private business use.”.

23 (2) SPECIAL RULE FOR PROCEEDS OF TRANS-
24 FERS FOR MUTUAL OR COOPERATIVE ELECTRIC
25 COMPANIES.—Section 501(c)(12) of such Code is

1 amended by adding at the end the following new
2 subparagraph:

3 “(I) In the case of a mutual or cooperative
4 electric company described in this paragraph or
5 an organization described in section 1381(a)(2),
6 income received or accrued in connection with
7 an election under section 45J(e)(1) shall be
8 treated as an amount collected from members
9 for the sole purpose of meeting losses and ex-
10 penses.”.

11 (c) EFFECTIVE DATES.—

12 (1) TREATMENT OF UNUTILIZED LIMITATION
13 AMOUNTS.—The amendment made by subsection (a)
14 shall take effect on the date of the enactment of this
15 Act.

16 (2) TRANSFER OF CREDIT BY CERTAIN PUBLIC
17 ENTITIES.—The amendments made by subsection
18 (b) shall apply to taxable years beginning after De-
19 cember 31, 2017.