H. R. 117

To direct the Secretary of Energy to establish a civil nuclear credit program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Kinzinger introduced the following bill; which was referred to the Committee on ______________________

A BILL

To direct the Secretary of Energy to establish a civil nuclear credit program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) Short Title.—This Act may be cited as the “Preserving Existing Nuclear Energy Generation Act”.

(b) Definitions.—In this Act:

(1) Appropriate Committees of Congress.—The term “appropriate committees of Congress” means—
(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(2) COMMISSION.—The term “Commission” means the Nuclear Regulatory Commission.

(3) SECRETARY.—The term “Secretary” means the Secretary of Energy.

SEC. 2. CIVIL NUCLEAR CREDIT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CERTIFIED NUCLEAR REACTOR.—The term “certified nuclear reactor” means a nuclear reactor that—

(A) competes in a competitive electricity market; and

(B) is certified under subsection (c)(2)(A)(i) to submit a sealed bid in accordance with subsection (d).

(2) CREDIT.—The term “credit” means a credit allocated to a certified nuclear reactor under subsection (e)(2).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a civil nuclear credit program—
(1) to evaluate nuclear reactors that are projected to cease operations due to economic factors; and

(2) to allocate credits to certified nuclear reactors that are selected under paragraph (1)(B) of subsection (e) to receive credits under paragraph (2) of that subsection.

(c) Certification.—

(1) Application.—

(A) In general.—In order to be certified under paragraph (2)(A)(i), the owner or operator of a nuclear reactor that is projected to cease operations due to economic factors shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate, including—

(i) information on the operating costs necessary to make the determination described in paragraph (2)(A)(ii)(I), including—

(I) the average projected annual operating loss in dollars per megawatt-hour, inclusive of the cost of operational and market risks, ex-
pected to be incurred by the nuclear reactor over the 4-year period for which credits would be allocated;

(II) any private or publicly available data with respect to current or projected bulk power market prices;

(III) out-of-market revenue streams;

(IV) operations and maintenance costs;

(V) capital costs, including fuel; and

(VI) operational and market risks;

(ii) an estimate of the potential incremental air pollutants that would result if the nuclear reactor were to cease operations;

(iii) known information on the source of produced uranium and the location where the uranium is converted, enriched, and fabricated into fuel assemblies for the nuclear reactor for the 4-year period for which credits would be allocated; and
(iv) a detailed plan to sustain operations at the conclusion of the applicable 4-year period for which credits would be allocated—

(I) without receiving additional credits; or

(II) with the receipt of additional credits of a lower amount than the credits allocated during that 4-year credit period.

(B) Timeline.—The Secretary shall accept applications described in subparagraph (A)—

(i) until the date that is 120 days after the date of enactment of this Act; and

(ii) not less frequently than every year thereafter.

(C) Payments from State Programs.—

(i) In General.—The owner or operator of a nuclear reactor that receives a payment from a State zero-emission credit, a State clean energy contract, or any other State program with respect to that nuclear reactor shall be eligible to submit an appli-
cation under subparagraph (A) with respect to that nuclear reactor during any application period beginning after the 120-day period beginning on the date of enactment of this Act.

(ii) **Requirement.**—An application submitted by an owner or operator described in clause (i) with respect to a nuclear reactor described in that clause shall include all projected payments from State programs in determining the average projected annual operating loss described in subparagraph (A)(i)(I), unless the credits allocated to the nuclear reactor pursuant to that application will be used to reduce those payments.

(2) **Determination to certify.**—

(A) **Determination.**—

(i) **In general.**—Not later than 60 days after the applicable date under subparagraph (B) of paragraph (1), the Secretary shall determine whether to certify, in accordance with clauses (ii) and (iii), each nuclear reactor for which an applica-
tion is submitted under subparagraph (A) of that paragraph.

(ii) **Minimum Requirements.**—To the maximum extent practicable, the Secretary shall only certify a nuclear reactor under clause (i) if—

(I) after considering the information submitted under paragraph (1)(A)(i), the Secretary determines that the nuclear reactor is projected to cease operations due to economic factors;

(II) after considering the estimate submitted under paragraph (1)(A)(ii), the Secretary determines that pollutants would increase if the nuclear reactor were to cease operations and be replaced with other types of power generation; and

(III) the Nuclear Regulatory Commission has reasonable assurance that the nuclear reactor—

(aa) will continue to be operated in accordance with the current licensing basis (as defined in
section 54.3 of title 10, Code of Federal Regulations (or successor regulations) of the nuclear reactor; and

(bb) poses no significant safety hazards.

(iii) PRIORITY.—In determining whether to certify a nuclear reactor under clause (i), the Secretary shall give priority to a nuclear reactor that uses, to the maximum extent available, uranium that is produced, converted, enriched, and fabricated into fuel assemblies in the United States.

(B) NOTICE.—For each application received under paragraph (1)(A), the Secretary shall provide to the applicable owner or operator, as applicable—

(i) a notice of the certification of the applicable nuclear reactor; or

(ii) a notice that describes the reasons why the certification of the applicable nuclear reactor was denied.

(d) BIDDING PROCESS.—
(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall establish a deadline by which each certified nuclear reactor shall submit to the Secretary a sealed bid that—

(A) describes the price per megawatt-hour of the credits desired by the certified nuclear reactor, which shall not exceed the average projected annual operating loss described in subsection (c)(1)(A)(i)(I); and

(B) includes a commitment, subject to the receipt of credits, to provide a specific number of megawatt-hours of generation during the 4-year period for which credits would be allocated.

(2) REQUIREMENT.—The deadline established under paragraph (1) shall be not later than 30 days after the first date on which the Secretary has made the determination described in paragraph (2)(A)(i) of subsection (e) with respect to each application submitted under paragraph (1)(A) of that subsection.

(e) ALLOCATION.—

(1) AUCTION.—Notwithstanding section 169 of the Atomic Energy Act of 1954 (42 U.S.C. 2209), the Secretary shall—
(A) in consultation with the heads of applicable Federal agencies, establish a process for evaluating bids submitted under subsection (d)(1) through an auction process; and

(B) select certified nuclear reactors to be allocated credits.

(2) CREDITS.—Subject to subsection (f)(2), on selection under paragraph (1), a certified nuclear reactor shall be allocated credits for a 4-year period beginning on the date of the selection.

(3) REQUIREMENT.—To the maximum extent practicable, the Secretary shall use the amounts made available for credits under this section to allocate credits to as many certified nuclear reactors as possible.

(f) RENEWAL.—

(1) IN GENERAL.—The owner or operator of a certified nuclear reactor may seek to recertify the nuclear reactor in accordance with this section.

(2) LIMITATION.—Notwithstanding any other provision of this section, the Secretary may not allocate any credits after September 30, 2031.

(g) ADDITIONAL REQUIREMENTS.—

(1) AUDIT.—During the 4-year period beginning on the date on which a certified nuclear reactor
first receives a credit, the Secretary shall periodically audit the certified nuclear reactor.

(2) RECAPTURE.—The Secretary shall, by regulation, provide for the recapture of the allocation of any credit to a certified nuclear reactor that, during the period described in paragraph (1)—

(A) terminates operations; or

(B) does not operate at an annual loss in the absence of an allocation of credits to the certified nuclear reactor.

(3) CONFIDENTIALITY.—The Secretary shall establish procedures to ensure that any confidential, private, proprietary, or privileged information that is included in a sealed bid submitted under this section is not publicly disclosed or otherwise improperly used.

(h) REPORT.—Not later than January 1, 2024, the Comptroller General of the United States shall submit to Congress a report with respect to the credits allocated to certified nuclear reactors, which shall include—

(1) an evaluation of the effectiveness of the credits in avoiding air pollutants while ensuring grid reliability;

(2) a quantification of the ratepayer savings achieved under this section; and
(3) any recommendations to renew or expand the credits.

(i) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $6,000,000,000 for the period of fiscal years 2022 through 2026.

SEC. 3. NUCLEAR CLOSURE COMMUNITIES.

(a) Definitions.—In this section:

(1) Community Advisory Board.—The term “community advisory board” means a community committee or other advisory organization that aims to foster communication and information exchange between a licensee planning for and involved in decommissioning activities and members of the community that decommissioning activities may affect.

(2) Decommission.—The term “decommission” has the meaning given the term in section 50.2 of title 10, Code of Federal Regulations (or successor regulations).

(3) Eligible Recipient.—The term “eligible recipient” has the meaning given the term in section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122).

(4) Licensee.—The term “licensee” has the meaning given the term in section 50.2 of title 10,
(5) **NUCLEAR CLOSURE COMMUNITY.**—The term “nuclear closure community” means a unit of local government, including a county, city, town, village, school district, or special district that has been impacted, or reasonably demonstrates to the satisfaction of the Secretary of Commerce, that it will be impacted, by a nuclear power plant licensed by the Commission that has ceased operation or has provided a written notification to the Commission that it will cease operations as of the date of enactment of this Act.

(b) **ESTABLISHMENT.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce shall establish a grant program to provide grants to eligible recipients—

(1) to provide financial assistance to local governments who have experienced, or are anticipating, major revenue shortfalls due to the closure, or announced closure, of a nuclear power plant;

(2) to assist with economic development in nuclear closure communities; and

(3) to fund community advisory boards in nuclear closure communities.
(c) REQUIREMENT.—In carrying out this section, to the maximum extent practicable, the Secretary of Commerce shall implement the recommendations described in the report submitted to Congress under section 108 of the Nuclear Energy Innovation and Modernization Act (Public Law 115–439; 132 Stat. 5577) entitled “Best Practices for Establishment and Operation of Local Community Advisory Boards Associated with Decommissioning Activities at Nuclear Power Plants”.

(d) DISTRIBUTION OF FUNDS.—The Secretary of Commerce shall establish a formula to ensure, to the maximum extent practicable, geographic diversity among grant recipients under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce—

(A) to carry out subsection (b)(1), $30,000,000 for each of fiscal years 2022 through 2027;

(B) to carry out subsection (b)(2), $30,000,000 for each of fiscal years 2022 through 2027; and

(C) to carry out subsection (b)(3), $5,000,000 for each of fiscal years 2022 through 2024.
(2) **AVAILABILITY.**—Amounts made available under this section shall remain available for a period of 5 years beginning on the date on which the amounts are made available.

(3) **NO OFFSET.**—None of the funds made available under this section may be used to offset the funding for any other Federal program.

**SEC. 4. REPORT ON LESSONS LEARNED DURING THE COVID–19 PUBLIC HEALTH EMERGENCY.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the appropriate committees of Congress and make publicly available a report on actions taken by the Commission during the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to COVID–19.

(b) **CONTENTS.**—The report under subsection (a) shall include—

(1) an identification of the processes, procedures, and other regulatory policies that were revised or temporarily suspended during the public health emergency described in subsection (a);

(2) a review of actions, if any, taken by the Commission that examines how any revision or tem-
porary suspension of a process, procedure, or other regulatory policy identified under paragraph (1) may or may not have compromised the ability of the Commission to license and regulate the civilian use of radioactive materials in the United States to protect public health and safety, promote the common defense and security, and protect the environment;

(3) a description of any process efficiencies or challenges that resulted from the matters identified under paragraph (1);

(4) a discussion of lessons learned from the matters described in paragraphs (1), (2), and (3);

(5) a list of actions that the Commission may take to incorporate into the licensing activities and regulations of the Commission, without compromising the mission of the Commission—

(A) the lessons described in paragraph (4);

and

(B) the information provided under paragraphs (2) and (3); and

(6) a description of when the actions described in paragraph (5) may be implemented.