H. R. 4024

To amend the Internal Revenue Code of 1986 to establish a tax credit for production of electricity using nuclear power.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2021

Mr. Pascrell (for himself, Mr. Sc佐zzi, Mr. Katko, Mr. Danνy K. Davis of Illinois, Mr. Brown, Mr. Ruppersberger, Mrs. Bustos, Mr. Mickey F. Doyle of Pennsylvania, and Mr. Fitzpatrick) 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 establish a tax credit for production of electricity using nuclear power.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Zero-Emission Nuclear Power Production Credit Act of 2021”.

SEC. 2. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of
1986 is amended by adding at the end the following new section:

“SEC. 45U. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

“(a) AMOUNT OF CREDIT.—For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—

“(1) the product of—

“(A) 1.5 cents, multiplied by

“(B) the kilowatt hours of electricity—

“(i) produced by the taxpayer at a qualified nuclear power facility, and

“(ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds

“(2) the reduction amount for such taxable year.

“(b) DEFINITIONS.—

“(1) QUALIFIED NUCLEAR POWER FACILITY.—

For purposes of this section, the term ‘qualified nuclear power facility’ means any nuclear facility—

“(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,
“(B) which is not described in section 168(i)(10), and

“(C) which is not an advanced nuclear power facility, as defined in subsection (d)(1) of section 45J, or which has not received an allocation under subsection (b) of such section.

“(2) REDUCTION AMOUNT.—

“(A) IN GENERAL.—For purposes of this section, the term ‘reduction amount’ means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of—

“(i) the amount determined under subsection (a)(1), or

“(ii) the amount equal to 80 percent of the excess of—

“(I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility and sold to an unrelated person during such taxable year, over

“(II) the amount equal to the product of—

“(aa) 2.5 cents, multiplied by
“(bb) the amount determined under subsection (a)(1)(B).

“(B) Treatment of certain receipts.—

“(i) In general.—The amount determined under subparagraph (A)(ii)(I) shall include any amount received by the taxpayer during the taxable year with respect to the qualified nuclear power facility from a zero-emission credit program unless the amount received by the taxpayer is subject to reduction—

“(I) by the full amount of the credit determined under this section, or

“(II) by any lesser amount if such amount entirely offsets the amount received from a zero-emission credit program.

“(ii) Zero-emission credit program.—For purposes of this subparagraph, the term ‘zero-emission credit program’ means any State or local government program that provides payments to a
qualified nuclear power facility for, in whole or in part, the zero-emission, zero-carbon, or air quality attributes of any portion of the electricity produced by such facility.

“(3) ELECTRICITY.—For purposes of this section (with the exception of subsection (d)(3)), the term ‘electricity’ means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.

“(c) ELECTION FOR DIRECT PAYMENT.—

“(1) IN GENERAL.—In the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this subsection with respect to any portion of the credit which would (without regard to this subsection) be determined under subsection (a) with respect to such taxpayer, such taxpayer shall be treated as making a payment against the tax imposed by subtitle A for the taxable year equal to the amount of such portion.

“(2) TIMING.—The payment described in paragraph (1) shall be treated as made on the later of the due date of the return of tax for the taxable year or the date on which such return is filed.
“(3) **Exclusion from gross income.**—Gross income of the taxpayer shall be determined without regard to this subsection.

“(4) **Denial of double benefit.**—Solely for purposes of section 38, in the case of a taxpayer making an election under this subsection, the credit determined under subsection (a) shall be reduced by the amount of the portion of such credit with respect to which the taxpayer makes such election.

“(5) **Determination of eligibility for direct payments.**—For purposes of determining eligibility of a taxpayer for a direct payment under paragraph (1), the Secretary shall have the authority to request such information from the taxpayer as the Secretary may require.

“(d) **Other Rules.**—

“(1) **Inflation adjustment.**—The 1.5 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2)) for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such
amount shall be rounded to the nearest multiple of
0.1 cent.

“(2) Special rules.—Rules similar to the
rules of paragraphs (1), (3), (4), and (5) of section
45(e) shall apply for purposes of this section.

“(3) Phaseout of credit.—If the Secretary,
in consultation with the Secretary of Energy and the
Administrator of the Environmental Protection
Agency, determines that the annual greenhouse gas
emissions from electricity production in the United
States for a calendar year are equal to or less than
50 percent of the annual greenhouse gas emissions
from electricity production in the United States for
calendar year 2020, the amount of the credit deter-
mined under the subsection (a) shall be reduced by
an amount equal to the product of—

“(A) the amount of credit determined
under the subsection (a), as determined before
application of this paragraph, multiplied by

“(B) an amount (expressed as a percent-
age) equal to twice the percentage amount that
the percentage determined by the Secretary
pursuant to this paragraph exceeds 50 percent.

“(4) Wage requirements.—The taxpayer
shall ensure, with respect to a qualified nuclear
power facility, that any laborers and mechanics em-
ployed by contractors and subcontractors in the con-
struction, repair, alteration, or maintenance of such
facility shall be paid wages at rates not less than the
prevailing rates for construction, alteration, or re-
pair of a similar character in the locality as deter-
mined by the Secretary of Labor, in accordance with
subchapter IV of chapter 31 of title 40, United
States Code.

“(e) RECAPTURE.—

“(1) IN GENERAL.—The Secretary, in consulta-
tion with the Secretary of Energy and the Secretary
of Labor, shall, by regulations, provide for recap-
turing the benefit of any credit allowable under sub-
section (a) for any taxable year if the Secretary de-
determines that the wage requirements described in
subsection (d)(4) have been violated.

“(2) INVESTIGATION.—Upon receipt of a com-
plaint or its own initiative, the Secretary, in con-
sultation with the Secretary of Energy and the Sec-
retary of Labor, shall request and review the payroll
records of contractors and subcontractors engaged in
the performance of any construction, repair, alter-
ation, or maintenance with respect to a qualified nu-
clear power facility, and interview individuals em-
ployed by such contractors and subcontractors, to
determine whether the requirements of paragraph
(1)(A) have been met.

“(3) ADMINISTRATION AND ENFORCEMENT.—
With respect to the administration and enforcement
of the standards in paragraph (1)(A), the Secretary
of Labor shall have the authority and functions set
forth in Reorganization Plan Numbered 14 of 1950
(64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
title 40, United States Code.

“(f) TERMINATION.—This section shall not apply to
taxable years beginning after December 31, 2030.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code
of 1986 is amended—

(A) in paragraph (32), by striking “plus”
at the end,

(B) in paragraph (33), by striking the pe-
period at the end and inserting “, plus”, and

(C) by adding at the end the following new
paragraph:

“(34) the zero-emission nuclear power produc-
tion credit determined under section 45U(a).”.

(2) The table of sections for subpart D of part
IV of subchapter A of chapter 1 of such Code is
amended by adding at the end the following new item:

“Sec. 45U. Zero-emission nuclear power production credit.”.

(c) 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 allowed for qualified nuclear power facilities under section 45U of the Internal Revenue Code of 1986 (as added by subsection (a)), which shall include—

(1) an evaluation of the effectiveness of the credits allowed under such section in regards to ensuring grid reliability while avoiding emissions of carbon dioxide, nitrogen oxides, sulfur oxides, particulate matter, and hazardous air pollutants;

(2) a quantification of the ratepayer savings achieved as a result of the credits allowed under such section; and

(3) any recommendations to renew or expand the credits allowed under such section.

(d) EFFECTIVE DATE.—This section shall apply to electricity produced and sold after December 31, 2020, in taxable years beginning after such date.

SEC. 3. USE OF QUALIFIED APPRENTICES.

(a) IN GENERAL.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any applicable project shall, sub-
ject to subsection (b), ensure that not less than 15 percent
of the total labor hours of such work be performed by
qualified apprentices.

(b) Apprentice-to-Journeyworker Ratio.—The
requirement under subsection (a) shall be subject to any
applicable requirements for apprentice-to-journeyworker
ratios of the Department of Labor or the applicable State
apprenticeship agency.

c) Participation.—Each contractor and subcon-
tractor who employs 4 or more individuals to perform con-
struction, alteration, or repair work on an applicable
project shall employ 1 or more qualified apprentices to
perform such work.

d) Exception.—Notwithstanding any other provi-
sion in this section, this section shall not apply in the case
of a taxpayer who—

(1) demonstrates a lack of availability of quali-
fied apprentices in the geographic area of the con-
struction, alteration, or repair work; and

(2) makes a good faith effort, and its contrac-
tors and subcontractors make a good faith effort, to
comply with the requirements of this section.

e) Definitions.—In this section:

(1) Applicable Project.—The term “applica-
ble project” means, with respect to—
(A) subsection (e)(7)(A)(ii) of section 30C of the Internal Revenue Code of 1986,

(B) subsection (f)(8)(A)(ii) of section 45Q of such Code,

(C) subsection (b)(1)(A)(iv)(II) of section 45U of such Code,

(D) subsections (b)(3)(A)(iv)(II) and (c)(1)(B)(ii) of section 48D of such Code, and

(E) subsection 9e)(1)(E)(ii) of section 179D of such Code,

any property, equipment, or facility for which a credit is allowed under such sections.

(2) LABOR HOURS.—The term “labor hours”—

(A) means the total number of hours devoted to the performance of construction, alteration, or repair work by employees of the contractor or subcontractor; and

(B) excludes any hours worked by—

(i) foremen;

(ii) superintendents;

(iii) owners; or

(iv) persons employed in a bona fide executive, administrative, or professional capacity (within the meaning of those

(3) QUALIFIED APPRENTICE.—The term “qualified apprentice” means an individual who is an employee of the contractor or subcontractor and who is participating in a registered apprenticeship program, as defined in section 3131(e)(3)(B) of the Internal Revenue Code of 1986.