

117TH CONGRESS
1ST SESSION

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. SUOZZI, Mr. KATKO, Mr. DANNY K. DAVIS of Illinois, Mr. BROWN, Mr. RUPPERSBERGER, Mrs. BUSTOS, Mr. MICHAEL 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.

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 “Zero-Emission Nuclear
5 Power Production Credit Act of 2021”.

6 **SEC. 2. ZERO-EMISSION NUCLEAR POWER PRODUCTION**
7 **CREDIT.**

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 at the end the following new
2 section:

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

5 “(a) AMOUNT OF CREDIT.—For purposes of section
6 38, the zero-emission nuclear power production credit for
7 any taxable year is an amount equal to the amount by
8 which—

9 “(1) the product of—

10 “(A) 1.5 cents, multiplied by

11 “(B) the kilowatt hours of electricity—

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

14 “(ii) sold by the taxpayer to an unre-
15 lated person during the taxable year, ex-
16 ceeds

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

19 “(b) DEFINITIONS.—

20 “(1) QUALIFIED NUCLEAR POWER FACILITY.—

21 For purposes of this section, the term ‘qualified nu-
22 clear power facility’ means any nuclear facility—

23 “(A) which is owned by the taxpayer and
24 which uses nuclear energy to produce elec-
25 tricity,

1 “(B) which is not described in section
2 168(i)(10), and

3 “(C) which is not an advanced nuclear
4 power facility, as defined in subsection (d)(1) of
5 section 45J, or which has not received an allo-
6 cation under subsection (b) of such section.

7 “(2) REDUCTION AMOUNT.—

8 “(A) IN GENERAL.—For purposes of this
9 section, the term ‘reduction amount’ means,
10 with respect to any qualified nuclear power fa-
11 cility for any taxable year, the amount equal to
12 the lesser of—

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

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

17 “(I) subject to subparagraph (B),
18 the gross receipts from any electricity
19 produced by such facility and sold to
20 an unrelated person during such tax-
21 able year, over

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

24 “(aa) 2.5 cents, multiplied
25 by

1 “(bb) the amount deter-
2 mined under subsection
3 (a)(1)(B).

4 “(B) TREATMENT OF CERTAIN RE-
5 CEIPTS.—

6 “(i) IN GENERAL.—The amount de-
7 termined under subparagraph (A)(ii)(I)
8 shall include any amount received by the
9 taxpayer during the taxable year with re-
10 spect to the qualified nuclear power facility
11 from a zero-emission credit program unless
12 the amount received by the taxpayer is
13 subject to reduction—

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

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

21 “(ii) ZERO-EMISSION CREDIT PRO-
22 GRAM.—For purposes of this subpara-
23 graph, the term ‘zero-emission credit pro-
24 gram’ means any State or local govern-
25 ment program that provides payments to a

1 qualified nuclear power facility for, in
2 whole or in part, the zero-emission, zero-
3 carbon, or air quality attributes of any
4 portion of the electricity produced by such
5 facility.

6 “(3) ELECTRICITY.—For purposes of this sec-
7 tion (with the exception of subsection (d)(3)), the
8 term ‘electricity’ means the energy produced by a
9 qualified nuclear power facility from the conversion
10 of nuclear fuel into electric power.

11 “(c) ELECTION FOR DIRECT PAYMENT.—

12 “(1) IN GENERAL.—In the case of a taxpayer
13 making an election (at such time and in such man-
14 ner as the Secretary may provide) under this sub-
15 section with respect to any portion of the credit
16 which would (without regard to this subsection) be
17 determined under subsection (a) with respect to such
18 taxpayer, such taxpayer shall be treated as making
19 a payment against the tax imposed by subtitle A for
20 the taxable year equal to the amount of such por-
21 tion.

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

1 “(3) EXCLUSION FROM GROSS INCOME.—Gross
2 income of the taxpayer shall be determined without
3 regard to this subsection.

4 “(4) DENIAL OF DOUBLE BENEFIT.—Solely for
5 purposes of section 38, in the case of a taxpayer
6 making an election under this subsection, the credit
7 determined under subsection (a) shall be reduced by
8 the amount of the portion of such credit with respect
9 to which the taxpayer makes such election.

10 “(5) DETERMINATION OF ELIGIBILITY FOR DI-
11 RECT PAYMENTS.—For purposes of determining eli-
12 gibility of a taxpayer for a direct payment under
13 paragraph (1), the Secretary shall have the author-
14 ity to request such information from the taxpayer as
15 the Secretary may require.

16 “(d) OTHER RULES.—

17 “(1) INFLATION ADJUSTMENT.—The 1.5 cent
18 amount in subsection (a)(1)(A) and the 2.5 cent
19 amount in subsection (b)(2)(A)(ii)(II)(aa) shall each
20 be adjusted by multiplying such amount by the infla-
21 tion adjustment factor (as determined under section
22 45(e)(2)) for the calendar year in which the sale oc-
23 curs. If any amount as increased under the pre-
24 ceding sentence is not a multiple of 0.1 cent, such

1 amount shall be rounded to the nearest multiple of
2 0.1 cent.

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

6 “(3) PHASEOUT OF CREDIT.—If the Secretary,
7 in consultation with the Secretary of Energy and the
8 Administrator of the Environmental Protection
9 Agency, determines that the annual greenhouse gas
10 emissions from electricity production in the United
11 States for a calendar year are equal to or less than
12 50 percent of the annual greenhouse gas emissions
13 from electricity production in the United States for
14 calendar year 2020, the amount of the credit deter-
15 mined under the subsection (a) shall be reduced by
16 an amount equal to the product of—

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

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

24 “(4) WAGE REQUIREMENTS.—The taxpayer
25 shall ensure, with respect to a qualified nuclear

1 power facility, that any laborers and mechanics em-
2 ployed by contractors and subcontractors in the con-
3 struction, repair, alteration, or maintenance of such
4 facility shall be paid wages at rates not less than the
5 prevailing rates for construction, alteration, or re-
6 pair of a similar character in the locality as deter-
7 mined by the Secretary of Labor, in accordance with
8 subchapter IV of chapter 31 of title 40, United
9 States Code.

10 “(e) RECAPTURE.—

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

18 “(2) INVESTIGATION.—Upon receipt of a com-
19 plaint or its own initiative, the Secretary, in con-
20 sultation with the Secretary of Energy and the Sec-
21 retary of Labor, shall request and review the payroll
22 records of contractors and subcontractors engaged in
23 the performance of any construction, repair, alter-
24 ation, or maintenance with respect to a qualified nu-
25 clear power facility, and interview individuals em-

1 employed by such contractors and subcontractors, to
2 determine whether the requirements of paragraph
3 (1)(A) have been met.

4 “(3) ADMINISTRATION AND ENFORCEMENT.—
5 With respect to the administration and enforcement
6 of the standards in paragraph (1)(A), the Secretary
7 of Labor shall have the authority and functions set
8 forth in Reorganization Plan Numbered 14 of 1950
9 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
10 title 40, United States Code.

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

13 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

24 (2) The table of sections for subpart D of part
25 IV of subchapter A of chapter 1 of such Code is

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

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

3 (c) REPORT.—Not later than January 1, 2024, the
4 Comptroller General of the United States shall submit to
5 Congress a report with respect to the credits allowed for
6 qualified nuclear power facilities under section 45U of the
7 Internal Revenue Code of 1986 (as added by subsection
8 (a)), which shall include—

9 (1) an evaluation of the effectiveness of the
10 credits allowed under such section in regards to en-
11 suring grid reliability while avoiding emissions of
12 carbon dioxide, nitrogen oxides, sulfur oxides, partic-
13 ulate matter, and hazardous air pollutants;

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

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

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

22 **SEC. 3. USE OF QUALIFIED APPRENTICES.**

23 (a) IN GENERAL.—All contractors and subcontractors
24 engaged in the performance of construction, alter-
25 ation, or repair work on any applicable project shall, sub-

1 ject to subsection (b), ensure that not less than 15 percent
2 of the total labor hours of such work be performed by
3 qualified apprentices.

4 (b) APPRENTICE-TO-JOURNEYWORKER RATIO.—The
5 requirement under subsection (a) shall be subject to any
6 applicable requirements for apprentice-to-journeyworker
7 ratios of the Department of Labor or the applicable State
8 apprenticeship agency.

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

14 (d) EXCEPTION.—Notwithstanding any other provi-
15 sion in this section, this section shall not apply in the case
16 of a taxpayer who—

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

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

23 (e) DEFINITIONS.—In this section:

24 (1) APPLICABLE PROJECT.—The term “applica-
25 ble project” means, with respect to—

1 (A) subsection (e)(7)(A)(ii) of section 30C
2 of the Internal Revenue Code of 1986,

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

5 (C) subsection (b)(1)(A)(iv)(II) of section
6 45U of such Code,

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

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

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

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

14 (A) means the total number of hours de-
15 voted to the performance of construction, alter-
16 ation, or repair work by employees of the con-
17 tractor or subcontractor; and

18 (B) excludes any hours worked by—

19 (i) foremen;

20 (ii) superintendents;

21 (iii) owners; or

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

1 terms in part 541 of title 29, Code of Fed-
2 eral Regulations).

3 (3) QUALIFIED APPRENTICE.—The term “quali-
4 fied apprentice” means an individual who is an em-
5 ployee of the contractor or subcontractor and who is
6 participating in a registered apprenticeship program,
7 as defined in section 3131(e)(3)(B) of the Internal
8 Revenue Code of 1986.

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