

107TH CONGRESS
1ST SESSION

S. 741

To amend the Internal Revenue Code of 1986 to provide tax credits with respect to nuclear facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2001

Mr. SESSIONS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax credits with respect to nuclear facilities, and for other purposes.

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 “Nuclear Renewal Act
5 of 2001”.

6 **SEC. 2. CREDIT FOR PRODUCTION FROM NUCLEAR POWER**
7 **PLANTS.**

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 (relating to business related credits) is amended by
 2 adding at the end the following:

3 **“SEC. 45E. CREDIT FOR PRODUCTION FROM NUCLEAR**
 4 **POWER.**

5 “(a) GENERAL RULE.—For purposes of section 38,
 6 the nuclear power production credit of any taxpayer for
 7 any taxable year is—

8 “(1) in the case of a qualified nuclear power fa-
 9 cility, an amount equal to .34 cents, multiplied by
 10 the kilowatt hours of electricity—

11 “(A) produced by the taxpayer at a quali-
 12 fied nuclear power facility during the 5-year pe-
 13 riod beginning on the date the facility is origi-
 14 nally placed in service, and

15 “(B) sold by the taxpayer to an unrelated
 16 person during such taxable year, and

17 “(2) in the case of a qualified nuclear power fa-
 18 cility upgrade, an amount equal to .34 cents, multi-
 19 plied by the kilowatt hours of electricity—

20 “(A) produced by the taxpayer as a result
 21 of a qualified nuclear power facility upgrade
 22 during the 3-year period beginning on the date
 23 the upgrade is effective, and

24 “(B) sold by the taxpayer to an unrelated
 25 person during such taxable year.

1 “(b) LIMITATION.—The amount of the credit deter-
 2 mined under subsection (a) for any taxable year with re-
 3 spect to a nuclear power facility shall not exceed
 4 \$50,000,000.

5 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
 6 poses of this section—

7 “(1) QUALIFIED NUCLEAR POWER FACILITY.—
 8 The term ‘qualified nuclear power facility’ means
 9 any facility owned by the taxpayer—

10 “(A) with respect to which a construction
 11 license is approved by the Nuclear Regulatory
 12 Commission before the date of the enactment of
 13 this section and which is originally placed in
 14 service after such date, or

15 “(B) which resumes service after the date
 16 of the enactment of this section after a period
 17 of non-operation of at least 10 years.

18 “(2) QUALIFIED NUCLEAR POWER FACILITY UP-
 19 GRADE.—The term ‘qualified nuclear power facility
 20 upgrade’ means an upgrade to a nuclear power facil-
 21 ity after the date of the enactment of this section
 22 which allows electricity production of the facility in
 23 excess of the original rated thermal power of the fa-
 24 cility prior to the upgrade. An upgrade under this
 25 paragraph shall not be treated as effective until the

1 date on which the operating license of the facility
 2 has been approved by the Nuclear Regulatory Com-
 3 mission to reflect such upgrade.

4 “(3) CREDIT MAY BE TRANSFERRED.—Nothing
 5 in any law or rule of law shall be construed to limit
 6 the transferability of the credit allowed by this sec-
 7 tion through agreements by the owner of a nuclear
 8 power facility with any producer of electricity.

9 “(4) CREDITS FOR CERTAIN TAX EXEMPT OR-
 10 GANIZATIONS AND GOVERNMENTAL UNITS.—

11 “(A) ALLOWANCE OF CREDIT.—Any credit
 12 which would be allowable under this section
 13 with respect to a nuclear power facility of an
 14 entity if such entity were not exempt from tax
 15 under this chapter shall be treated as a credit
 16 allowable under subpart C to such entity if such
 17 entity is—

18 “(i) a public utility (as defined in sec-
 19 tion 136(c)(2)(B)), or

20 “(ii) the Tennessee Valley Authority.

21 “(B) TRANSFER OF CREDIT.—An entity
 22 described in subparagraph (A) may transfer
 23 any credit allowable to such entity under sub-
 24 paragraph (A) in accordance with paragraph
 25 (3).

1 “(5) SPECIAL RULES.—The rules of subsection
2 (b)(3) and paragraphs (3), (4), and (5) of subsection
3 (d) of section 45 shall apply.

4 “(e) TERMINATION.—This section shall not apply to
5 production in taxable years beginning after December 31,
6 2011.”.

7 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
8 tion 38(b) of the Internal Revenue Code of 1986 is amend-
9 ed by striking “plus” at the end of paragraph (12), by
10 striking the period at the end of paragraph (13) and in-
11 serting “, plus”, and by adding at the end the following:

12 “(14) the nuclear power production credit de-
13 termined under section 45E(a).”.

14 (c) TRANSITIONAL RULE.—Section 39(d) of the In-
15 ternal Revenue Code of 1986 (relating to transitional
16 rules) is amended by adding at the end the following:

17 “(10) NO CARRYBACK OF SECTION 45E CREDIT
18 BEFORE EFFECTIVE DATE.—No portion of the un-
19 used business credit for any taxable year which is
20 attributable to the nuclear power production credit
21 determined under section 45E may be carried back
22 to a taxable year ending before the date of the en-
23 actment of section 45E.”.

24 (d) CLERICAL AMENDMENT.—The table of sections
25 for subpart D of part IV of subchapter A of chapter 1

1 of the Internal Revenue Code of 1986 is amended by add-
 2 ing at the end the following:

“Sec. 45E. Credit for production from nuclear power.”.

3 (e) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to production after the date of the
 5 enactment of this Act.

6 **SEC. 4. DEPRECIATION OF PROPERTY USED IN THE GEN-**
 7 **ERATION OF ELECTRICITY.**

8 (a) DEPRECIATION OF PROPERTY USED IN THE
 9 GENERATION OF ELECTRICITY.—

10 (1) IN GENERAL.—Subparagraph (C) of section
 11 168(e)(3) of the Internal Revenue Code of 1986 (re-
 12 lating to 7-year property) is amended by redesignig-
 13 nating clause (ii) as clause (iii) and by inserting
 14 after clause (i) the following new clause:

15 “(ii) any property used in the genera-
 16 tion of electricity, and”.

17 (2) 10-YEAR CLASS LIFE.—The table contained
 18 in section 168(g)(3)(B) of such Code is amended by
 19 inserting after the item relating to subparagraph
 20 (C)(ii) the following new item:

“(C)(ii) 10”.

21 (b) DEFINITION OF PROPERTY USED IN THE GEN-
 22 ERATION OF ELECTRICITY.—Subsection (i) of section 168
 23 of the Internal Revenue Code of 1986 is amended by add-
 24 ing at the end the following new paragraph:

1 “(15) PROPERTY USED IN THE GENERATION OF
 2 ELECTRICITY.—The term ‘property used in the gen-
 3 eration of electricity’ means property (other than
 4 electric utility nuclear fuel assemblies) used in any
 5 qualified nuclear power facility or in any qualified
 6 nuclear power facility upgrade (as defined in para-
 7 graphs (1) and (2) of section 45E(c), respectively).”.

8 (c) TAX-EXEMPT USE PROPERTY.—Subparagraph
 9 (A) of section 168(h)(1) of the Internal Revenue Code of
 10 1986 (defining tax-exempt use property) is amended by
 11 inserting “or property used in any qualified nuclear power
 12 facility or in any qualified nuclear power facility upgrade
 13 (as defined in paragraphs (1) and (2) of section 45E(c),
 14 respectively)” after “nonresidential real property”.

15 (d) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to property placed in service after
 17 the date of the enactment of this Act.

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