II

116TH CONGRESS
1ST SESSION

S. 1134

To amend the Internal Revenue Code of 1986 to provide for an investment tax credit related to the production of electricity from nuclear energy.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2019

Mr. CRAMER (for himself and Mr. CARDIN) 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 for an investment tax credit related to the production of electricity from nuclear energy.

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 ‘‘Nuclear Powers America Act of 2019’’.

SEC. 2. ENERGY CREDIT FOR NUCLEAR ENERGY PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) of the Internal Revenue Code of 1986 is amended in clause (vi) by striking ‘‘or’’, by inserting ‘‘or’’ at the end of clause (vii), and by adding at the end the following new clause:

‘‘(viii) qualified nuclear energy property,’’.

(b) ELIGIBLE FOR 30-PERCENT CREDIT.—Section 48(a)(2)(A)(i) of such Code is amended by striking ‘‘and’’ in subclause (III) and by adding at the end the following new subclause:

‘‘(V) energy property described in paragraph (3)(A)(viii) but only with respect to property placed in service before January 1, 2026, and’’.

(c) QUALIFIED NUCLEAR ENERGY PROPERTY.—Section 48(c) of such Code is amended by adding at the end the following new paragraph:

‘‘(5) QUALIFIED NUCLEAR ENERGY PROPERTY.—

‘‘(A) IN GENERAL.—The term ‘qualified nuclear energy property’ means any amounts paid or incurred for the refueling of, and any other expenditures described in section 263(a) with respect to, a qualifying nuclear power plant.

“(B) QUALIFYING NUCLEAR POWER PLANT.—The term ‘qualifying nuclear power plant’ means a nuclear power plant which—

“(i) submitted an application for license renewal to the Nuclear Regulatory Commission in accordance with part 54 of title 10, Code of Federal Regulations, before January 1, 2026, or

“(ii) certified to the Secretary (at such time and in such form and in such manner as the Secretary prescribes) that such plant will submit an application for license renewal to the Nuclear Regulatory Commission in accordance with part 54 of title 10, Code of Federal Regulations, before January 1, 2026.

“(C) SPECIAL RULES.—

“(i) BASIS.—For purposes of subsection (a), the cumulative amounts paid or incurred by the taxpayer during the taxable year with respect to a qualifying nuclear power plant, which are properly chargeable to capital account, shall be treated as the basis of the qualified nuclear energy property placed in service for that taxable year.

"(ii) PLACED IN SERVICE.—For purposes of subsection (a), qualified nuclear energy property shall be treated as having been placed in service on the last day of the taxable year in which the taxpayer pays or incurs such amounts described in clause (i).

"(iii) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) to any qualifying nuclear power plant which made a certification pursuant to subparagraph (B) but does not file an application of license renewal to the Nuclear Regulatory Commission in accordance with part 54 of title 10, Code of Federal Regulations, before January 1, 2026.".

(d) PHASEOUT OF 30-PERCENT CREDIT RATE FOR NUCLEAR ENERGY PROPERTY.—Section 48(a) of such Code is amended by adding at the end the following new paragraph:

"(8) PHASEOUT FOR QUALIFIED NUCLEAR ENERGY PROPERTY.—In the case of qualified nuclear energy property, the energy percentage determined under paragraph (2) shall be equal to—

"(A) in the case of any property placed in service after December 31, 2023, and before January 1, 2025, 26 percent, and

"(B) in the case of any property placed in service after December 31, 2024, and before January 1, 2026, 22 percent.".

(e) COORDINATION WITH CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.—The last sentence of section 48(a)(3) is amended by inserting "or 45J" after "section 45".

(f) TRANSFER OF CREDIT BY CERTAIN PUBLIC ENTITIES.—

(1) IN GENERAL.—Section 48 of such Code is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR QUALIFIED NUCLEAR ENERGY PROPERTY.—

"(1) IN GENERAL.—In the case of any qualified nuclear energy property, if, with respect to a credit under subsection (a) for any taxable year—

"(A) the taxpayer would be a qualified public entity, and

"(B) such entity elects the application of this subsection for such taxable year with respect to all (or any portion specified in such election) of such credit, the eligible project partner specified in such election (and not the qualified public entity) shall be treated as the taxpayer for purposes of this title with respect to such credit (or such portion thereof).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PUBLIC ENTITY.—The term 'qualified public entity' means—

"(i) a Federal, State, or local government entity, or any political subdivision, agency, or instrumentality thereof,

"(ii) a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2), or

"(iii) a not-for-profit electric utility which has or had received a loan or loan guarantee under the Rural Electrification Act of 1936.

"(B) ELIGIBLE PROJECT PARTNER.—The term 'eligible project partner' means—

"(i) any person responsible for operating, maintaining, or repairing the qualifying nuclear power plant to which the credit under subsection (a) relates,

"(ii) any person who participates in the provision of the nuclear steam supply system to the qualifying nuclear power plant to which the credit under subsection (a) relates,

"(iii) any person who participates in the provision of nuclear fuel to the qualifying nuclear power plant to which the credit under subsection (a) relates, or

"(iv) any person who has an ownership interest in such facility.

"(3) SPECIAL RULES.—

"(A) APPLICATION TO PARTNERSHIPS.—In the case of a credit under subsection (a) which is determined with respect to qualified nuclear energy property at the partnership level—

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

"(ii) the term 'eligible project partner' shall include any partner of the partnership.

"(B) TAXABLE YEAR IN WHICH CREDIT TAKEN INTO ACCOUNT.—In the case of any credit (or portion thereof) with respect to which an election is made under subsection (e), such credit shall be taken into account in the first taxable year of the eligible project partner ending with, or after, the qualified public entity's taxable year with respect to which the credit was determined.

"(C) TREATMENT OF TRANSFER UNDER PRIVATE USE RULES.—For purposes of section 141(b)(1), any benefit derived by an eligible project partner in connection with an election under this subsection shall not be taken into account as a private business use.".

(2) SPECIAL RULE FOR PROCEEDS OF TRANSFERS FOR MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—Section 501(c)(12)(I) of such Code is amended by inserting "or 48(e)(1)" after "section 45J(e)(1)".

(g) CONFORMING AMENDMENT.—Section 48(a)(2)(A) of such Code is amended by striking ''and (7)'' and inserting '', (7), and (8)''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2018, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990).

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