

115TH CONGRESS
1ST SESSION

S. 666

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2017

Mr. SCOTT (for himself, Mr. GRAHAM, and Mr. ISAKSON) 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 modify the credit for production from advanced nuclear power facilities.

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. MODIFICATIONS OF CREDIT FOR PRODUCTION**
4 **FROM ADVANCED NUCLEAR POWER FACILI-**
5 **TIES.**

6 (a) TREATMENT OF UNUTILIZED LIMITATION
7 AMOUNTS.—Section 45J(b) of the Internal Revenue Code
8 of 1986 is amended—

9 (1) in paragraph (4), by inserting “or any
10 amendment to” after “enactment of”, and

1 (2) by adding at the end the following new
2 paragraph:

3 “(5) ALLOCATION OF UNUTILIZED LIMITA-
4 TION.—

5 “(A) IN GENERAL.—Any unutilized na-
6 tional megawatt capacity limitation shall be al-
7 located by the Secretary under paragraph (3)
8 as rapidly as is practicable after December 31,
9 2020—

10 “(i) first to facilities placed in service
11 on or before such date to the extent that
12 such facilities did not receive an allocation
13 equal to their full nameplate capacity, and

14 “(ii) then to facilities placed in service
15 after such date in the order in which such
16 facilities are placed in service.

17 “(B) UNUTILIZED NATIONAL MEGAWATT
18 CAPACITY LIMITATION.—The term ‘unutilized
19 national megawatt capacity limitation’ means
20 the excess (if any) of—

21 “(i) 6,000 megawatts, over

22 “(ii) the aggregate amount of national
23 megawatt capacity limitation allocated by
24 the Secretary before January 1, 2021, re-
25 duced by any amount of such limitation

1 which was allocated to a facility which was
2 not placed in service before such date.

3 “(C) COORDINATION WITH OTHER PROVI-
4 SIONS.—In the case of any unutilized national
5 megawatt capacity limitation allocated by the
6 Secretary pursuant to this paragraph—

7 “(i) such allocation shall be treated
8 for purposes of this section in the same
9 manner as an allocation of national mega-
10 watt capacity limitation, and

11 “(ii) subsection (d)(1)(B) shall not
12 apply to any facility which receives such al-
13 location.”.

14 (b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
15 TITIES.—

16 (1) IN GENERAL.—Section 45J of such Code is
17 amended—

18 (A) by redesignating subsection (e) as sub-
19 section (f), and

20 (B) by inserting after subsection (d) the
21 following new subsection:

22 “(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
23 TITIES.—

24 “(1) IN GENERAL.—If, with respect to a credit
25 under subsection (a) for any taxable year—

1 “(A) the taxpayer would be a qualified
2 public entity, and

3 “(B) such entity elects the application of
4 this paragraph for such taxable year with re-
5 spect to all (or any portion specified in such
6 election) of such credit,
7 the eligible project partner specified in such election
8 (and not the qualified public entity) shall be treated
9 as the taxpayer for purposes of this title with re-
10 spect to such credit (or such portion thereof).

11 “(2) DEFINITIONS.—For purposes of this sub-
12 section—

13 “(A) QUALIFIED PUBLIC ENTITY.—The
14 term ‘qualified public entity’ means—

15 “(i) a Federal, State, or local govern-
16 ment entity, or any political subdivision,
17 agency, or instrumentality thereof,

18 “(ii) a mutual or cooperative electric
19 company described in section 501(c)(12) or
20 section 1381(a)(2), or

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

1 “(B) ELIGIBLE PROJECT PARTNER.—The
2 term ‘eligible project partner’ means—

3 “(i) any person responsible for, or
4 participating in, the design or construction
5 of the advanced nuclear power facility to
6 which the credit under subsection (a) re-
7 lates,

8 “(ii) any person who participates in
9 the provision of the nuclear steam supply
10 system to the advanced nuclear power fa-
11 cility to which the credit under subsection
12 (a) relates,

13 “(iii) any person who participates in
14 the provision of nuclear fuel to the ad-
15 vanced nuclear power facility to which the
16 credit under subsection (a) relates, or

17 “(iv) any person who has an owner-
18 ship interest in such facility.

19 “(3) SPECIAL RULES.—

20 “(A) APPLICATION TO PARTNERSHIPS.—In
21 the case of a credit under subsection (a) which
22 is determined at the partnership level—

23 “(i) for purposes of paragraph (1)(A),
24 a qualified public entity shall be treated as

1 the taxpayer with respect to such entity's
2 distributive share of such credit, and

3 “(ii) the term ‘eligible project partner’
4 shall include any partner of the partner-
5 ship.

6 “(B) TAXABLE YEAR IN WHICH CREDIT
7 TAKEN INTO ACCOUNT.—In the case of any
8 credit (or portion thereof) with respect to which
9 an election is made under paragraph (1), such
10 credit shall be taken into account in the first
11 taxable year of the eligible project partner end-
12 ing with, or after, the qualified public entity's
13 taxable year with respect to which the credit
14 was determined.

15 “(C) TREATMENT OF TRANSFER UNDER
16 PRIVATE USE RULES.—For purposes of section
17 141(b)(1), any benefit derived by an eligible
18 project partner in connection with an election
19 under this subsection shall not be taken into ac-
20 count as a private business use.”.

21 (2) SPECIAL RULE FOR PROCEEDS OF TRANS-
22 FERS FOR MUTUAL OR COOPERATIVE ELECTRIC
23 COMPANIES.—Section 501(c)(12) of such Code is
24 amended by adding at the end the following new
25 subparagraph:

1 “(I) In the case of a mutual or cooperative
2 electric company described in this paragraph or
3 an organization described in section 1381(a)(2),
4 income received or accrued in connection with
5 an election under section 45J(e)(1) shall be
6 treated as an amount collected from members
7 for the sole purpose of meeting losses and ex-
8 penses.”.

9 (c) EFFECTIVE DATES.—

10 (1) TREATMENT OF UNUTILIZED LIMITATION
11 AMOUNTS.—The amendment made by subsection (a)
12 shall take effect on the date of the enactment of this
13 Act.

14 (2) TRANSFER OF CREDIT BY CERTAIN PUBLIC
15 ENTITIES.—The amendments made by subsection
16 (b) shall apply to taxable years beginning after De-
17 cember 31, 2017.

○