

115TH CONGRESS
2D SESSION

S. 2677

To amend the Internal Revenue Code of 1986 to allow a credit against tax for coal-powered electric generation units.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2018

Mrs. CAPITO 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 allow a credit against tax for coal-powered electric generation units.

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 “Electricity Reliability
5 and Fuel Security Act”.

6 **SEC. 2. COAL-POWERED ELECTRIC GENERATION UNIT**
7 **CREDIT.**

8 (a) **FEDERAL TAX CREDIT FOR COAL-POWERED**
9 **ELECTRIC GENERATION UNITS.**—Subpart D of part IV
10 of subchapter A of chapter 1 of the Internal Revenue Code

1 of 1986 is amended by adding at the end the following
 2 new section:

3 **“SEC. 45T. COAL-POWERED ELECTRIC GENERATION UNIT**
 4 **CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 38, in
 6 the case of a taxpayer who owns or leases a coal-powered
 7 electric generation unit, the coal-powered electric genera-
 8 tion unit credit determined under this section for a taxable
 9 year shall be an amount equal to the lesser of 30 percent
 10 of qualified expenses paid or incurred by such taxpayer
 11 in such year or the product of—

12 “(1) \$13, multiplied by

13 “(2) the nameplate capacity rating in kilowatts
 14 of such unit.

15 “(b) COAL-POWERED ELECTRIC GENERATION
 16 UNIT.—For purposes of this section, the term ‘coal-pow-
 17 ered electric generation unit’ means an electric generation
 18 unit (as defined in section 48A(c)(6)) that uses coal to
 19 produce not less than 75 percent of the electricity pro-
 20 duced by such unit.

21 “(c) QUALIFIED EXPENSES.—For purposes of this
 22 section, the term ‘qualified expenses’ means amounts paid
 23 or incurred for the operation or maintenance of a coal-
 24 powered electric generation unit, other than amounts paid
 25 or incurred for coal.

1 “(d) TRANSFER OF CREDIT.—

2 “(1) IN GENERAL.—With respect to a credit
3 under subsection (a) for any taxable year, a tax-
4 payer may elect to transfer all or any portion of
5 such credit to any eligible project partner as speci-
6 fied in such election and such eligible project part-
7 ner, not the taxpayer, shall be entitled to claim the
8 credit for such taxable year.

9 “(2) ELECTION TO TRANSFER.—The taxpayer
10 may elect to transfer all or any portion of the credit
11 to an eligible project partner by attaching a state-
12 ment to the taxpayer’s tax return for the taxable
13 year in which the qualified expenses were paid or in-
14 curred, providing such information as is necessary
15 for the Secretary to adequately identify the eligible
16 project partner and the amount of the credit being
17 transferred.

18 “(3) APPLICATION TO QUALIFIED PUBLIC ENTI-
19 TIES.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the term ‘taxpayer’ shall include a
22 qualified public entity.

23 “(B) QUALIFIED PUBLIC ENTITY.—The
24 term ‘qualified public entity’ means—

1 “(i) a Federal, State, or local govern-
2 ment entity, or any political subdivision,
3 agency, or instrumentality thereof,

4 “(ii) a mutual or cooperative electric
5 company described in section 501(e)(12) or
6 1381(a)(2), or

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

11 “(4) ELIGIBLE PROJECT PARTNER.—With re-
12 spect to coal-powered electric generation unit, the
13 term ‘eligible project partner’ means any person
14 who—

15 “(A) is responsible for operating, maintain-
16 ing, or repairing such unit,

17 “(B) participates in the provision, includ-
18 ing transportation, of coal or other materials
19 and supplies to such unit,

20 “(C) provides financing for the construc-
21 tion, expansion, repair, or operation of such
22 unit, or

23 “(D) leases such unit.

24 “(5) SPECIAL RULES.—

1 “(A) APPLICATION TO PARTNERSHIPS.—In
2 the case of a credit under subsection (a) which
3 is determined at the partnership level, the term
4 ‘eligible project partner’ shall include any part-
5 ner of the partnership.

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 (2), 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 taxpayer’s taxable year
13 with respect to which the credit was deter-
14 mined.

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 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
22 title, if a credit is allowed under this section with respect
23 to any coal-powered electric generation unit, the basis, if
24 any, of such property shall be reduced by the amount of
25 the credit so allowed.

1 “(f) TERMINATION.—This section shall apply to tax-
2 able years beginning after December 31, 2017, and ending
3 before January 1, 2023.”.

4 (b) CONFORMING AMENDMENT.—Section
5 501(c)(12)(I) is amended by inserting “or 45T(d)(1)”
6 after “section 45J(e)(I)”.

7 (c) CREDIT TO BE PART OF GENERAL BUSINESS
8 CREDIT.—

9 (1) IN GENERAL.—Section 38(b) of the Internal
10 Revenue Code of 1986 is amended by striking
11 “plus” at the end of paragraph (36), by striking the
12 period at the end of paragraph (37) and inserting “,
13 plus”, and by adding at the end the following new
14 paragraph:

15 “(38) the coal-powered electric generation unit
16 credit determined under section 45T(a).”.

17 (2) CREDIT ALLOWED AGAINST ALTERNATIVE
18 MINIMUM TAX.—Subparagraph (B) of section
19 38(c)(4) of the Internal Revenue Code of 1986 is
20 amended—

21 (A) by redesignating clauses (x), (xi), and
22 (xii) as clauses (xi), (xii), and (xiii), respec-
23 tively; and

24 (B) by inserting after clause (ix) the fol-
25 lowing new clause:

1 “(x) the credit determined under sec-
2 tion 45T,”.

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 is amended by adding at the end the following new item:

“Sec. 45T. Coal-powered electric generation unit credit.”.

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