

117TH CONGRESS
1ST SESSION

S. 1017

To amend the Internal Revenue Code of 1986 to establish a tax credit for the production of hydrogen using electricity produced from renewable energy resources.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mr. HEINRICH 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 establish a tax credit for the production of hydrogen using electricity produced from renewable energy resources.

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 “Clean Hydrogen Pro-
5 duction Incentives Act of 2021”.

6 **SEC. 2. CLEAN HYDROGEN PRODUCTION CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 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. CLEAN HYDROGEN PRODUCTION CREDIT.**

4 “(a) AMOUNT OF CREDIT.—For purposes of section
5 38, the clean hydrogen production credit for any taxable
6 year is an amount equal to the product of—

7 “(1) the applicable amount, multiplied by

8 “(2) the kilograms of clean hydrogen—

9 “(A) produced by the taxpayer at a quali-
10 fied facility during the 10-year period beginning
11 on the date the facility was originally placed in
12 service, and

13 “(B) sold by the taxpayer to an unrelated
14 person during the taxable year.

15 “(b) APPLICABLE AMOUNT.—For purposes of sub-
16 section (a)(1), the applicable amount shall be an amount
17 equal to—

18 “(1) in the case of any facility the construction
19 of which begins before January 1, 2025, \$3.00,

20 “(2) in the case of any facility the construction
21 of which begins after December 31, 2024, and be-
22 fore January 1, 2026, \$2.40,

23 “(3) in the case of any facility the construction
24 of which begins after December 31, 2025, and be-
25 fore January 1, 2027, \$1.60, and

1 “(4) in the case of any facility the construction
2 of which begins after December 31, 2026, \$0.

3 “(c) CLEAN HYDROGEN.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘clean hydrogen’ means hydrogen pro-
6 duced—

7 “(A) using an electrolyzer for which the
8 electricity used is produced from qualified re-
9 newable energy resources, or

10 “(B) by any other process which has been
11 determined by the Secretary (in consultation
12 with the Secretary of Energy) to have a rate of
13 carbon dioxide emissions per kilogram of hydro-
14 gen produced which is equal to or lower than
15 such rate for such production from the process
16 described in subparagraph (A).

17 “(2) QUALIFIED RENEWABLE ENERGY RE-
18 SOURCES.—For purposes of this subsection, the
19 term ‘qualified renewable energy resources’ means—

20 “(A) wind,

21 “(B) solar energy,

22 “(C) geothermal energy (as defined in sec-
23 tion 45(c)(4)),

24 “(D) marine and hydrokinetic renewable
25 energy (as defined in section 45(c)(10)),

1 “(E) hydropower,
2 “(F) nuclear energy, and
3 “(G) any other renewable energy resource
4 that produces electricity without the use of fos-
5 sil fuels (as determined by the Secretary, in
6 consultation with the Secretary of Energy).

7 “(d) QUALIFIED FACILITY.—For purposes of this
8 section, the term ‘qualified facility’ means a facility owned
9 by the taxpayer which is used for the production of clean
10 hydrogen.

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

14 (b) CONFORMING AMENDMENTS.—

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

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

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

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

23 “(34) the clean hydrogen production credit de-
24 termined under section 45U(a).”.

1 (2) The table of sections for subpart D of part
2 IV of subchapter A of chapter 1 of such Code is
3 amended by adding at the end the following new
4 item:

“Sec. 45U. Clean hydrogen production credit.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to facilities originally placed in
7 service after December 31, 2020.

○