

BILL TEXT  
S741  
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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

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### A BILL

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

*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 Renewal Act of 2001".

#### **SEC. 2. CREDIT FOR PRODUCTION FROM NUCLEAR POWER PLANTS.**

(a) **IN GENERAL.**-Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

#### **"SEC. 45E. CREDIT FOR PRODUCTION FROM NUCLEAR POWER.**

"(a) **GENERAL RULE.**-For purposes of section 38, the nuclear power production credit of

any taxpayer for any taxable year is-

"(1) in the case of a qualified nuclear power facility, an amount equal to .34 cents, multiplied by the kilowatt hours of electricity-

"(A) produced by the taxpayer at a qualified nuclear power facility during the 5-year period beginning on the date the facility is originally placed in service, and

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

"(2) in the case of a qualified nuclear power facility upgrade, an amount equal to .34 cents, multiplied by the kilowatt hours of electricity-

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

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

"(b) LIMITATION.-The amount of the credit determined under subsection (a) for any taxable year with respect to a nuclear power facility shall not exceed \$50,000,000.

"(c) DEFINITIONS AND SPECIAL RULES.-For purposes of this section-

"(1) QUALIFIED NUCLEAR POWER FACILITY.-The term 'qualified nuclear power facility' means any facility owned by the taxpayer-

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

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

"(2) QUALIFIED NUCLEAR POWER FACILITY UPGRADE.-The term 'qualified nuclear power facility upgrade' means an upgrade to a nuclear power facility after the date of the enactment of this section which allows electricity production of the facility in excess of the original rated thermal power of the facility prior to the upgrade. An upgrade under this paragraph shall not be treated as effective until the date on which the operating license of the facility has been approved by the Nuclear Regulatory Commission to reflect such upgrade.

"(3) CREDIT MAY BE TRANSFERRED.-Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through agreements by the owner of a nuclear power facility with any producer of electricity.

"(4) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.-

"(A) ALLOWANCE OF CREDIT.-Any credit which would be allowable under this section with respect to a nuclear power facility of an entity if such entity were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such entity if such entity is-

"(i) a public utility (as defined in section 136(c)(2)(B)), or

"(ii) the Tennessee Valley Authority.

"(B) TRANSFER OF CREDIT.-An entity described in subparagraph (A) may transfer any credit allowable to such entity under subparagraph (A) in accordance with paragraph (3).

"(5) SPECIAL RULES.-The rules of subsection (b)(3) and paragraphs (3), (4), and (5) of subsection (d) of section 45 shall apply.

"(e) TERMINATION.-This section shall not apply to production in taxable years beginning after December 31, 2011."

(b) CREDIT TREATED AS BUSINESS CREDIT.-Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following:

"(14) the nuclear power production credit determined under section 45E(a)."

(c) TRANSITIONAL RULE.-Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) is amended by adding at the end the following:

"(10) NO CARRYBACK OF SECTION 45E CREDIT BEFORE EFFECTIVE DATE.-No portion of the unused business credit for any taxable year which is attributable to the nuclear power production credit determined under section 45E may be carried back to a taxable year ending before the date of the enactment of section 45E."

(d) CLERICAL AMENDMENT.-The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 45E. Credit for production from nuclear power."

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

#### **SEC. 4. DEPRECIATION OF PROPERTY USED IN THE GENERATION OF ELECTRICITY.**

(a) DEPRECIATION OF PROPERTY USED IN THE GENERATION OF ELECTRICITY.-

(1) IN GENERAL.-Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 7-year property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) any property used in the generation of electricity, and"

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

"(C)(ii) 10".

(b) DEFINITION OF PROPERTY USED IN THE GENERATION OF ELECTRICITY.-Subsection (i) of section 168 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(15) PROPERTY USED IN THE GENERATION OF ELECTRICITY.-The term 'property used in the generation of electricity' means property (other than electric utility nuclear fuel assemblies) used in any qualified nuclear power facility or in any qualified nuclear power facility upgrade (as defined in paragraphs (1) and (2) of section 45E(c), respectively).".

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

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

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