

117TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to expand the renewable electricity production credit to include electricity produced from hydrogen.

IN THE SENATE OF THE UNITED STATES

Mr. YOUNG (for himself and Mr. WHITEHOUSE) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to expand the renewable electricity production credit to include electricity produced from hydrogen.

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 “Hydrogen Utilization
5 and Sustainability Act”.

1 **SEC. 2. EXPANSION OF RENEWABLE ELECTRICITY PRODUC-**
2 **TION CREDIT TO INCLUDE ELECTRICITY PRO-**
3 **DUCTION FROM HYDROGEN.**

4 (a) IN GENERAL.—Section 45 of the Internal Rev-
5 enue Code of 1986 is amended—

6 (1) in subsection (c)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (H), by striking
9 “and” at the end;

10 (ii) in subparagraph (I), by striking
11 the period at the end and inserting “,
12 and”; and

13 (iii) by adding at the end the fol-
14 lowing new subparagraph:

15 “(J) qualified hydrogen.”; and

16 (B) by adding at the end the following new
17 paragraph:

18 “(11) QUALIFIED HYDROGEN.—The term
19 ‘qualified hydrogen’ means, with respect to any tax-
20 able year, hydrogen fuel which has been certified
21 prior to such year by the Secretary of Energy (in
22 consultation with the Secretary) as having a carbon
23 intensity of not greater than 75 grams of CO_{2e} per
24 kilowatt hour of electricity produced, as determined
25 based on a lifecycle analysis.”; and

1 (2) in subsection (d), by adding at the end the
2 following new paragraph:

3 “(12) HYDROGEN FACILITY.—

4 “(A) IN GENERAL.—In the case of a facil-
5 ity using qualified hydrogen to produce elec-
6 tricity, the term ‘qualified facility’ means any
7 facility owned by the taxpayer—

8 “(i) for which not less than 70 per-
9 cent of the electricity produced at such fa-
10 cility during any taxable year is attrib-
11 utable to the use of qualified hydrogen,
12 and

13 “(ii)(I) the construction of which be-
14 gins before January 1, 2024, or

15 “(II) which—

16 “(aa) was originally placed in
17 service before the date of enactment
18 of this paragraph and, prior to the
19 modification described in item (bb),
20 did not use hydrogen to produce elec-
21 tricity, and

22 “(bb) before January 1, 2024, is
23 modified to use qualified hydrogen to
24 produce electricity.

1 taxpayer at such facility for such tax-
2 able year, multiplied by

3 “(II) an amount equal to the
4 quotient of—

5 “(aa) the amount of quali-
6 fied hydrogen used at such facil-
7 ity to produce such electricity (as
8 determined on the basis of Btu
9 content), divided by

10 “(bb) the total amount of
11 fuel used at such facility to
12 produce such electricity (as deter-
13 mined on the basis of Btu con-
14 tent).

15 “(ii) ADJUSTMENT FOR NEGATIVE
16 CARBON INTENSITY.—

17 “(I) IN GENERAL.—For purposes
18 of subsection (a)(2), the total amount
19 of kilowatt hours of electricity pro-
20 duced by the taxpayer at a qualified
21 facility described in subparagraph (A)
22 for any taxable year (as determined
23 after application of clause (i)) shall be
24 increased by an amount equal to the

6

1 applicable percentage of such total
2 amount.

3 “(II) APPLICABLE PERCENT-
4 AGE.—For purposes of subclause (I),
5 the applicable percentage for a quali-
6 fied facility for any taxable year is the
7 amount (expressed as a percentage)
8 equal to the product of—

9 “(aa) 1 percentage point,
10 multiplied by

11 “(bb) an amount equal to
12 the quotient of—

13 “(AA) the total amount
14 of carbon dioxide (expressed
15 in metric tons) which is re-
16 moved from the atmosphere
17 during such taxable year
18 through the use of qualified
19 hydrogen (as determined
20 pursuant to a certification of
21 negative carbon intensity for
22 such hydrogen under sub-
23 section (c)(11)) at such
24 qualified facility, divided by

25 “(BB) 1,000.”.

1 (b) **EFFECTIVE DATE.**—The amendments made by
2 this section shall take effect on the date of enactment of
3 this Act.