

116TH CONGRESS
2D 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 **DUCED 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 Secretary of Energy (in con-
22 sultation with the Secretary) as having non-positive
23 carbon intensity, as determined based on a lifecycle
24 analysis.”, and

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

1 “(12) HYDROGEN FACILITY.—

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

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

11 “(ii)(I) the construction of which be-
12 gins before January 1, 2022, or

13 “(II) which—

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

20 “(bb) before January 1, 2022, is
21 modified to use qualified hydrogen to
22 produce electricity.

23 “(B) MODIFICATION.—For purposes of
24 subparagraph (A)(ii)(II)(bb), a facility shall be
25 treated as modified before January 1, 2022, if

1 the construction of such modification begins be-
2 fore such date.

3 “(C) ELECTION.—If the owner of the facil-
4 ity described in subparagraph (A) makes an
5 election under this subparagraph in such time
6 and manner as the Secretary may prescribe by
7 regulations, the credit under this section—

8 “(i) shall be allowable to the person
9 that leases and operates such facility, and

10 “(ii) shall not be allowable to the
11 owner of such facility.

12 “(D) SPECIAL RULES.—

13 “(i) EXCLUSION OF ELECTRICITY NOT
14 PRODUCED FROM QUALIFIED HYDRO-
15 GEN.—For purposes of subsection (a)(2),
16 the total amount of kilowatt hours of elec-
17 tricity produced by the taxpayer at a quali-
18 fied facility described in subparagraph (A)
19 for any taxable year shall be equal to the
20 product of—

21 “(I) the total amount of kilowatt
22 hours of electricity produced by the
23 taxpayer at such facility for such tax-
24 able year, multiplied by

1 “(II) an amount equal to the
2 quotient of—

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

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

13 “(ii) ADJUSTMENT FOR NEGATIVE
14 CARBON INTENSITY.—

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

6

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

7 “(aa) 1 percentage point,
8 multiplied by

9 “(bb) an amount equal to
10 the quotient of—

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

23 “(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.