To amend the Internal Revenue Code of 1986 to establish a tax credit for production of electricity using nuclear power.

IN THE SENATE OF THE UNITED STATES

Mr. CARDIN 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 establish a tax credit for production of electricity using nuclear power.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Zero-Emission Nuclear
Power Production Credit Act of 2021”.

SEC. 2. ZERO-EMISSION NUCLEAR POWER PRODUCTION
CREDIT.

(a) In general.—Subpart D of part IV of sub-
chapter A of chapter 1 of the Internal Revenue Code of
1986 is amended by adding at the end the following new section:

"SEC. 45U. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—

"(1) the product of—

"(A) 1.5 cents, multiplied by

"(B) the kilowatt hours of electricity—

"(i) produced by the taxpayer at a qualified nuclear power facility, and

"(ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds

"(2) the reduction amount for such taxable year.

"(b) DEFINITIONS.—

"(1) QUALIFIED NUCLEAR POWER FACILITY.— For purposes of this section, the term ‘qualified nuclear power facility’ means any nuclear facility—

"(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,
“(B) which is not described in section 168(i)(10), and

“(C) which is not an advanced nuclear power facility, as defined in subsection (d)(1) of section 45J, or which has not received an allocation under subsection (b) of such section.

“(2) REDUCTION AMOUNT.—

“(A) IN GENERAL.—For purposes of this section, the term ‘reduction amount’ means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of—

“(i) the amount determined under subsection (a)(1), or

“(ii) the amount equal to 80 percent of the excess of—

“(I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility and sold to an unrelated person during such taxable year, over

“(II) the amount equal to the product of—

“(aa) 2.5 cents, multiplied by
“(bb) the amount determined under subsection (a)(1)(B).

“(B) Treatment of Certain Receipts.—

“(i) In General.—The amount determined under subparagraph (A)(ii)(I) shall include any amount received by the taxpayer during the taxable year with respect to the qualified nuclear power facility from a zero-emission credit program unless the amount received by the taxpayer is subject to reduction—

“(I) by the full amount of the credit determined under this section, or

“(II) by any lesser amount if such amount entirely offsets the amount received from a zero-emission credit program.

“(ii) Zero-Emission Credit Program.—For purposes of this subparagraph, the term ‘zero-emission credit program’ means any State or local government program that provides payments to a
qualified nuclear power facility for, in whole or in part, the zero-emission, zero-carbon, or air quality attributes of any portion of the electricity produced by such facility.

“(3) ELECTRICITY.—For purposes of this section (with the exception of subsection (d)(3)), the term ‘electricity’ means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.

“(c) ELECTION FOR DIRECT PAYMENT.—

“(1) IN GENERAL.—In the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this subsection with respect to any portion of the credit which would (without regard to this subsection) be determined under subsection (a) with respect to such taxpayer, such taxpayer shall be treated as making a payment against the tax imposed by subtitle A for the taxable year equal to the amount of such portion.

“(2) TIMING.—The payment described in paragraph (1) shall be treated as made on the later of the due date of the return of tax for the taxable year or the date on which such return is filed.
"(3) Exclusion from Gross Income.—Gross income of the taxpayer shall be determined without regard to this subsection.

"(4) Denial of Double Benefit.—Solely for purposes of section 38, in the case of a taxpayer making an election under this subsection, the credit determined under subsection (a) shall be reduced by the amount of the portion of such credit with respect to which the taxpayer makes such election.

"(5) Exclusion of Tax-Exempt Entities.—This subsection shall not apply to any entity described in section 168(h)(2).

"(d) Other Rules.—

"(1) Inflation Adjustment.—In the case of calendar years beginning after 2021, the 1.5 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting 'calendar year 2020' for 'calendar year 1992' in subparagraph (B) thereof) for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such
amount shall be rounded to the nearest multiple of 0.1 cent.

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

“(3) PHASEOUT OF CREDIT.—If the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines that the annual greenhouse gas emissions from electricity production in the United States for a calendar year are equal to or less than 50 percent of the annual greenhouse gas emissions from electricity production in the United States for calendar year 2020, the amount of the credit determined under the subsection (a) shall be reduced by an amount equal to the product of—

“(A) the amount of credit determined under the subsection (a), as determined before application of this paragraph, multiplied by

“(B) an amount (expressed as a percentage) equal to twice the percentage amount that the percentage determined by the Secretary pursuant to this paragraph exceeds 50 percent.

“(4) ULTIMATE PURCHASER.—For purposes of this section, electricity produced by the taxpayer will
be treated as sold to an unrelated person if the ultimate purchaser of such electricity is unrelated to such taxpayer.

“(e) Recapture.—

“(1) In general.—The Secretary, in consultation with the Secretary of Energy and the Secretary of Labor, shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) for any taxable year if the Secretary determines that—

“(A) any contractor or subcontractor has failed to pay a laborer or mechanic employed by the contractor or subcontractor in the performance of any construction, repair, alteration, or maintenance with respect to the qualified nuclear power facility during such taxable year wages at rates not less than the rates prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code,

“(B) any such contractor or subcontractor has failed to make the records required under paragraph (2) available to the Secretary for the purposes described in such paragraph, or
“(C) any contractor or subcontractor has failed to satisfy the requirements under subsection (f) during such taxable year.

“(2) INVESTIGATION.—Upon receipt of a complaint or its own initiative, the Secretary, in consultation with the Secretary of Energy and the Secretary of Labor, shall request and review the payroll records of contractors and subcontractors engaged in the performance of any construction, repair, alteration, or maintenance with respect to a qualified nuclear power facility, and interview individuals employed by such contractors and subcontractors, to determine whether the requirements of paragraph (1)(A) and (1)(C) have been met.

“(3) ADMINISTRATION AND ENFORCEMENT.—With respect to the administration and enforcement of the standards in paragraph (1)(A) and (1)(C), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

“(f) USE OF QUALIFIED APPRENTICES.—

“(1) IN GENERAL.—All contractors and subcontractors engaged in the performance of construction, repair, alteration, or maintenance with respect
to the qualified nuclear power facility shall, subject
to paragraph (2), ensure that not less than 15 per-
cent of the total labor hours of such work be per-
formed by qualified apprentices.

“(2) Apprentice-to-Journeyworker
ratio.—The requirement under paragraph (1) shall
be subject to any applicable requirements for ap-
prentice-to-journeyworker ratios of the Department
of Labor or the applicable State apprenticeship
agency.

“(3) Participation.—Each contractor and
subcontractor who employs 4 or more individuals to
perform construction, repair, alteration, or mainte-
nance with respect to the qualified nuclear power fa-
cility shall employ 1 or more qualified apprentices to
perform such work.

“(4) Exception.—Notwithstanding any other
provision in this subsection, this section shall not
apply in the case of a taxpayer who—

“(A) demonstrates a lack of availability of
qualified apprentices in the geographic area of
the construction, repair, alteration, or mainte-
nance; and

“(B) makes a good faith effort, and its
contractors and subcontractors make a good
faith effort, to comply with the requirements of
this subsection.

“(5) DEFINITIONS.—In this subsection:

“(A) LABOR HOURS.—The term ‘labor
hours’—

“(i) means the total number of hours
devoted to the performance of construction,
repair, alteration, or maintenance by em-
ployees of the contractor or subcontrator;
and

“(ii) excludes any hours worked by—

“(I) foremen;

“(II) superintendents;

“(III) owners; or

“(IV) persons employed in a
bona fide executive, administrative, or
professional capacity (within the
meaning of those terms in part 541 of

“(B) QUALIFIED APPRENTICE.—The term
‘qualified apprentice’ means an individual who
is an employee of the contractor or subcon-
tractor and who is participating in a registered
apprenticeship program, as defined in section
3131(e)(3)(B).
“(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2031.”.

(b) CONFORMING AMENDMENTS.—

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

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

(B) in paragraph (33), by striking the period at the end and inserting “, plus”, and

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

“(34) the zero-emission nuclear power production credit determined under section 45U(a).”.

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

“Sec. 45U. Zero-emission nuclear power production credit.”.

(c) REPORT.—Not later than January 1, 2025, the Comptroller General of the United States shall submit to Congress a report with respect to the credits allowed for qualified nuclear power facilities under section 45U of the Internal Revenue Code of 1986 (as added by subsection (a)), which shall include—

(1) an evaluation of the effectiveness of the credits allowed under such section in regards to en-
suring grid reliability while avoiding emissions of carbon dioxide, nitrogen oxides, sulfur oxides, particulate matter, and hazardous air pollutants;

(2) a quantification of the ratepayer savings achieved as a result of the credits allowed under such section; and

(3) any recommendations to renew or expand the credits allowed under such section.

(d) Effective Date.—This section shall apply to electricity produced and sold after December 31, 2021, in taxable years beginning after such date.