

115TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to allow a credit against tax for coal-powered electric generation units.

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IN THE SENATE OF THE UNITED STATES

Mr. MANCHIN 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 allow a credit against tax for coal-powered electric generation units.

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 “Energy Reliability Act  
5 of 2018”.

6 **SEC. 2. COAL-POWERED ELECTRIC GENERATION UNIT**

7 **CREDIT.**

8 (a) **FEDERAL TAX CREDIT FOR COAL-POWERED**  
9 **ELECTRIC GENERATION UNITS.**—Subpart D of part IV  
10 of subchapter A of chapter 1 of the Internal Revenue Code

1 of 1986 is amended by adding at the end the following  
2 new section:

3 **“SEC. 45T. COAL-POWERED ELECTRIC GENERATION UNIT**  
4 **CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 38, in  
6 the case of a taxpayer who owns or leases a coal-powered  
7 electric generation unit, the coal-powered electric genera-  
8 tion unit credit determined under this section for a taxable  
9 year shall be an amount equal to the lesser of 30 percent  
10 of qualified expenses paid or incurred by such taxpayer  
11 in such year or the product of—

12 “(1) \$13, multiplied by

13 “(2) the nameplate capacity rating in kilowatts  
14 of such unit.

15 “(b) COAL-POWERED ELECTRIC GENERATION  
16 UNIT.—For purposes of this section, the term ‘coal-pow-  
17 ered electric generation unit’ means an electric generation  
18 unit (as defined in section 48A(c)(6)) that—

19 “(1) uses coal to produce not less than 75 per-  
20 cent of the electricity produced by such unit, and

21 “(2) has constructed and installed emissions  
22 controls pursuant to—

23 “(A) the final rule of the Environmental  
24 Protection Agency entitled ‘Rule To Reduce  
25 Interstate Transport of Fine Particulate Matter

1 and Ozone (Clean Air Interstate Rule); Revi-  
2 sions to Acid Rain Program; Revisions to the  
3 NOX SIP Call’ (70 Fed. Reg. 25162 (May 12,  
4 2005)) (commonly known as the ‘Clean Air  
5 Interstate Rule’),

6 “(B) the final rule of the Environmental  
7 Protection Agency entitled ‘Federal Implemen-  
8 tation Plans: Interstate Transport of Fine Par-  
9 ticulate Matter and Ozone and Correction of  
10 SIP Approvals’ (76 Fed. Reg. 48208 (August  
11 8, 2011)) (commonly known as the ‘Cross State  
12 Air Pollution Rule’),

13 “(C) the final rule of the Environmental  
14 Protection Agency entitled ‘National Emission  
15 Standards for Hazardous Air Pollutants From  
16 Coal- and Oil-Fired Electric Utility Steam Gen-  
17 erating Units and Standards of Performance  
18 for Fossil-Fuel-Fired Electric Utility, Indus-  
19 trial-Commercial-Institutional, and Small In-  
20 dustrial-Commercial-Institutional Steam Gener-  
21 ating Units’ (77 Fed. Reg. 9304 (February 16,  
22 2012)) (commonly known as the ‘Mercury and  
23 Air Toxics Standards Rule’),

24 “(D) the final rule of the Environmental  
25 Protection Agency entitled ‘Regional Haze Reg-

1           ulations and Guidelines for Best Available Ret-  
2           rofit Technology (BART) Determinations’ (70  
3           Fed. Reg. 39104 (July 6, 2005)) (commonly  
4           known as the ‘Regional Haze regulations’), or

5                   “(E) any other Federal emissions control  
6           requirements applicable to an electric genera-  
7           tion plant that are equal to or more stringent  
8           than the requirements of a rule described in  
9           subparagraph (A), (B), (C), or (D).

10          “(c) QUALIFIED EXPENSES.—For purposes of this  
11       section, the term ‘qualified expenses’ means amounts paid  
12       or incurred for the operation or maintenance of a coal-  
13       powered electric generation unit, other than amounts paid  
14       or incurred for coal.

15          “(d) TRANSFER OF CREDIT.—

16               “(1) TRANSFER TO ELIGIBLE PROJECT PART-  
17       NER.—

18                   “(A) IN GENERAL.—With respect to a  
19       credit under subsection (a) for any taxable year,  
20       a taxpayer may elect to transfer all or any por-  
21       tion of such credit to any eligible project part-  
22       ner as specified in such election and such eligi-  
23       ble project partner, not the taxpayer, shall be  
24       entitled to claim the credit (or portion thereof)  
25       for the taxable year.

1           “(B) ELECTION TO TRANSFER.—The tax-  
2           payer may elect to transfer all or any portion  
3           of the credit to an eligible project partner by at-  
4           taching a statement to the taxpayer’s tax re-  
5           turn for the taxable year in which the qualified  
6           expenses were paid or incurred, providing such  
7           information as is necessary for the Secretary to  
8           adequately identify the eligible project partner  
9           and the amount of the credit being transferred.

10          “(2) ELIGIBLE PROJECT PARTNER.—For pur-  
11          poses of this subsection, the term ‘eligible project  
12          partner’ means, with respect to any coal-powered  
13          electric generation unit, any person who—

14                 “(A) is responsible for operating, maintain-  
15                 ing, or repairing such unit,

16                 “(B) participates in the provision, includ-  
17                 ing transportation, of coal or other materials  
18                 and supplies to such unit,

19                 “(C) provides financing for the construc-  
20                 tion, repair, or operation of such unit, or

21                 “(D) leases such unit.

22          “(3) SPECIAL RULES.—

23                 “(A) APPLICATION TO PARTNERSHIPS.—In  
24                 the case of a credit under subsection (a) which  
25                 is determined at the partnership level, the term

1           ‘eligible project partner’ shall include any part-  
2           ner of the partnership.

3                   “(B) TAXABLE YEAR IN WHICH CREDIT  
4           TAKEN INTO ACCOUNT.—In the case of any  
5           credit (or portion thereof) with respect to which  
6           an election is made under paragraph (1), such  
7           credit shall be taken into account in the first  
8           taxable year of the eligible project partner end-  
9           ing with, or after, the taxpayer’s taxable year  
10          with respect to which the credit was deter-  
11          mined.

12          “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
13          title, if a credit is allowed under this section with respect  
14          to any coal-powered electric generation unit, the basis of  
15          such property shall be reduced by the amount of the credit  
16          so allowed.

17          “(f) TERMINATION.—This section shall apply to tax-  
18          able years beginning after December 31, 2017, and ending  
19          before January 1, 2023.”.

20          (b) ASSESSMENT BY FEDERAL ENERGY REGU-  
21          LATORY COMMISSION.—

22                  (1) IN GENERAL.—In the case of any coal-pow-  
23          ered electric generation unit which has claimed a  
24          credit under section 45T of the Internal Revenue  
25          Code of 1986 (as added by subsection (a)), the Fed-

1       eral Energy Regulatory Commission shall require  
2       the applicable reliability coordinator to conduct an  
3       assessment analyzing the reliability and resilience at-  
4       tributes offered by such unit to the regional grid in  
5       which it is located, with such assessment to be com-  
6       pleted not later than April 1, 2023.

7               (2) REPORTING.—Not later than June 1, 2023,  
8       the Federal Energy Regulatory Commission shall re-  
9       port to the relevant Congressional committees—

10               (A) the results of the assessments de-  
11       scribed under paragraph (1), and

12               (B) a recommendation as to whether the  
13       credit under section 45T of the Internal Rev-  
14       enue Code of 1986 should be amended so as to  
15       apply to taxable years beginning after Decem-  
16       ber 31, 2022.

17               (3) DEFINITIONS.—In this subsection:

18               (A) APPLICABLE RELIABILITY COORDI-  
19       NATOR.—The term “applicable reliability coor-  
20       dinator” means the Reliability Coordinator of  
21       the Electric Reliability Organization (as defined  
22       in section 215(a) of the Federal Power Act (16  
23       U.S.C. 2824o(a)) for the region in which a coal-  
24       powered electric generation unit which has

1           claimed a credit under section 45T of the Inter-  
2           nal Revenue Code of 1986 is located.

3                   (B) RELEVANT CONGRESSIONAL COMMIT-  
4           TEES.—The term “relevant Congressional com-  
5           mittees” means—

6                   (i) the Committee on Finance of the  
7           Senate,

8                   (ii) the Committee on the Ways and  
9           Means of the House of Representatives,

10                   (iii) the Committee on Energy and  
11           Natural Resources of the Senate, and

12                   (iv) the Committee on Energy and  
13           Commerce of the House of Representa-  
14           tives.

15           (c)       CONFORMING        AMENDMENT.—Section  
16   501(c)(12)(I) is amended by inserting “or 45T(d)(1)”  
17   after “section 45J(e)(I)”.

18           (d) CREDIT TO BE PART OF GENERAL BUSINESS  
19   CREDIT.—

20                   (1) IN GENERAL.—Section 38(b) of the Internal  
21   Revenue Code of 1986 is amended by striking  
22   “plus” at the end of paragraph (36), by striking the  
23   period at the end of paragraph (37) and inserting “,  
24   plus”, and by adding at the end the following new  
25   paragraph:



1           “(38) the coal-powered electric generation unit  
2           credit determined under section 45T(a).”.

3           (2) CREDIT ALLOWED AGAINST ALTERNATIVE  
4           MINIMUM TAX.—Subparagraph (B) of section  
5           38(c)(4) of the Internal Revenue Code of 1986 is  
6           amended—

7                   (A) by redesignating clauses (x), (xi), and  
8                   (xii) as clauses (xi), (xii), and (xiii), respec-  
9                   tively; and

10                   (B) by inserting after clause (ix) the fol-  
11                   lowing new clause:

12                           “(x) the credit determined under sec-  
13                           tion 45T,”.

14           (e) CLERICAL AMENDMENT.—The table of sections  
15           for subpart D of part IV of subchapter A of chapter 1  
16           is amended by adding at the end the following new item:

          “Sec. 45T. Coal-powered electric generation unit credit.”.