

117TH CONGRESS  
1ST SESSION

# H. R. 4960

To direct the Secretary of Energy to establish a civil nuclear credit program,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 2021

Mr. KINZINGER (for himself and Mr. MICHAEL F. DOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To direct the Secretary of Energy to establish a civil nuclear  
credit program, and for other purposes.

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; DEFINITIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Preserving Existing Nuclear Energy Generation Act”.

6 (b) DEFINITIONS.—In this Act:

1           (1) APPROPRIATE COMMITTEES OF CON-  
2           GRESS.—The term “appropriate committees of Con-  
3           gress” means—

4                   (A) the Committee on Energy and Natural  
5           Resources of the Senate; and

6                   (B) the Committee on Energy and Com-  
7           merce of the House of Representatives.

8           (2) COMMISSION.—The term “Commission”  
9           means the Nuclear Regulatory Commission.

10           (3) SECRETARY.—The term “Secretary” means  
11           the Secretary of Energy.

12 **SEC. 2. CIVIL NUCLEAR CREDIT PROGRAM.**

13           (a) DEFINITIONS.—In this section:

14                   (1) CERTIFIED NUCLEAR REACTOR.—The term  
15           “certified nuclear reactor” means a nuclear reactor  
16           that—

17                           (A) competes in a competitive electricity  
18           market; and

19                           (B) is certified under subsection  
20           (c)(2)(A)(i) to submit a sealed bid in accord-  
21           ance with subsection (d).

22           (2) CREDIT.—The term “credit” means a credit  
23           allocated to a certified nuclear reactor under sub-  
24           section (e)(2).

1 (b) ESTABLISHMENT OF PROGRAM.—The Secretary  
2 shall establish a civil nuclear credit program—

3 (1) to evaluate nuclear reactors that are pro-  
4 jected to cease operations due to economic factors;  
5 and

6 (2) to allocate credits to certified nuclear reac-  
7 tors that are selected under paragraph (1)(B) of  
8 subsection (e) to receive credits under paragraph (2)  
9 of that subsection.

10 (c) CERTIFICATION.—

11 (1) APPLICATION.—

12 (A) IN GENERAL.—In order to be certified  
13 under paragraph (2)(A)(i), the owner or oper-  
14 ator of a nuclear reactor that is projected to  
15 cease operations due to economic factors shall  
16 submit to the Secretary an application at such  
17 time, in such manner, and containing such in-  
18 formation as the Secretary determines to be ap-  
19 propriate, including—

20 (i) information on the operating costs  
21 necessary to make the determination de-  
22 scribed in paragraph (2)(A)(ii)(I), includ-  
23 ing—

24 (I) the average projected annual  
25 operating loss in dollars per mega-

1 watt-hour, inclusive of the cost of  
2 operational and market risks, ex-  
3 pected to be incurred by the nuclear  
4 reactor over the 4-year period for  
5 which credits would be allocated;

6 (II) any private or publicly avail-  
7 able data with respect to current or  
8 projected bulk power market prices;

9 (III) out-of-market revenue  
10 streams;

11 (IV) operations and maintenance  
12 costs;

13 (V) capital costs, including fuel;  
14 and

15 (VI) operational and market  
16 risks;

17 (ii) an estimate of the potential incre-  
18 mental air pollutants that would result if  
19 the nuclear reactor were to cease oper-  
20 ations;

21 (iii) known information on the source  
22 of produced uranium and the location  
23 where the uranium is converted, enriched,  
24 and fabricated into fuel assemblies for the

1 nuclear reactor for the 4-year period for  
2 which credits would be allocated; and

3 (iv) a detailed plan to sustain oper-  
4 ations at the conclusion of the applicable  
5 4-year period for which credits would be  
6 allocated—

7 (I) without receiving additional  
8 credits; or

9 (II) with the receipt of additional  
10 credits of a lower amount than the  
11 credits allocated during that 4-year  
12 credit period.

13 (B) TIMELINE.—The Secretary shall ac-  
14 cept applications described in subparagraph  
15 (A)—

16 (i) until the date that is 120 days  
17 after the date of enactment of this Act;  
18 and

19 (ii) not less frequently than every year  
20 thereafter.

21 (C) PAYMENTS FROM STATE PROGRAMS.—

22 (i) IN GENERAL.—The owner or oper-  
23 ator of a nuclear reactor that receives a  
24 payment from a State zero-emission credit,  
25 a State clean energy contract, or any other

1 State program with respect to that nuclear  
2 reactor shall be eligible to submit an appli-  
3 cation under subparagraph (A) with re-  
4 spect to that nuclear reactor during any  
5 application period beginning after the 120-  
6 day period beginning on the date of enact-  
7 ment of this Act.

8 (ii) REQUIREMENT.—An application  
9 submitted by an owner or operator de-  
10 scribed in clause (i) with respect to a nu-  
11 clear reactor described in that clause shall  
12 include all projected payments from State  
13 programs in determining the average pro-  
14 jected annual operating loss described in  
15 subparagraph (A)(i)(I), unless the credits  
16 allocated to the nuclear reactor pursuant  
17 to that application will be used to reduce  
18 those payments.

19 (2) DETERMINATION TO CERTIFY.—

20 (A) DETERMINATION.—

21 (i) IN GENERAL.—Not later than 60  
22 days after the applicable date under sub-  
23 paragraph (B) of paragraph (1), the Sec-  
24 retary shall determine whether to certify,  
25 in accordance with clauses (ii) and (iii),

1 each nuclear reactor for which an applica-  
2 tion is submitted under subparagraph (A)  
3 of that paragraph.

4 (ii) MINIMUM REQUIREMENTS.—To  
5 the maximum extent practicable, the Sec-  
6 retary shall only certify a nuclear reactor  
7 under clause (i) if—

8 (I) after considering the informa-  
9 tion submitted under paragraph  
10 (1)(A)(i), the Secretary determines  
11 that the nuclear reactor is projected  
12 to cease operations due to economic  
13 factors;

14 (II) after considering the esti-  
15 mate submitted under paragraph  
16 (1)(A)(ii), the Secretary determines  
17 that pollutants would increase if the  
18 nuclear reactor were to cease oper-  
19 ations and be replaced with other  
20 types of power generation; and

21 (III) the Nuclear Regulatory  
22 Commission has reasonable assurance  
23 that the nuclear reactor—

24 (aa) will continue to be oper-  
25 ated in accordance with the cur-

1                   rent licensing basis (as defined in  
2                   section 54.3 of title 10, Code of  
3                   Federal Regulations (or successor  
4                   regulations)) of the nuclear reac-  
5                   tor; and

6                                 (bb) poses no significant  
7                                 safety hazards.

8                                 (iii) PRIORITY.—In determining  
9                                 whether to certify a nuclear reactor under  
10                                clause (i), the Secretary shall give priority  
11                                to a nuclear reactor that uses, to the max-  
12                                imum extent available, uranium that is  
13                                produced, converted, enriched, and fab-  
14                                ricated into fuel assemblies in the United  
15                                States.

16                                (B) NOTICE.—For each application re-  
17                                ceived under paragraph (1)(A), the Secretary  
18                                shall provide to the applicable owner or oper-  
19                                ator, as applicable—

20                                       (i) a notice of the certification of the  
21                                       applicable nuclear reactor; or

22                                       (ii) a notice that describes the reasons  
23                                       why the certification of the applicable nu-  
24                                       clear reactor was denied.

25                                (d) BIDDING PROCESS.—



1           (1) IN GENERAL.—Subject to paragraph (2),  
2           the Secretary shall establish a deadline by which  
3           each certified nuclear reactor shall submit to the  
4           Secretary a sealed bid that—

5                   (A) describes the price per megawatt-hour  
6                   of the credits desired by the certified nuclear  
7                   reactor, which shall not exceed the average pro-  
8                   jected annual operating loss described in sub-  
9                   section (c)(1)(A)(i)(I); and

10                   (B) includes a commitment, subject to the  
11                   receipt of credits, to provide a specific number  
12                   of megawatt-hours of generation during the 4-  
13                   year period for which credits would be allocated.

14           (2) REQUIREMENT.—The deadline established  
15           under paragraph (1) shall be not later than 30 days  
16           after the first date on which the Secretary has made  
17           the determination described in paragraph (2)(A)(i)  
18           of subsection (c) with respect to each application  
19           submitted under paragraph (1)(A) of that sub-  
20           section.

21           (e) ALLOCATION.—

22                   (1) AUCTION.—Notwithstanding section 169 of  
23                   the Atomic Energy Act of 1954 (42 U.S.C. 2209),  
24                   the Secretary shall—

1 (A) in consultation with the heads of appli-  
2 cable Federal agencies, establish a process for  
3 evaluating bids submitted under subsection  
4 (d)(1) through an auction process; and

5 (B) select certified nuclear reactors to be  
6 allocated credits.

7 (2) CREDITS.—Subject to subsection (f)(2), on  
8 selection under paragraph (1), a certified nuclear re-  
9 actor shall be allocated credits for a 4-year period  
10 beginning on the date of the selection.

11 (3) REQUIREMENT.—To the maximum extent  
12 practicable, the Secretary shall use the amounts  
13 made available for credits under this section to allo-  
14 cate credits to as many certified nuclear reactors as  
15 possible.

16 (f) RENEWAL.—

17 (1) IN GENERAL.—The owner or operator of a  
18 certified nuclear reactor may seek to recertify the  
19 nuclear reactor in accordance with this section.

20 (2) LIMITATION.—Notwithstanding any other  
21 provision of this section, the Secretary may not allo-  
22 cate any credits after September 30, 2031.

23 (g) ADDITIONAL REQUIREMENTS.—

24 (1) AUDIT.—During the 4-year period begin-  
25 ning on the date on which a certified nuclear reactor

1 first receives a credit, the Secretary shall periodically  
2 audit the certified nuclear reactor.

3 (2) RECAPTURE.—The Secretary shall, by regu-  
4 lation, provide for the recapture of the allocation of  
5 any credit to a certified nuclear reactor that, during  
6 the period described in paragraph (1)—

7 (A) terminates operations; or

8 (B) does not operate at an annual loss in  
9 the absence of an allocation of credits to the  
10 certified nuclear reactor.

11 (3) CONFIDENTIALITY.—The Secretary shall es-  
12 tablish procedures to ensure that any confidential,  
13 private, proprietary, or privileged information that is  
14 included in a sealed bid submitted under this section  
15 is not publicly disclosed or otherwise improperly  
16 used.

17 (h) REPORT.—Not later than January 1, 2024, the  
18 Comptroller General of the United States shall submit to  
19 Congress a report with respect to the credits allocated to  
20 certified nuclear reactors, which shall include—

21 (1) an evaluation of the effectiveness of the  
22 credits in avoiding air pollutants while ensuring grid  
23 reliability;

24 (2) a quantification of the ratepayer savings  
25 achieved under this section; and

1           (3) any recommendations to renew or expand  
2           the credits.

3           (i) AUTHORIZATION OF APPROPRIATIONS.—There is  
4           authorized to be appropriated to the Secretary to carry  
5           out this section \$6,000,000,000 for the period of fiscal  
6           years 2022 through 2026.

7           **SEC. 3. NUCLEAR CLOSURE COMMUNITIES.**

8           (a) DEFINITIONS.—In this section:

9           (1) COMMUNITY ADVISORY BOARD.—The term  
10          “community advisory board” means a community  
11          committee or other advisory organization that aims  
12          to foster communication and information exchange  
13          between a licensee planning for and involved in de-  
14          commissioning activities and members of the com-  
15          munity that decommissioning activities may affect.

16          (2) DECOMMISSION.—The term “decommis-  
17          sion” has the meaning given the term in section  
18          50.2 of title 10, Code of Federal Regulations (or  
19          successor regulations).

20          (3) ELIGIBLE RECIPIENT.—The term “eligible  
21          recipient” has the meaning given the term in section  
22          3 of the Public Works and Economic Development  
23          Act of 1965 (42 U.S.C. 3122).

24          (4) LICENSEE.—The term “licensee” has the  
25          meaning given the term in section 50.2 of title 10,

1 Code of Federal Regulations (or successor regula-  
2 tions).

3 (5) NUCLEAR CLOSURE COMMUNITY.—The  
4 term “nuclear closure community” means a unit of  
5 local government, including a county, city, town, vil-  
6 lage, school district, or special district that has been  
7 impacted, or reasonably demonstrates to the satis-  
8 faction of the Secretary of Commerce, that it will be  
9 impacted, by a nuclear power plant licensed by the  
10 Commission that has ceased operation or has pro-  
11 vided a written notification to the Commission that  
12 it will cease operations as of the date of enactment  
13 of this Act.

14 (b) ESTABLISHMENT.—Not later than 90 days after  
15 the date of enactment of this Act, the Secretary of Com-  
16 merce shall establish a grant program to provide grants  
17 to eligible recipients—

18 (1) to provide financial assistance to local gov-  
19 ernments who have experienced, or are anticipating,  
20 major revenue shortfalls due to the closure, or an-  
21 nounced closure, of a nuclear power plant;

22 (2) to assist with economic development in nu-  
23 clear closure communities; and

24 (3) to fund community advisory boards in nu-  
25 clear closure communities.

1           (c) REQUIREMENT.—In carrying out this section, to  
2 the maximum extent practicable, the Secretary of Com-  
3 merce shall implement the recommendations described in  
4 the report submitted to Congress under section 108 of the  
5 Nuclear Energy Innovation and Modernization Act (Public  
6 Law 115–439; 132 Stat. 5577) entitled “Best Practices  
7 for Establishment and Operation of Local Community Ad-  
8 visory Boards Associated with Decommissioning Activities  
9 at Nuclear Power Plants”.

10          (d) DISTRIBUTION OF FUNDS.—The Secretary of  
11 Commerce shall establish a formula to ensure, to the max-  
12 imum extent practicable, geographic diversity among  
13 grant recipients under this section.

14          (e) AUTHORIZATION OF APPROPRIATIONS.—

15           (1) IN GENERAL.—There are authorized to be  
16 appropriated to the Secretary of Commerce—

17           (A) to carry out subsection (b)(1),  
18           \$30,000,000 for each of fiscal years 2022  
19           through 2027;

20           (B) to carry out subsection (b)(2),  
21           \$30,000,000 for each of fiscal years 2022  
22           through 2027; and

23           (C) to carry out subsection (b)(3),  
24           \$5,000,000 for each of fiscal years 2022  
25           through 2024.

1           (2) AVAILABILITY.—Amounts made available  
2 under this section shall remain available for a period  
3 of 5 years beginning on the date on which the  
4 amounts are made available.

5           (3) NO OFFSET.—None of the funds made  
6 available under this section may be used to offset  
7 the funding for any other Federal program.

8 **SEC. 4. REPORT ON LESSONS LEARNED DURING THE**  
9 **COVID-19 PUBLIC HEALTH EMERGENCY.**

10          (a) IN GENERAL.—Not later than 180 days after the  
11 date of enactment of this Act, the Commission shall sub-  
12 mit to the appropriate committees of Congress and make  
13 publicly available a report on actions taken by the Com-  
14 mission during the public health emergency declared by  
15 the Secretary of Health and Human Services under sec-  
16 tion 319 of the Public Health Service Act (42 U.S.C.  
17 247d) on January 31, 2020, with respect to COVID-19.

18          (b) CONTENTS.—The report under subsection (a)  
19 shall include—

20           (1) an identification of the processes, proce-  
21 dures, and other regulatory policies that were re-  
22 vised or temporarily suspended during the public  
23 health emergency described in subsection (a);

24           (2) a review of actions, if any, taken by the  
25 Commission that examines how any revision or tem-

1       porary suspension of a process, procedure, or other  
2       regulatory policy identified under paragraph (1) may  
3       or may not have compromised the ability of the  
4       Commission to license and regulate the civilian use  
5       of radioactive materials in the United States to pro-  
6       tect public health and safety, promote the common  
7       defense and security, and protect the environment;

8               (3) a description of any process efficiencies or  
9       challenges that resulted from the matters identified  
10      under paragraph (1);

11              (4) a discussion of lessons learned from the  
12      matters described in paragraphs (1), (2), and (3);

13              (5) a list of actions that the Commission may  
14      take to incorporate into the licensing activities and  
15      regulations of the Commission, without compro-  
16      mising the mission of the Commission—

17                      (A) the lessons described in paragraph (4);

18              and

19                      (B) the information provided under para-  
20      graphs (2) and (3); and

21              (6) a description of when the actions described  
22      in paragraph (5) may be implemented.

○