

119TH CONGRESS
2D SESSION

S. _____

To provide enhanced provisions for advanced nuclear energy projects receiving loan guarantees through the Department of Energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. RISCH (for himself and Mr. GALLEG0) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide enhanced provisions for advanced nuclear energy projects receiving loan guarantees through the Department of Energy, 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.**

4 This Act may be cited as the “Accelerating Reliable
5 Capacity Act of 2026” or the “ARC Act of 2026”.

6 **SEC. 2. ACCELERATING RELIABLE CAPACITY PROGRAM.**

7 (a) PURPOSE.—The purpose of this section is to in-
8 crease cost certainty for capital-intensive projects for
9 which a guarantee is provided under section 1703 or 1706

1 of the Energy Policy Act of 2005 (42 U.S.C. 16513,
2 16517).

3 (b) DEFINITIONS.—In this section:

4 (1) ACCOUNT.—The term “account” means the
5 Accelerating Reliable Capacity Program Account es-
6 tablished by subsection (c)(1).

7 (2) ADVANCED NUCLEAR ENERGY PROJECT.—
8 The term “advanced nuclear energy project” means
9 a project for 1 or more advanced nuclear reactors.

10 (3) ADVANCED NUCLEAR REACTOR.—The term
11 “advanced nuclear reactor” has the meaning given
12 the term in section 951(b) of the Energy Policy Act
13 of 2005 (42 U.S.C. 16271(b)), except that, for pur-
14 poses of this section, the reference to “reactors oper-
15 ating on the date of enactment of the Energy Act
16 of 2020” in paragraph (1)(A) of that section shall
17 be deemed to read “reactors operating in the United
18 States on the date of enactment of the Energy Act
19 of 2020 (Public Law 116–260; 134 Stat. 2418)”.

20 (4) CLASS 2 ESTIMATE.—The term “Class 2 es-
21 timate” means an estimate of the cost of a quali-
22 fying project that is prepared in accordance with
23 Recommended Practice No. 18R–97 in the document
24 of the Association of Cost Engineering entitled

1 “Cost Estimate Classification System” (or a suc-
2 cessor document).

3 (5) DIRECTOR.—The term “Director” means
4 the Director of the Loan Programs Office.

5 (6) EXPECTED PAYMENT AMOUNT.—The term
6 “expected payment amount” means the amount that
7 the Director expects to pay to the Federal Financing
8 Bank under subsection (d)(2)(B) when a qualifying
9 project is placed in service.

10 (7) GUARANTEE.—The term “guarantee” has
11 the meaning given the term in section 1701 of the
12 Energy Policy Act of 2005 (42 U.S.C. 16511).

13 (8) LOAN PROGRAMS OFFICE.—The term
14 “Loan Programs Office” means the Loan Programs
15 Office of the Department of Energy.

16 (9) OVERRUN.—The term “overrun”, with re-
17 spect to the costs of a qualifying project, means any
18 costs in excess of the point base estimate of the
19 Class 2 estimate approved as described in paragraph
20 (12)(C)(iv).

21 (10) POINT BASE ESTIMATE.—The term “point
22 base estimate”, with respect to a Class 2 estimate,
23 means the value of the Class 2 estimate without ad-
24 justment for the accuracy range or contingency.

1 (11) PROJECT DELIVERY PLAN.—The term
2 “project delivery plan” means a project plan that in-
3 cludes—

4 (A) a project execution plan (as defined in
5 Recommended Practice 10S-90 of the Associa-
6 tion for the Advancement of Cost Engineering
7 entitled “Cost Engineering Terminology” (or a
8 successor document));

9 (B) a contract risk allocation strategy
10 that—

11 (i) aligns cost and risk incentives
12 among all contracted stakeholders; and

13 (ii) follows—

14 (I) the best practices described in
15 Recommended Practice 67R-11 of the
16 Association for the Advancement of
17 Cost Engineering entitled “Contract
18 Risk Allocation – As Applied in Engi-
19 neering, Procurement, and Construc-
20 tion” (or a successor document); or

21 (II) other appropriate industry
22 best practices, as determined by the
23 Secretary; and

24 (C) a plan for the division of responsibility
25 between contracted stakeholders that describes

1 roles and responsibilities for execution of that
2 project plan.

3 (12) QUALIFYING PROJECT.—The term “quali-
4 fying project” means an advanced nuclear energy
5 project—

6 (A) that is reasonably expected to be con-
7 structed on time and on budget, as determined
8 by the Secretary;

9 (B) that is—

10 (i) determined by the Secretary to be
11 reasonably capital-intensive; and

12 (ii) connected to the electric power
13 grid;

14 (C) with respect to which—

15 (i) the loan amount expected to be
16 guaranteed under section 1703 or 1706 of
17 the Energy Policy Act of 2005 (42 U.S.C.
18 16513, 16517) is—

19 (I) loaned through the Federal
20 Financing Bank; and

21 (II) equal to or greater than the
22 amount that is twice the amount of
23 funds obligated to the qualifying
24 project under this section;

25 (ii) the borrower of that amount—

6

1 (I) has established and submitted
2 to the Director a project delivery plan;

3 (II) has established and sub-
4 mitted to the Secretary—

5 (aa) a Class 2 estimate
6 with—

7 (AA) basis of estimate
8 documentation for that
9 Class 2 estimate; and

10 (BB) a qualifying
11 project cost risk analysis;

12 (bb) a resource-loaded inte-
13 grated project schedule with—

14 (AA) basis of estimate
15 documentation for that re-
16 source-loaded integrated
17 project schedule; and

18 (BB) a qualifying
19 project schedule risk anal-
20 ysis; and

21 (cc) a labor survey analysis
22 report with—

23 (AA) basis of estimate
24 documentation for that labor
25 survey analysis report; and

1 (BB) a labor risk anal-
2 ysis; and

3 (III) has established procedures
4 with the Secretary to ensure enhanced
5 project oversight, including—

6 (aa) a rolling forecast
7 that—

8 (AA) updates the re-
9 source-loaded integrated
10 project schedule not less fre-
11 quently than annually, in
12 alignment with the approved
13 changes in the applicable
14 change management pro-
15 gram; and

16 (BB) includes a new
17 qualifying project schedule
18 risk analysis to match the
19 most recent update; and

20 (bb) a meeting between the
21 Secretary, the Director, and sen-
22 ior-level representatives of all
23 contracted stakeholders in the
24 project to review progress and, if
25 necessary, decide corrective ac-

1 tions and responsibilities for im-
2 plementation, to be held on a
3 quarterly basis until the date on
4 which construction has con-
5 cluded;

6 (iii) the Director has approved the
7 project delivery plan submitted under
8 clause (ii)(I) prior to financial close; and

9 (iv) the Secretary has approved the
10 project planning documents submitted
11 under clause (ii)(II) prior to financial
12 close.

13 (13) QUALIFYING PROJECT COST RISK ANAL-
14 YSIS.—The term “qualifying project cost risk anal-
15 ysis” means a cost risk analysis that follows—

16 (A) the best practices described in the doc-
17 ument of the Government Accountability Office
18 entitled “Cost Estimating and Assessment
19 Guide: Best Practices for Developing and Man-
20 aging Program Costs”, numbered GAO-20-
21 195G, and dated March 2020 (or a successor
22 document); or

23 (B) other appropriate industry best prac-
24 tices, as determined by the Secretary.

1 (14) QUALIFYING PROJECT SCHEDULE RISK
2 ANALYSIS.—The term “qualifying project schedule
3 risk analysis” means a schedule risk analysis that
4 follows—

5 (A) the document of the Government Ac-
6 countability Office entitled “Schedule Assess-
7 ment Guide: Best Practices for Project Sched-
8 ules”, numbered GAO-16-89G, and dated De-
9 cember 2015 (or a successor document); or

10 (B) other appropriate industry best prac-
11 tices, as determined by the Secretary.

12 (15) RESOURCE-LOADED INTEGRATED PROJECT
13 SCHEDULE.—The term “resource-loaded integrated
14 project schedule” means an approved schedule that
15 follows—

16 (A) the best practices described in the doc-
17 ument of the Government Accountability Office
18 entitled “Schedule Assessment Guide: Best
19 Practices for Project Schedules”, numbered
20 GAO-16-89G, and dated December 2015 (or a
21 successor document); or

22 (B) other appropriate industry best prac-
23 tices, as determined by the Secretary.

1 (16) ROLLING FORECAST.—The term “rolling
2 forecast” means a process for regularly updating a
3 resource-loaded integrated project schedule.

4 (17) SECRETARY.—The term “Secretary”
5 means the Secretary of Energy.

6 (c) ACCELERATING RELIABLE CAPACITY PROGRAM
7 ACCOUNT.—

8 (1) ESTABLISHMENT.—There is established in
9 the Loan Programs Office an account, to be known
10 as the “Accelerating Reliable Capacity Program Ac-
11 count”.

12 (2) MANAGEMENT.—The account shall be man-
13 aged by the Director.

14 (3) USE OF AMOUNTS.—The Director may use
15 amounts in the account to make payments pursuant
16 to subsection (d)(2)(B).

17 (4) OBLIGATION OF AMOUNTS.—Amounts in
18 the account shall be—

19 (A) contingently obligated to a borrower on
20 the approval by the Secretary of a conditional
21 commitment that includes satisfaction of the re-
22 quirements for a qualifying project under this
23 section as a condition of financial close, subject
24 to the conditions that—

1 (i) the borrower shall be considered
2 current so long as the borrower continues
3 to make progress toward satisfying the
4 conditions required for financial close and
5 requirements agreed upon in the condi-
6 tional commitment, as determined by the
7 Secretary; and

8 (ii) if the Secretary determines that
9 the borrower is not making progress in
10 good faith as described in clause (i), the
11 contingently obligated amounts shall be
12 made available to other borrowers; and

13 (B) obligated to the applicable borrower at
14 financial close.

15 (5) OBLIGATION AND EXPENDITURE.—The ob-
16 ligation of amounts in the account shall not be con-
17 sidered to be an expenditure of those amounts unless
18 the amounts are disbursed pursuant to subsection
19 (d)(2)(B).

20 (6) FUNDING.—

21 (A) AUTHORIZATION OF APPROPRIA-
22 TIONS.—There is authorized to be appropriated
23 to the Secretary \$3,600,000,000 for deposit
24 into the account.

1 (B) AVAILABILITY OF AMOUNTS.—

2 Amounts deposited in the account under sub-
3 paragraph (A) or otherwise shall remain avail-
4 able until expended.

5 (d) OVERRUN LIABILITY.—

6 (1) BORROWER LIABILITY FOR INITIAL COST
7 OVERRUNS.—With respect to a qualifying project for
8 which a guarantee is provided under section 1703 or
9 1706 of the Energy Policy Act of 2005 (42 U.S.C.
10 16513, 16517), the borrower on the guaranteed loan
11 shall be responsible for all overruns until the cumu-
12 lative expenses of the qualifying project exceed 120
13 percent of the point base estimate of the Class 2 es-
14 timate.

15 (2) PAYMENT BY THE DIRECTOR.—

16 (A) EXPECTED PAYMENT AMOUNT.—With
17 respect to a qualifying project for which a guar-
18 antee is provided under section 1703 or 1706 of
19 the Energy Policy Act of 2005 (42 U.S.C.
20 16513, 16517), the Director shall update the
21 expected payment amount quarterly, subject to
22 the conditions that—

23 (i) cumulative expenses of the quali-
24 fying project have exceeded 120 percent of

1 the point base estimate of the Class 2 esti-
2 mate;

3 (ii) the quarterly increase to the ex-
4 pected payment amount does not exceed 50
5 percent of total expenses in that quarter
6 for the qualifying project;

7 (iii) the updated expected payment
8 amount does not exceed the maximum pay-
9 ment amount described in subparagraph
10 (B)(ii);

11 (iv) the applicable guaranteed loan is
12 not in default;

13 (v) the prospect of increasing the pay-
14 ment amount does not incentivize unneces-
15 sary spending; and

16 (vi) any increases to the payment
17 amount are made in accordance with good
18 governance principles.

19 (B) PAYMENT.—

20 (i) IN GENERAL.—When a qualifying
21 project is placed in service, the Director
22 shall—

23 (I) determine the final payment
24 amount based on—

14

1 (aa) the expected payment
2 amount determined under sub-
3 paragraph (A); and

4 (bb) any additional cumu-
5 lative expenses of the applicable
6 qualifying project, determined in
7 accordance with that subpara-
8 graph; and

9 (II) pay that final payment
10 amount to the Federal Financing
11 Bank (as the lender of the applicable
12 guaranteed loan) from the account.

13 (ii) MAXIMUM PAYMENT AMOUNT.—
14 The maximum payment amount under this
15 subparagraph for any 1 qualifying project
16 may not exceed the lesser of—

17 (I) 30 percent of the point base
18 estimate; and

19 (II) \$1,200,000,000.

20 (iii) APPLICATION OF PAYMENT.—A
21 payment under this subparagraph shall be
22 applied to the principal amount of the ap-
23 plicable guaranteed loan.

24 (iv) REQUIREMENT.—The Director
25 may make a payment under this subpara-

1 graph only if the applicable guaranteed
2 loan is not in default.

3 (e) ENHANCED FINANCING TERMS FOR QUALIFYING
4 PROJECTS.—

5 (1) IN GENERAL.—Notwithstanding title XVII
6 of the Energy Policy Act of 2005 (42 U.S.C. 16511
7 et seq.) or any other provision of law, the Director
8 shall offer the enhanced financing terms described in
9 paragraph (2) for a guarantee provided under sec-
10 tion 1703 or 1706 of that Act (42 U.S.C. 16513,
11 16517) with respect to a qualifying project.

12 (2) ENHANCED FINANCING TERMS DE-
13 SCRIBED.—The enhanced financing terms referred
14 to in paragraph (1) are the following:

15 (A) Notwithstanding section 1702(c) of the
16 Energy Policy Act of 2005 (42 U.S.C.
17 16512(c)), a guarantee may be an amount up
18 to 200 percent of the point base estimate of the
19 Class 2 estimate approved as described in sub-
20 section (b)(12)(C)(iv) for the qualifying project
21 that is the subject of the guarantee.

22 (B) The Director shall seek a commitment
23 from the Federal Financing Bank (as lender of
24 a guaranteed loan) to amend or restructure, if
25 appropriate, the applicable guaranteed loan to

1 reflect the revised principal amount after pay-
2 ment under subsection (d)(2)(B).

3 (f) QUARTERLY NOTIFICATION AND BRIEFING.—Not
4 later than 7 days after each quarterly meeting described
5 in subsection (b)(12)(C)(ii)(III)(bb), the Secretary shall
6 submit to the Committee on Energy and Natural Re-
7 sources and the Committee on Appropriations of the Sen-
8 ate and the Committee on Energy and Commerce and the
9 Committee on Appropriations of the House of Representa-
10 tives a notification describing the results of that meeting.

11 (g) WORKING GROUP.—

12 (1) ESTABLISHMENT.—The Secretary shall es-
13 tablish a working group, to be known as the “Accel-
14 erating Reliable Capacity Working Group” (referred
15 to in this subsection as the “Working Group”), to
16 advise the Secretary in the technical, financial, and
17 programmatic aspects of the program established
18 under this section, including providing advice with
19 respect to—

20 (A) developing standards for project deliv-
21 ery plans;

22 (B) procedures for the enhanced project
23 oversight described in subsection
24 (b)(12)(C)(ii)(III); and

25 (C) industry best practices.

1 (2) MEMBERSHIP.—Members of the Working
2 Group shall be appointed by the Secretary, but shall
3 include—

4 (A) representatives of—

5 (i) private sector advanced nuclear re-
6 actor technology developers; and

7 (ii) the Federal Financing Bank or
8 another Federal lending program;

9 (B) independent technical experts in nu-
10 clear energy, engineering, or project manage-
11 ment; and

12 (C) representatives of any other entity that
13 the Secretary determines appropriate.

14 **SEC. 3. EXCEPTION TO DENIAL OF DOUBLE BENEFIT PRO-**
15 **VISION FOR CERTAIN UTILITIES AND MILI-**
16 **TARY INSTALLATIONS.**

17 Section 50141(d)(3) of Public Law 117–169 (136
18 Stat. 2043) is amended—

19 (1) in subparagraph (C), by striking “or” at
20 the end;

21 (2) in subparagraph (D), by striking the period
22 at the end and inserting a semicolon; and

23 (3) by adding at the end the following:

24 “(E) projects partnering with, including
25 projects owned by or under the control of, a

1 Federal power marketing administration or the
2 Tennessee Valley Authority;

3 “(F) projects partnering with—

4 “(i) an entity that procures energy for
5 a military installation (as defined in sec-
6 tion 2801(c) of title 10, United States
7 Code) that is managed by the Secretary of
8 Defense or a contractor of the Secretary of
9 Defense; or

10 “(ii) the General Services Administra-
11 tion for the purpose of energy procure-
12 ment;

13 “(G) projects benefitting from National
14 Laboratories (as defined in section 2 of the En-
15 ergy Policy Act of 2005 (42 U.S.C. 15801)) or
16 user facilities for testing, data collection, per-
17 mitting, or other allowable uses, as determined
18 by the Secretary; or

19 “(H) projects using nuclear fuel procured
20 under or pursuant to the Nuclear Fuel Security
21 Act of 2023 (42 U.S.C. 16282).”.