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UNITED STATES SENATE FINANCE COMMITTEE MAKES CHANGES TO CLEAN ENERGY PROVISIONS OF THE PROPOSED ONE BIG BEAUTIFUL BILL

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On June 16, 2025, the US Senate Committee on Finance released its legislative text (the "Senate Finance Committee version") for the tax provisions of the "One Big Beautiful Bill," the budget reconciliation bill currently under consideration by Congress that was passed by the House of Representatives on May 22, 2025 (the "House version"). Our prior Legal Update, House Reconciliation Bill Amends Clean Energy Provisions of the IRA, provided a summary and analysis of the House version of the legislation that amended the clean energy provisions enacted as part of the Inflation Reduction Act of 2022. Here, we highlight some of the more significant changes to the clean energy provisions in the Senate Finance Committee version.

The Senate aims to consider this legislation the week of June 22, 2025. However, both chambers will need to reconcile the differences in proposed legislation and finalize the legislation to be sent to the President for approval. Congressional leaders' stated goal is for the House and Senate to coordinate on any changes and thus create the opportunity for the House to pass the Senate Finance Committee version without further amendment, but that outcome remains uncertain at this time.

KEY TAKEAWAYS

- **Production Tax Credit ("PTC") and Investment Tax Credit ("ITC"):** The Senate Finance Committee version generally retains the existing technology-neutral PTC and ITC under Section 45Y and 48E for technologies other than solar and wind (but imposes a hard sunset for projects placed in service after 2032, regardless of annual greenhouse gas emissions), and like the House version does not impact any projects that commenced construction prior to 2025 that are eligible for the PTC/ITC under Sections 45 and 48. With respect to solar and wind (but not energy storage technology), there is a phased reduction of the technology-neutral ITC and PTC based on the beginning of the construction year starting in 2026 and ending in 2028. This means that to maximize the technology-neutral ITC and PTC for solar and wind projects, developers should consider entering into “beginning of construction” arrangements, such as transformer supply agreements or module supply agreements. The Senate Finance Committee version is more generous than the House version, which would eliminate the technology-neutral PTC and ITC for all technologies (not just solar and wind) that fail to begin construction within 60 days of the passing of the legislation or that fail to be placed in service by the end of 2028. The Senate Finance Committee version would also align the domestic content bonus percentage for Section 48E with current Section 45Y and begin to phase down projects that begin construction after June 16, 2025 (i.e., the date of the release of the Senate Finance Committee version).

- **Advanced Manufacturing Credit:** The Senate Finance Committee version phases down credits more gradually for solar energy equipment, battery components, and critical minerals. Significantly, the Senate Finance Committee version eliminates credit stacking, which generally means that a manufacturer will be precluded from using horizontal integration of manufacturing processes to maximize the credit.

- **Transferability:** There are no limitations on transferability of any credits unless the taxpayer is a ”prohibited foreign entity” (“PFE”). This is more generous than the House version, which would eliminate transferability for most credits for projects that begin construction two years after enactment.

- **PFE Rules:** The Senate Finance Committee version redefines “material assistance” as a cost-based metric, in contrast to the House version, which generally covers any component, subcomponent, or applicable critical mineral in a supply chain. While still potentially onerous, the cost-based approach should be more manageable for the industry. However, unlike the House version, which would apply this restriction only to projects that begin construction at least one year after enactment, the Senate Finance Committee version would apply this restriction to any project that begins construction after 2025. Under the Senate Finance Committee version, the PFE provisions are not applicable to Section 45 PTCs or 48 ITCs.

- **Vehicle Credits:** The Senate Finance Committee version maintains the elimination of clean vehicle and charging credits 180 days after enactment, with added assembly/location requirements for some vehicles. Additionally, for Section 45W (i.e., the commercial clean vehicle credit), the Senate Finance Committee version applies certain criteria, such as the North American assembly requirement, for any vehicle placed in service during the 180-day period.

- **Depreciation:** Modified Accelerated Cost Recovery System (”MACRS”) depreciation would be eliminated for clean electricity facilities (including wind and solar) and energy storage technology placed in service after the passing of the legislation. However, the 100% bonus depreciation is permanently extended.

The chart below provides a more detailed summary for the material changes included in the Senate finance committee's version.

CREDIT	ACCELERATED SUNSET - HOUSE VERSION	ACCELERATED SUNSET - CHANGES IN SENATE FINANCE COMMITTEE VERSION	TRANSFERABILITY LIMITATION - HOUSE VERSION	TRANSFERABILITY LIMITATION - CHANGES IN SENATE FINANCE COMMITTEE VERSION	FEOC - HOUSE VERSION	FFEOC - CHANGES IN SENATE FINANCE COMMITTEE VERSION
Nuclear Production Tax Credit (§ 45U)	Credits eliminated after December 31, 2031					2027: Nuclear fuel must not be produced in, exchanged with, traded or substituted for nuclear fuel from a covered nation or covered entity
Clean Electricity Production Tax Credit - "tech-neutral PTC" (§ 45Y) Clean Electricity Investment Tax Credit - "tech-neutral ITC" (§ 48E)	**Phase Down**: Projects must begin construction 60 days after enactment to be eligible - Projects must be placed in service by December 31, 2028 to be eligible - Immediate elimination of credits for solar or wind residential or rural leases **Advanced nuclear or expanded nuclear facilities:** Projects must begin construction by December 31, 2028	**Non-Solar and Wind Technologies**: Hard sunset for projects placed in service after 2032 (regardless of the amount of annual greenhouse gas emissions) **Solar and wind phase outs:** Same 2032 placed in service deadline as other technologies, but phase down based on beginning of construction year as follows: 2026: 60% of credit 2027: 20% of credit 2028: credit eliminated **Domestic content bonus percentage for 48E (aligning it with current 45Y):** Before June 16, 2025: 40% phase-down Facilities that commence construction later in 2025: 45% phase-down Facilities that commence construction in 2026: 50% phase-down Facilities that commence construction after 2026: 55% phase-down **Solar and Wind Leases**: Retained the immediate elimination of credits for solar or wind residential or rural leases	N/A (No limitations on transferability)	N/A (No limitations on transferability unless the taxpayer is a PFE)	**Effective Dates** - Credit denied if: (i) specified foreign entity owner: tax years after enactment (ii) material assistance from a prohibited foreign entity: facilities beginning construction > 1 year after enactment; (iii) foreign-influenced entity/"applicable payment" tests: tax years beginning ≥ 2 years after enactment	**Material Assistance:** Changed definition of material assistance from a specific set of components/actions to a metric based on the share of total costs that are attributable to costs of products/services from a PFE **Effective Date**: Generally the same as House bill, however, to be grandfathered out of the "material assistance" restriction, taxpayer must begin construction prior to the end of 2025 and applies for tax years beginning after enactment. **Section 48 ITC and 45 PTC**: FEPC provisions are not applicable to Section 45 or Section 48.
Credit for Carbon Oxide Sequestration (§ 45Q)	N/A (credit remains through 2032)		Transferability barred for facilities that begin			

48(a) Geothermal Credit	Geothermal credit base rate phase down accelerated: 6% before 2030 5.2% in 2030 4.4% in 2031 Credit eliminated by 2032 (3 years early)		construction 2 years after enactment (likely sometime in 2027)			
Advanced Manufacturing Production Credit (§ 45X)	**Phase Down:** 2028: credit for wind energy components is eliminated (5 years early) 2032: credit eliminated (1 year early)	**Phase Down** <u>Solar energy equipment:</u> 2026: 50% phase-down 2027: 60% phase-down 2028: 70% phase-down 2029: 80% phase-down After 2029: 85% phase-down <u>Battery components:</u> 2026 60% 2027 65% 2028 70% 2029 80% After 2029 85%. <u>Critical minerals:</u> The period Dec. 31, 2025 to Jan. 1, 2030: 0% phase-down 2030: 25% phase-down 2031: 30% phase-down 2032: 40% phase-down After 2032: 50% phase-down **Stacking:** Eliminated ability of a taxpayer to stack 45X credits. Singular taxpayer is not eligible to receive both a cell and module credit at the same time, or to add on credits for critical mineral processing.	No transferability for fuels or components made after December 31, 2027		**Effective dates** - Credit denied if: (i) specified foreign entity owner: tax years after enactment (ii) material assistance from a prohibited foreign entity: facilities beginning construction > 1 year after enactment; (iii) foreign-influenced entity/"applicable payment" tests: tax years beginning ≥ 2 years after enactment Components produced ≥ 2 years after enactment ineligible if they (i) receive "material assistance" from a prohibited foreign entity or (ii) are manufactured under a licensing agreement with such an entity valued > $1 million	
Clean Fuel Production Credit (§ 45Z)	Credit **extended** through 2031 (additional 4 years) Feedstocks are restricted to U.S., Canada, and Mexico. Additionally, there are more favorable lifecycle analysis criteria (e.g., excludes indirect land use changes,	Credit extended through 2031 with a limitation on the use of foreign feedstocks and a prohibition on negative carbon intensity scores			**Effective dates** - Credit denied if: (i) specified foreign entity owner: tax years after enactment (ii) material assistance from a prohibited foreign entity: facilities beginning construction > 1 year after enactment; (iii) foreign-influenced	

	and the Treasury will set emissions rates for specific manure feedstocks)				entity/"applicable payment" tests: tax years beginning ≥ 2 years after enactment	
Clean Hydrogen Production Tax Credit (§ 45V)						
Clean Vehicle Credit (§ 30D)		Credits eliminated effective 180 days after enactment of legislation				
Used Clean Vehicle Credit (§ 25E)						
Alternative Fuel Vehicle Refueling Property Credit - "EV charging" (§ 30C)		Credits eliminated effective 180 days after enactment of legislation				
Qualified Commercial Clean Vehicle Credit (§ 45W)	Credits eliminated for new projects after December 31, 2025	Credits eliminated effective 180 days after enactment of legislation For qualifying vehicles under 14,000 GVW it is required that: (1) These vehicles must meet the criteria in 30D(d)(1)(G) which requires final assembly in North America, and (2) For personal vehicles application of the limitation rules in 30D(f), e.g. vehicle cannot be used outside the US, VIN requirement, recapture rules etc.	Transferability eliminated for new projects after December 31, 2025		N/A (credits eliminated)	
Energy Efficient Home Improvement Tax Credit (§ 25C)						
Energy Efficient New Homes Tax Credit for Home Builders (§ 45L)		Credits eliminated effective 180 days after enactment of legislation				
Residential Clean Energy Property Credit (§ 25D)						

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