

**Congress of the United States**  
**Washington, DC 20515**

December 13, 2018

The Honorable Orrin Hatch  
Chairman  
Committee on Finance  
U.S. Senate  
Washington, DC 20510

The Honorable Kevin Brady  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Ron Wyden  
Ranking Member  
Committee on Finance  
U.S. Senate  
Washington, DC 20510

The Honorable Richard Neal  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Hatch, Ranking Member Wyden, Chairman Brady, and Ranking Member Neal:

As you consider legislation to extend expiring tax provisions, we urge you to include a provision that would improve the efficiency and performance requirements of the Section 48A Qualifying Advanced Coal Project Credit to best reflect existing technology of carbon capture systems added to existing coal units. Thank you for your consideration.

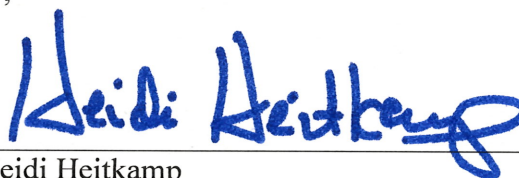
As you may know, in 2005, Congress established a "Credit for Investment in Clean Coal Facilities" in the Energy Tax Incentives Act (ETIA) of 2005. This Act provided investment tax incentives for both existing and new, highly efficient coal units. Through the Energy Improvement and Extension Act (EIEA) of 2008, Congress modified this provision to include as eligible facilities existing coal units that installed carbon capture systems. This legislation also imposed a new requirement to capture and store at least 65% of the CO<sub>2</sub> in order to be eligible. However, the CO<sub>2</sub> capture and sequestration requirement is too high for retrofit applications. The sizing of the CO<sub>2</sub> capture equipment for large units fits well up to about 60% capture; however, beyond that, inefficiencies in size, operations, and project economics limit implementation of the technology on existing units. To reflect this, we believe that a 60% CO<sub>2</sub> capture and sequestration threshold is an appropriate requirement for eligibility for the tax credit. As well, the current requirement for existing coal units to increase their efficiency with the addition of carbon capture is not technically feasible, and we are proposing to eliminate that efficiency requirement for an existing unit that installs carbon capture.

We again urge you to include a legislative provision that improves the efficiency and performance requirements in the Section 48A tax credit in the tax extenders package. Attached, you may find proposed language that our offices have worked to draft and which takes into account robust stakeholder input. Thank you for your attention to this matter, and we look forward to working with you on this request.


Sincerely,




John Hoeven  
United States Senator




Heidi Heitkamp  
United States Senator

  
\_\_\_\_\_  
John Barrasso  
United States Senator


  
\_\_\_\_\_  
Joe Manchin III  
United States Senator


  
\_\_\_\_\_  
Steve Daines  
United States Senator

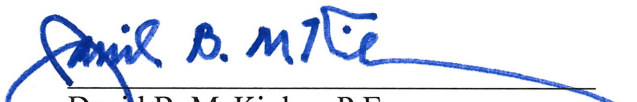
  
\_\_\_\_\_  
Jon Tester  
United States Senator

  
\_\_\_\_\_  
Michael B. Enzi  
United States Senator

  
\_\_\_\_\_  
Tina Smith  
United States Senator

  
\_\_\_\_\_  
Lindsey O. Graham  
United States Senator

  
\_\_\_\_\_  
Kevin Cramer  
United States Congressman

  
\_\_\_\_\_  
David B. McKinley, P.E.  
United States Congressman

  
\_\_\_\_\_  
Greg Gianforte  
United States Congressman

115TH CONGRESS  
2D SESSION

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

To amend the Internal Revenue Code of 1986 to modify the qualifying advanced coal project credit, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to modify the qualifying advanced coal project credit, 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. MODIFICATIONS OF QUALIFYING ADVANCED**

4 **COAL PROJECT CREDIT.**

5 (a) SEQUESTRATION REQUIREMENT FOR CERTAIN  
6 EQUIPMENT.—Section 48A(e)(1)(G) of the Internal Rev-  
7 enue Code of 1986 is amended by inserting “and 60 per-  
8 cent in the case of an application for a reallocation of cred-  
9 its under subsection (d)(4) with respect to an electrical

1 generating unit in existence on October 3, 2008” after  
2 “under subsection (d)(4)”.

3 (b) ADVANCED COAL-BASED GENERATION TECH-  
4 NOLOGY REQUIREMENTS.—

5 (1) IN GENERAL.—Section 48A(f)(1) of such  
6 Code is amended by striking “generation technology  
7 if—” and all that follows through “the unit is de-  
8 signed” and inserting “generation technology if the  
9 unit is designed”.

10 (2) CONFORMING AMENDMENTS.—Section  
11 48A(f) is amended—

12 (A) by striking all that precedes “the pur-  
13 pose of this section” and inserting the fol-  
14 lowing:

15 “(f) ADVANCED COAL-BASED GENERATION TECH-  
16 NOLOGY.—For”,

17 (B) by striking “in subparagraph (B)” in  
18 the second sentence and inserting “in this sub-  
19 section”, and

20 (C) by striking paragraphs (2) and (3).

21 (c) PERFORMANCE REQUIREMENTS IN CASE OF  
22 BEST AVAILABLE CONTROL TECHNOLOGY.—Section  
23 48A(f) of such Code, as amended by this Act, is amended  
24 by adding at the end the following: “In the case of a unit  
25 which has undergone a best available control technology

1 analysis after August 8, 2005, with respect to the removal  
2 or emissions of any pollutant specified in the table con-  
3 tained in this subsection, the removal or emissions design  
4 level with respect to such pollutant shall be the level deter-  
5 mined in such analysis.”.

6 (d) CLARIFICATION OF REALLOCATION AUTHOR-  
7 ITY.—Section 48A(d)(4) of the Internal Revenue Code of  
8 1986 is amended—

9 (1) in subparagraph (A)—

10 (A) by striking “Not later than 6 years  
11 after the date of enactment of this section, the”  
12 and inserting “The”, and

13 (B) by inserting “and every 6 months  
14 thereafter until all credits available under this  
15 section have been allowed” after “the date  
16 which is 6 years after the date of enactment of  
17 this section”,

18 (2) in subparagraph (B)—

19 (A) by striking “may reallocate credits  
20 available under clauses (i) and (ii) of paragraph  
21 (3)(B)” and inserting “shall reallocate credits  
22 remaining available under paragraph (3)”,

23 (B) by striking “or” at the end of clause  
24 (i), and

1 (C) by striking clause (ii) and inserting the  
2 following:

3 “(ii) any applicant for certification  
4 which submitted an accepted application  
5 has subsequently failed to satisfy the re-  
6 quirements under paragraph (2)(D), or

7 “(iii) any certification made pursuant  
8 to paragraph (2) has been revoked pursu-  
9 ant to paragraph (2)(E).”, and

10 (3) in subparagraph (C)—

11 (A) by striking “clause (i) or (ii) of para-  
12 graph (3)(B)” and inserting “paragraph (3)”,

13 (B) by striking “is authorized to” and in-  
14 serting “shall”, and

15 (C) by striking “an additional program”  
16 and inserting “additional programs”.

17 (e) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-  
19 graph (2), the amendments made by this section  
20 shall apply to allocations and reallocations after the  
21 date of the enactment of this Act.

22 (2) REALLOCATION.—The amendments made  
23 by subsection (d) shall apply to credits remaining  
24 available under section 48A(d)(3) of the Internal

1 Revenue Code of 1986 on the date of the enactment  
2 of this Act.