

114TH CONGRESS  
2D SESSION

# H. R. 5879

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. RICE of South Carolina (for himself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

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 CREDIT FOR PRODUCTION**  
4 **FROM ADVANCED NUCLEAR POWER FACILI-**  
5 **TIES.**

6 (a) TREATMENT OF UNUTILIZED LIMITATION  
7 AMOUNTS.—Section 45J(b) of the Internal Revenue Code  
8 of 1986 is amended—

9 (1) in paragraph (4), by inserting “or any  
10 amendment to” after “enactment of”, and

1           (2) by adding at the end of subsection (b) the  
2 following new paragraph:

3           “(5) ALLOCATION OF UNUTILIZED LIMITA-  
4 TION.—

5           “(A) IN GENERAL.—Any unutilized na-  
6 tional megawatt capacity limitation shall be al-  
7 located by the Secretary under paragraph (3)  
8 as rapidly as is practicable after December 31,  
9 2020—

10           “(i) first to facilities placed in service  
11 on or before such date to the extent that  
12 such facilities did not receive an allocation  
13 equal to their full nameplate capacity, and

14           “(ii) then to facilities placed in service  
15 after such date in the order in which such  
16 facilities are placed in service.

17           “(B) UNUTILIZED NATIONAL MEGAWATT  
18 CAPACITY LIMITATION.—The term ‘unutilized  
19 national megawatt capacity limitation’ means  
20 the excess (if any) of—

21           “(i) 6,000 megawatts, over

22           “(ii) the aggregate amount of national  
23 megawatt capacity limitation allocated by  
24 the Secretary before January 1, 2021, re-  
25 duced by any amount of such limitation

1           which was allocated to a facility which was  
2           not placed in service before such date.

3           “(C) COORDINATION WITH OTHER PROVI-  
4           SIONS.—In the case of any unutilized national  
5           megawatt capacity limitation allocated by the  
6           Secretary pursuant to this paragraph—

7                   “(i) such allocation shall be treated  
8                   for purposes of this section in the same  
9                   manner as an allocation of national mega-  
10                  watt capacity limitation, and

11                   “(ii) subsection (d)(1)(B) shall not  
12                   apply to any facility which receives such al-  
13                   location.”.

14           (b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-  
15           TITIES.—

16                   (1) IN GENERAL.—Section 45J of such Code is  
17                   amended—

18                           (A) by redesignating subsection (e) as sub-  
19                           section (f), and

20                           (B) by inserting after subsection (d) the  
21                           following new subsection:

22                   “(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-  
23                   TITIES.—

24                           “(1) IN GENERAL.—If, with respect to a credit  
25                           under subsection (a) for any taxable year—

1           “(A) the taxpayer would be a qualified  
2 public entity, and

3           “(B) such entity elects the application of  
4 this paragraph for such taxable year with re-  
5 spect to all (or any portion specified in such  
6 election) of such credit,  
7 the eligible project partner specified in such election  
8 (and not the qualified public entity) shall be treated  
9 as the taxpayer for purposes of this title with re-  
10 spect to such credit (or such portion thereof).

11           “(2) DEFINITIONS.—For purposes of this sub-  
12 section—

13           “(A) QUALIFIED PUBLIC ENTITY.—The  
14 term ‘qualified public entity’ means—

15           “(i) a Federal, State, or local govern-  
16 ment entity, or any political subdivision,  
17 agency, or instrumentality thereof,

18           “(ii) a mutual or cooperative electric  
19 company described in section 501(c)(12) or  
20 section 1381(a)(2), or

21           “(iii) a not-for-profit electric utility  
22 which has or had received a loan or loan  
23 guarantee under the Rural Electrification  
24 Act of 1936.

1           “(B) ELIGIBLE PROJECT PARTNER.—The  
2 term ‘eligible project partner’ means—

3           “(i) any person responsible for, or  
4 participating in, the design or construction  
5 of the advanced nuclear power facility to  
6 which the credit under subsection (a) re-  
7 lates,

8           “(ii) any person who participates in  
9 the provision of the nuclear steam supply  
10 system to the advanced nuclear power fa-  
11 cility to which the credit under subsection  
12 (a) relates,

13           “(iii) any person who participates in  
14 the provision of nuclear fuel to the ad-  
15 vanced nuclear power facility to which the  
16 credit under subsection (a) relates, or

17           “(iv) any person who has an owner-  
18 ship interest in such facility.

19           “(3) SPECIAL RULES.—

20           “(A) APPLICATION TO PARTNERSHIPS.—In  
21 the case of a credit under subsection (a) which  
22 is determined at the partnership level—

23           “(i) for purposes of paragraph (1)(A),  
24 a qualified public entity shall be treated as

1 the taxpayer with respect to such entity's  
2 distributive share of such credit, and

3 “(ii) the term ‘eligible project partner’  
4 shall include any partner of the partner-  
5 ship.

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

15 “(C) TREATMENT OF TRANSFER UNDER  
16 PRIVATE USE RULES.—For purposes of section  
17 141(b)(1), any benefit derived by an eligible  
18 project partner in connection with an election  
19 under this subsection shall not be taken into ac-  
20 count as a private business use.”.

21 (2) SPECIAL RULE FOR PROCEEDS OF TRANS-  
22 FERS FOR MUTUAL OR COOPERATIVE ELECTRIC  
23 COMPANIES.—Section 501(c)(12) of such Code is  
24 amended by adding at the end the following new  
25 subparagraph:

1           “(I) In the case of a mutual or cooperative  
2           electric company described in this paragraph or  
3           an organization described in section 1381(a)(2),  
4           income received or accrued in connection with  
5           an election under section 45J(e)(1) shall be  
6           treated as an amount collected from members  
7           for the sole purpose of meeting losses and ex-  
8           penses.”.

9           (c) EFFECTIVE DATES.—

10           (1) TREATMENT OF UNUTILIZED LIMITATION  
11           AMOUNTS.—The amendment made by subsection (a)  
12           shall take effect on the date of the enactment of this  
13           Act.

14           (2) TRANSFER OF CREDIT BY CERTAIN PUBLIC  
15           ENTITIES.—The amendments made by subsection  
16           (b) shall apply to taxable years beginning after the  
17           date of the enactment of this Act.

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