

115TH CONGRESS  
2D SESSION

# H. R. 5732

To amend the Internal Revenue Code of 1986 to provide for an investment tax credit related to the production of electricity from nuclear energy.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2018

Mr. LAHOOD (for himself, Mr. COSTELLO of Pennsylvania, Mr. RODNEY DAVIS of Illinois, Mr. RUPPERSBERGER, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. PERRY, Mr. KATKO, Mrs. BUSTOS, and Mr. SMUCKER) 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 provide for an investment tax credit related to the production of electricity from nuclear energy.

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 “Nuclear Powers Amer-  
5 ica Act of 2018”.

1 **SEC. 2. ENERGY CREDIT FOR NUCLEAR ENERGY PROP-**  
 2 **ERTY.**

3 (a) **IN GENERAL.**—Section 48(a)(3)(A) of the Inter-  
 4 nal Revenue Code of 1986 is amended in clause (vi) by  
 5 striking “or”, by inserting “or” at the end of clause (vii),  
 6 and by adding at the end the following new clause:

7 “(viii) qualified nuclear energy prop-  
 8 erty,”.

9 (b) **ELIGIBLE FOR 30-PERCENT CREDIT.**—Section  
 10 48(a)(2)(A)(i) of such Code is amended by striking “and”  
 11 in subclause (III) and by adding at the end the following  
 12 new subclause:

13 “(V) energy property described in  
 14 paragraph (3)(A)(viii) but only with  
 15 respect to property placed in service  
 16 before January 1, 2024, and”.

17 (c) **QUALIFIED NUCLEAR ENERGY PROPERTY.**—Sec-  
 18 tion 48(c) of such Code is amended by adding at the end  
 19 the following new paragraph:

20 “(5) **QUALIFIED NUCLEAR ENERGY PROP-**  
 21 **ERTY.**—

22 “(A) **IN GENERAL.**—The term ‘qualified  
 23 nuclear energy property’ means any amounts  
 24 paid or incurred for the refueling of, and any  
 25 other expenditures described in section 263(a)

1 with respect to, a qualifying nuclear power  
2 plant.

3 “(B) QUALIFYING NUCLEAR POWER  
4 PLANT.—The term ‘qualifying nuclear power  
5 plant’ means a nuclear power plant which—

6 “(i) submitted an application for li-  
7 cense renewal to the Nuclear Regulatory  
8 Commission in accordance with part 54 of  
9 title 10, Code of Federal Regulations, be-  
10 fore January 1, 2024, or

11 “(ii) certified to the Secretary (at  
12 such time and in such form and in such  
13 manner as the Secretary prescribes) that  
14 such plant will submit an application for li-  
15 cense renewal to the Nuclear Regulatory  
16 Commission in accordance with part 54 of  
17 title 10, Code of Federal Regulations, be-  
18 fore January 1, 2024.

19 “(C) SPECIAL RULES.—

20 “(i) BASIS.—For purposes of sub-  
21 section (a), the cumulative amounts paid  
22 or incurred by the taxpayer during the tax-  
23 able year with respect to a qualifying nu-  
24 clear power plant, which are properly  
25 chargeable to capital account, shall be

1 treated as the basis of the qualified nuclear  
2 energy property placed in service for that  
3 taxable year.

4 “(ii) PLACED IN SERVICE.—For pur-  
5 poses of subsection (a), qualified nuclear  
6 energy property shall be treated as having  
7 been placed in service on the last day of  
8 the taxable year in which the taxpayer  
9 pays or incurs such amounts described in  
10 clause (i).

11 “(iii) RECAPTURE.—The Secretary  
12 shall, by regulations, provide for recap-  
13 turing the benefit of any credit allowable  
14 under subsection (a) to any qualifying nu-  
15 clear power plant which made a certifi-  
16 cation pursuant to subparagraph (B) but  
17 does not file an application of license re-  
18 newal to the Nuclear Regulatory Commis-  
19 sion in accordance with part 54 of title 10,  
20 Code of Federal Regulations, before Janu-  
21 ary 1, 2024.”.

22 (d) PHASEOUT OF 30-PERCENT CREDIT RATE FOR  
23 NUCLEAR ENERGY PROPERTY.—Section 48(a) of such  
24 Code is amended by adding at the end the following new  
25 paragraph:

1           “(8) PHASEOUT FOR QUALIFIED NUCLEAR EN-  
2           ERGY PROPERTY.—In the case of qualified nuclear  
3           energy property, the energy percentage determined  
4           under paragraph (2) shall be equal to—

5                   “(A) in the case of any property placed in  
6                   service after December 31, 2021, and before  
7                   January 1, 2023, 26 percent, and

8                   “(B) in the case of any property placed in  
9                   service after December 31, 2022, and before  
10                  January 1, 2024, 22 percent.”.

11           (e) COORDINATION WITH CREDIT FOR PRODUCTION  
12           FROM ADVANCED NUCLEAR POWER FACILITIES.—The  
13           last sentence of section 48(a)(3) is amended by inserting  
14           “or 45J” after “section 45”.

15           (f) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-  
16           TITIES.—

17                   (1) IN GENERAL.—Section 48 of such Code is  
18                   amended by adding at the end the following new  
19                   subsection:

20                   “(e) SPECIAL RULE FOR QUALIFIED NUCLEAR EN-  
21                   ERGY PROPERTY.—

22                           “(1) IN GENERAL.—In the case of any qualified  
23                           nuclear energy property, if, with respect to a credit  
24                           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 subsection for such taxable year with re-  
5 spect to all (or any portion specified in such  
6 election) of such credit, the eligible project part-  
7 ner specified in such election (and not the  
8 qualified public entity) shall be treated as the  
9 taxpayer for purposes of this title with respect  
10 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 oper-  
4 ating, maintaining, or repairing the quali-  
5 fying nuclear power plant to which the  
6 credit under subsection (a) relates,

7           “(ii) any person who participates in  
8 the provision of the nuclear steam supply  
9 system to the qualifying nuclear power  
10 plant to which the credit under subsection  
11 (a) relates,

12           “(iii) any person who participates in  
13 the provision of nuclear fuel to the quali-  
14 fying nuclear power plant to which the  
15 credit under subsection (a) relates, or

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

18           “(3) SPECIAL RULES.—

19           “(A) APPLICATION TO PARTNERSHIPS.—In  
20 the case of a credit under subsection (a) which  
21 is determined with respect to qualified nuclear  
22 energy property 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 subsection (e), 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)(I) of such Code is  
24 amended by inserting “or 48(e)(1)” after “section  
25 45J(e)(1)”.



1           (g)           CONFORMING           AMENDMENT.—Section  
2 48(a)(2)(A) of such Code is amended by striking “and  
3 (7)” and inserting “, (7), and (8)”.

4           (h) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to periods after December 31,  
6 2017, in taxable years ending after such date, under rules  
7 similar to the rules of section 48(m) of the Internal Rev-  
8 enue Code of 1986 (as in effect on the day before the en-  
9 actment of the Revenue Reconciliation Act of 1990).

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