

116TH CONGRESS  
1ST SESSION

# H. R. 5258

To amend the Internal Revenue Code of 1986 to impose the alternative minimum tax on certain State regulated electric utilities that have not fully adopted climate-resilient infrastructure.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 2019

Mr. HARDER of California (for himself, Mr. HUFFMAN, Mr. AGUILAR, and Mr. GARAMENDI) 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 impose the alternative minimum tax on certain State regulated electric utilities that have not fully adopted climate-resilient infrastructure.

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 “No Bonuses During  
5 Blackouts Act of 2019”.

1 **SEC. 2. ALTERNATIVE MINIMUM TAX IMPOSED ON CERTAIN**  
2 **STATE REGULATED ELECTRIC UTILITIES.**

3 (a) IN GENERAL.—Section 55(a) of the Internal Rev-  
4 enue Code of 1986 is amended by inserting “a corporation  
5 described in subsection (f) or” after “In the case of”.

6 (b) CERTAIN STATE REGULATED ELECTRIC UTILI-  
7 TIES.—Section 55 of the Internal Revenue Code of 1986  
8 is amended by adding at the end the following new sub-  
9 section:

10 “(f) CERTAIN STATE REGULATED ELECTRIC UTILI-  
11 TIES.—

12 “(1) IN GENERAL.—A corporation is described  
13 in this subsection if it is—

14 “(A) a State regulated electric utility (as  
15 such term is defined in section 3(18) of the  
16 Public Utility Regulatory Policies Act of 1978),

17 “(B) a debtor in a case commenced under  
18 title 11 of the United States Code on January  
19 29, 2019, and

20 “(C) a corporation that—

21 “(i) makes payments, other than pay-  
22 ments of salary, that are incentive-based  
23 cash payments to any of the 13 highest-  
24 compensated employees of such corpora-  
25 tion, or

1                   “(ii) owns or leases infrastructure  
2                   other than climate-resilient infrastructure.

3                   “(2) CLIMATE-RESILIENT INFRASTRUCTURE.—  
4                   For purposes of this section, the term ‘climate-resilient  
5                   infrastructure’ means infrastructure with the  
6                   ability to reduce the impact of major weather events  
7                   and natural disasters.

8                   “(3) SPECIAL RULE FOR AFFILIATED  
9                   GROUPS.—If any member of an affiliated group of  
10                  corporations that files a consolidated return is a cor-  
11                  poration described in this subsection, all members of  
12                  such group shall be considered corporations de-  
13                  scribed in this subsection for purposes of chapter 6  
14                  of the Internal Revenue Code of 1986.”.

15                  (c) CONFORMING AMENDMENTS.—

16                  (1) Section 38(c)(6) of the Internal Revenue  
17                  Code of 1986 is amended by inserting “described in  
18                  section 55(f)” after “In the case of a corporation”.

19                  (2) Section 53(d)(2) of such Code is amended  
20                  by inserting “described in section 55(f)” after “in  
21                  the case of a corporation”.

22                  (3) Section 55(b)(1) of such Code is amended  
23                  to read as follows:

24                          “(1) AMOUNT OF TENTATIVE TAX.—

25                                  “(A) NONCORPORATE TAXPAYERS.—

1           “(i) IN GENERAL.—In the case of a  
2 taxpayer other than a corporation, the ten-  
3 tative minimum tax for the taxable year is  
4 the sum of—

5                   “(I) 26 percent of so much of the  
6 taxable excess as does not exceed  
7 \$175,000, plus—

8                   “(II) 28 percent of so much of  
9 the taxable excess as exceeds  
10 \$175,000.

11           The amount determined under the pre-  
12 ceding sentence shall be reduced by the al-  
13 ternative minimum tax foreign tax credit  
14 for the taxable year.

15           “(ii) TAXABLE EXCESS.—For pur-  
16 poses of this subsection, the term ‘taxable  
17 excess’ means so much of the alternative  
18 minimum taxable income for the taxable  
19 year as exceeds the exemption amount.

20           “(iii) MARRIED INDIVIDUAL FILING  
21 SEPARATE RETURN.—In the case of a mar-  
22 ried individual filing a separate return,  
23 clause (i) shall be applied by substituting  
24 50 percent of the dollar amount otherwise  
25 applicable under subclause (I) and sub-

1 clause (II) thereof. For purposes of the  
2 preceding sentence, marital status shall be  
3 determined under section 7703.

4 “(B) CORPORATIONS.—In the case of a  
5 corporation described in subsection (f), the ten-  
6 tative minimum tax for the taxable year is—

7 “(i) 20 percent of so much of the al-  
8 ternative minimum taxable income for the  
9 taxable year as exceeds the exemption  
10 amount, reduced by

11 “(ii) the alternative minimum tax for-  
12 eign tax credit for the taxable year.”.

13 (4) Section 55(b)(3) of such Code is amended  
14 by striking “paragraph (1)(A)” and inserting “para-  
15 graph (1)(A)(i)”.

16 (5) Section 59(a) of such Code is amended—

17 (A) in paragraph (1)(C), by striking “sec-  
18 tion 55(b)(1) in lieu of the highest rate of tax  
19 specified in section 1” and inserting “subpara-  
20 graph (A)(i) or (B)(i) of section 55(b)(1)  
21 (whichever applies) in lieu of the highest rate of  
22 tax specified in section 1 or 11 (whichever ap-  
23 plies)”; and

1 (B) in paragraph (2), by striking “means”  
2 and all that follows and inserting the following:

3 “means—

4 “(A) in the case of a taxpayer other than  
5 a corporation, the amount determined under the  
6 first sentence of section 55(b)(1)(A)(i), or

7 “(B) in the case of a corporation described  
8 in section 55(f), the amount determined under  
9 section 55(b)(1)(B)(i).”.

10 (6) Section 897(a)(2)(A) of such Code is  
11 amended by striking “section 55(b)(1)” and insert-  
12 ing “section 55(b)(1)(A)”.

13 (7) Section 911(f) of such Code is amended—

14 (A) by striking “section 55(b)(1)(B)” each  
15 place it appears and inserting “section  
16 55(b)(1)(A)(ii)”; and

17 (B) in paragraph (1)(B), by striking “sec-  
18 tion 55(b)(1)(A)” and inserting “section  
19 55(b)(1)(A)(i)”.

20 (8) Section 55(c)(1) of such Code is amended  
21 by inserting before the first period the following: “,  
22 the section 936 credit allowable under section 27(b),  
23 and the Puerto Rico economic activity credit under  
24 section 30A”.

25 (9) Section 55(d) of such Code is amended—

1 (A) redesignating paragraphs (2) and (3)  
2 as paragraphs (3) and (4), respectively, and in-  
3 serting after paragraph (1) the following:

4 “(2) CORPORATIONS.—In the case of a corpora-  
5 tion, the term ‘exemption amount’ means \$40,000.”;

6 (B) in paragraph (3) (as so redesignated),  
7 by striking “and” at the end of subparagraph  
8 (B), by striking the period and inserting “,  
9 and” at the end of subparagraph (C), and by  
10 adding at the end the following:

11 “(D) \$150,000 in the case of a taxpayer  
12 described in paragraph (2).”;

13 (C) in paragraph (4) (as so redesign-  
14 ated)—

15 (i) in subparagraph (B)(i), by striking  
16 “(b)(1)(A)” and inserting “(b)(1)(A)(i)”;  
17 and

18 (ii) in subparagraph (B)(iii), by strik-  
19 ing “paragraph (2)” and inserting “para-  
20 graph (3)”.

21 (10) Section 55 of such Code is amended by re-  
22 storing subsection (e) as though it had not been  
23 struck by Public Law 115–97.

24 (11) Section 56(b)(2) of such Code is amended  
25 by redesignating subparagraph (C) as subparagraph

1 (D) and by inserting after subparagraph (B) the fol-  
2 lowing:

3 “(C) SPECIAL RULE FOR PERSONAL HOLD-  
4 ING COMPANIES.—In the case of circulation ex-  
5 penditures described in section 173, the adjust-  
6 ments provided in this paragraph shall apply  
7 also to a personal holding company (as defined  
8 in section 542).”.

9 (12) Section 56 of such Code is amended by re-  
10 storing subsections (c) and (g) as though they had  
11 not been struck by Public Law 115–97.

12 (13) Section 847(9) of such Code is amended  
13 by adding at the end the following: “Nothing in the  
14 preceding sentence shall be construed to affect the  
15 application of section 56(g) (relating to adjustments  
16 based on adjusted current earnings).”

17 (14) Section 848 of such Code is amended by  
18 restoring subsection (i) as though it had not been  
19 struck by Public Law 115–97.

20 (15) Section 58(a) of such Code is amended by  
21 redesignating paragraph (3) as paragraph (4) and  
22 by inserting the following after paragraph (2):

23 “(3) APPLICATION TO PERSONAL SERVICE COR-  
24 PORATIONS.—For purposes of paragraph (1), a per-  
25 sonal service corporation (within the meaning of sec-



1       tion 469(j)(2)) shall be treated as a taxpayer other  
2       than a corporation.”.

3           (16) Section 59 of such Code is amended by re-  
4       storing subsections (b) and (f) as though they had  
5       not been struck by Public Law 115–97.

6           (17) Section 11(d) of such Code is amended by  
7       striking “the tax imposed by subsection (a)” and in-  
8       serting “the taxes imposed by subsection (a) and  
9       section 55”.

10          (18) Section 12 of such Code is amended by re-  
11       storing paragraph (7) as though it had not been  
12       struck by Public Law 115–97.

13          (19) Section 168(k) of such Code is amended  
14       by restoring paragraph (4) as though it had not  
15       been struck by Public Law 115–97.

16          (20) Section 882(a)(1) of such Code is amended  
17       by inserting “, 55,” after “section 11”.

18          (21) Section 962(a)(1) of such Code is amended  
19       by inserting “and 55” after “section 11”.

20          (22) Section 1561(a) of such Code is amend-  
21       ed—

22           (A) by striking “and” at the end of para-  
23       graph (1), by striking the period at the end of  
24       paragraph (2) and inserting “, and”, and by in-  
25       serting after paragraph (2) the following:

1           “(3) one \$40,000 exemption amount for pur-  
2           poses of computing the amount of the minimum  
3           tax.”; and

4                   (B) by restoring the last sentence as  
5           though it had not been struck by Public Law  
6           115–97.

7           (23) Section 6425(e)(1)(A) of such Code is  
8           amended to read as it read before the passage of  
9           Public Law 115–97.

10           (24) Section 6655(e)(2) of such Code is amend-  
11           ed by inserting “and alternative minimum taxable  
12           income” each place it appeared before the passage of  
13           Public Law 115–97.

14           (25) Section 6655(g)(1)(A) of such Code is  
15           amended by striking “plus” at the end of clause (i),  
16           by redesignating clause (ii) as clause (iii), and by in-  
17           serting after clause (i) the following:

18                   “(ii) the tax imposed by section 55,  
19                   plus”.

20           (d) EFFECTIVE DATE.—The amendments made by  
21           this section shall apply to taxable years beginning after  
22           December 31, 2019.

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