

# Union Calendar No. 676

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5879

**[Report No. 114–863]**

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

DECEMBER 8, 2016

Additional sponsors: Mr. SIMPSON, Mr. PRICE of Georgia, Mr. MARCHANT,  
Mr. RENACCI, Mr. DUNCAN of South Carolina, Mr. VEASEY, Ms. SINEMA,  
and Mr. DAVID SCOTT of Georgia

DECEMBER 8, 2016

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 14, 2016]

# **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*

11 (2) *by adding at the end the following new para-*  
 12 *graph:*

13 “(5) *ALLOCATION OF UNUTILIZED LIMITATION.—*

14 “(A) *IN GENERAL.—Any unutilized na-*  
 15 *tional megawatt capacity limitation shall be al-*  
 16 *located by the Secretary under paragraph (3) as*  
 17 *rapidly as is practicable after December 31,*  
 18 *2020—*

19 “(i) *first to facilities placed in service*  
 20 *on or before such date to the extent that*  
 21 *such facilities did not receive an allocation*  
 22 *equal to their full nameplate capacity, and*

23 “(ii) *then to facilities placed in service*  
 24 *after such date in the order in which such*  
 25 *facilities are placed in service.*

1           “(B) *UNUTILIZED NATIONAL MEGAWATT CA-*  
 2           *PACITY LIMITATION.*—*The term ‘unutilized na-*  
 3           *tional megawatt capacity limitation’ means the*  
 4           *excess (if any) of—*

5                     “(i) 6,000 megawatts, over

6                     “(ii) *the aggregate amount of national*  
 7                     *megawatt capacity limitation allocated by*  
 8                     *the Secretary before January 1, 2021, re-*  
 9                     *duced by any amount of such limitation*  
 10                    *which was allocated to a facility which was*  
 11                    *not placed in service before such date.*

12           “(C) *COORDINATION WITH OTHER PROVI-*  
 13           *SIONS.*—*In the case of any unutilized national*  
 14           *megawatt capacity limitation allocated by the*  
 15           *Secretary pursuant to this paragraph—*

16                    “(i) *such allocation shall be treated for*  
 17                    *purposes of this section in the same manner*  
 18                    *as an allocation of national megawatt ca-*  
 19                    *capacity limitation, and*

20                    “(ii) *subsection (d)(1)(B) shall not*  
 21                    *apply to any facility which receives such al-*  
 22                    *location.”.*

23           (b) *TRANSFER OF CREDIT BY CERTAIN PUBLIC ENTI-*  
 24           *TIES.*—

1           (1) *IN GENERAL.*—Section 45J of such Code is  
2       *amended—*

3                   (A) *by redesignating subsection (e) as sub-*  
4       *section (f), and*

5                   (B) *by inserting after subsection (d) the fol-*  
6       *lowing new subsection:*

7       “(e) *TRANSFER OF CREDIT BY CERTAIN PUBLIC ENTI-*  
8       *TIES.*—

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

11                           “(A) *the taxpayer would be a qualified pub-*  
12       *lic entity, and*

13                           “(B) *such entity elects the application of*  
14       *this paragraph for such taxable year with respect*  
15       *to all (or any portion specified in such election)*  
16       *of such credit,*  
17       *the eligible project partner specified in such election*  
18       *(and not the qualified public entity) shall be treated*  
19       *as the taxpayer for purposes of this title with respect*  
20       *to such credit (or such portion thereof).*

21                   “(2) *DEFINITIONS.*—*For purposes of this sub-*  
22       *section—*

23                           “(A) *QUALIFIED PUBLIC ENTITY.*—*The term*  
24       *‘qualified public entity’ means—*

1           “(i) a *Federal, State, or local govern-*  
2           *ment entity, or any political subdivision,*  
3           *agency, or instrumentality thereof,*

4           “(ii) a *mutual or cooperative electric*  
5           *company described in section 501(c)(12) or*  
6           *section 1381(a)(2), or*

7           “(iii) a *not-for-profit electric utility*  
8           *which has or had received a loan or loan*  
9           *guarantee under the Rural Electrification*  
10          *Act of 1936.*

11          “(B) *ELIGIBLE PROJECT PARTNER.*—*The*  
12          *term ‘eligible project partner’ means—*

13               “(i) *any person responsible for, or par-*  
14               *ticipating in, the design or construction of*  
15               *the advanced nuclear power facility to*  
16               *which the credit under subsection (a) re-*  
17               *lates,*

18               “(ii) *any person who participates in*  
19               *the provision of the nuclear steam supply*  
20               *system to the advanced nuclear power facil-*  
21               *ity to which the credit under subsection (a)*  
22               *relates,*

23               “(iii) *any person who participates in*  
24               *the provision of nuclear fuel to the advanced*

1            *nuclear power facility to which the credit*  
 2            *under subsection (a) relates, or*

3            *“(iv) any person who has an owner-*  
 4            *ship interest in such facility.*

5            *“(3) SPECIAL RULES.—*

6            *“(A) APPLICATION TO PARTNERSHIPS.—In*  
 7            *the case of a credit under subsection (a) which*  
 8            *is determined at the partnership level—*

9            *“(i) for purposes of paragraph (1)(A),*  
 10           *a qualified public entity shall be treated as*  
 11           *the taxpayer with respect to such entity’s*  
 12           *distributive share of such credit, and*

13           *“(ii) the term ‘eligible project partner’*  
 14           *shall include any partner of the partner-*  
 15           *ship.*

16           *“(B) TAXABLE YEAR IN WHICH CREDIT*  
 17           *TAKEN INTO ACCOUNT.—In the case of any credit*  
 18           *(or portion thereof) with respect to which an*  
 19           *election is made under paragraph (1), such cred-*  
 20           *it shall be taken into account in the first taxable*  
 21           *year of the eligible project partner ending with,*  
 22           *or after, the qualified public entity’s taxable year*  
 23           *with respect to which the credit was determined.*

24           *“(C) TREATMENT OF TRANSFER UNDER PRI-*  
 25           *VATE USE RULES.—For purposes of section*

1           141(b)(1), any benefit derived by an eligible  
 2           project partner in connection with an election  
 3           under this subsection shall not be taken into ac-  
 4           count as a private business use.”.

5           (2) *SPECIAL RULE FOR PROCEEDS OF TRANS-*  
 6           *FERS FOR MUTUAL OR COOPERATIVE ELECTRIC COM-*  
 7           *PANIES.*—Section 501(c)(12) of such Code is amended  
 8           by adding at the end the following new subparagraph:

9                   “(I) In the case of a mutual or cooperative  
 10           electric company described in this paragraph or  
 11           an organization described in section 1381(a)(2),  
 12           income received or accrued in connection with  
 13           an election under section 45J(e)(1) shall be treat-  
 14           ed as an amount collected from members for the  
 15           sole purpose of meeting losses and expenses.”.

16          (c) *EFFECTIVE DATES.*—

17           (1) *TREATMENT OF UNUTILIZED LIMITATION*  
 18           *AMOUNTS.*—The amendment made by subsection (a)  
 19           shall take effect on the date of the enactment of this  
 20           Act.

21           (2) *TRANSFER OF CREDIT BY CERTAIN PUBLIC*  
 22           *ENTITIES.*—The amendments made by subsection (b)  
 23           shall apply to taxable years beginning after December  
 24           31, 2016.



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