AMENDMENT TO RULES COMMITTEE PRINT 114-40, SHOWING TEXT OF HOUSE AMENDMENT #2 TO THE SENATE AMENDMENT TO H.R. 2029

OFFERED BY MR. RICE OF SOUTH CAROLINA

Page 196, after line 5, insert the following (and amend the table of contents for Division Q accordingly):

1 SECTION 337. MODIFICATION OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES TO PRIVATE PARTNERS OF TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Section 45J is amended—

(1) by redesignating subsection (e) as subsection (f), and

(2) by inserting after subsection (d) the following new subsection:

“(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNERSHIPS.—

“(1) TRANSFER OF CREDIT.—

“(A) IN GENERAL.—In the case of an advanced nuclear power facility which is owned by a public private partnership or co-owned by a qualified public entity and a non-public entity,
any qualified public entity which is a member of such partnership or a co-owner of such facility may transfer such entity’s allocation of the credit under subsection (a), or any portion thereof, to—

“(i) any non-public entity which is a member of such partnership or which is a co-owner of such facility,

“(ii) any person responsible for designing the facility, or

“(iii) any person responsible for, or participating in, construction of the facility.

Any amount transferred to another person under this paragraph shall be subject to the limitations under subsections (b) and (c) and section 38.

“(B) Special rule for certain taxpayers.—Under regulations promulgated by the Secretary, in the case of any person described in subparagraph (ii) and (iii) of subparagraph (A) to whom a credit is transferred—
“(i) such person shall be treated as an owner of the advanced nuclear power facility to which the credit relates, and

“(ii) such person shall be treated as the producer and seller of so much of the electricity produced and sold at such facility as bears the same ratio to all such electricity produced and sold as the amount of credit transferred under paragraph (1) bears to the total amount of credit allocated to the qualified public entity.

“(2) QUALIFIED PUBLIC ENTITY.—For purposes of this subsection, the term ‘qualified public entity’ means—

“(A) a Federal, State, or local government entity, or any political subdivision, agency, or instrumentality thereof,

“(B) a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2), or

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

“(3) VERIFICATION OF TRANSFER OF ALLOCATION.—A qualified public entity that makes a trans-
fer under paragraph (1), and a nonpublic entity that receives an allocation under such a transfer, shall provide verification of such transfer in such manner and at such time as the Secretary shall prescribe.

“(4) Treatment of transfer under private use rules.—For purposes of section 141(b)(1), any benefit derived by a non-public entity in connection with a transfer under paragraph (1) shall not be taken into account as a private business use.”.

(b) Coordination With General Business Credit.—Subsection (c) of section 38 is amended by adding at the end the following new paragraph:

“(7) Special rule for credit for production from advanced nuclear power facilities.—

“(A) In general.—In the case of the credit for production from advanced nuclear power facilities determined under section 45J(a), paragraph (1) shall not apply with respect to any qualified public entity (as defined in section 45J(e)(2)) which transfers the entity’s allocation of such credit as provided in section 45J(e)(1).
“(B) Verification of transfer.—Subparagraph (A) shall not apply to any qualified public entity unless such entity provides verification of a transfer of credit allocation as required under section 45J(e)(3).”.

(c) Special Rule for Proceeds of Transfers for Mutual or Cooperative Electric Companies.—

Section 501(c)(12) is amended by adding at the end the following new subparagraph:

“(I) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2), income received or accrued from a transfer described in section 45J(e)(1) shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.”.

(d) Effective Date.—

(1) In general.—The amendments made by subsections (a) and (b) shall apply to electricity produced in taxable years beginning after the date of the enactment of this Act.

(2) Proceeds of Mutual or Cooperative Electric Companies.—The amendment made by
subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.