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### A BILL TO EXCLUDE FROM GROSS INCOME CERTAIN CLEAN COAL POWER GRANTS

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APRIL 14, 2015.—Ordered to be printed

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Mr. HATCH, from the Committee on Finance,  
submitted the following

### R E P O R T

[To accompany S. 919]

The Committee on Finance, having considered an original bill, S. 919, to exclude from gross income certain clean coal power grants to non-corporate taxpayers, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### CONTENTS

	Page
I. LEGISLATIVE BACKGROUND .....	1
II. EXPLANATION OF THE BILL .....	2
A. Exclusion from Gross Income of Certain Clean Coal Power Grants (sec. 1 of the bill) .....	2
III. BUDGET EFFECTS OF THE BILL .....	3
IV. VOTES OF THE COMMITTEE .....	3
V. REGULATORY IMPACT AND OTHER MATTERS .....	5
VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED .....	5

#### I. LEGISLATIVE BACKGROUND

The Committee on Finance, having considered S. 919, a bill to exclude from gross income certain clean coal power grants to non-corporate taxpayers, reports favorably thereon without amendment and recommends that the bill do pass.

##### *Background and need for legislative action*

*Background.*—Based on a proposal recommended by Senator Cornyn, the Committee on Finance marked up original legislation (a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain clean coal power grants) on February 11,

2015, and, with a majority present, ordered the bill favorably reported.

*Need for legislative action.*—Section 402 of the Energy Policy Act of 2005 provides criteria for Federal financial assistance under the Clean Coal Power Initiative. To the extent this financial assistance comes in the form of a grant, award, or allowance, it must generally be included in income. Corporate taxpayers may be eligible to exclude such financial assistance from gross income as a contribution of capital under section 118 of the Code, but this exclusion is not available to non-corporate taxpayers. Federal financial assistance under the Clean Coal Power Initiative should be excludable from the income of investors, regardless of whether they operate as a corporation, in order to make such assistance as effective as possible in encouraging clean coal power.

## II. EXPLANATION OF THE BILL

### A. EXCLUSION FROM GROSS INCOME OF CERTAIN CLEAN COAL POWER GRANTS (SEC. 1 OF THE BILL)

#### PRESENT LAW

Section 402 of the Energy Policy Act of 2005 provides criteria for Federal financial assistance under the Clean Coal Power Initiative. To the extent this financial assistance comes in the form of a grant, award, or allowance, it must generally be included in income under section 61 of the Internal Revenue Code (the “Code”).

Corporate taxpayers may be eligible to exclude such financial assistance from gross income as a contribution of capital under section 118 of the Code. The basis of any property acquired by reason of such a contribution of capital must be reduced by the amount of the contribution. This exclusion is not available to non-corporate taxpayers.

#### REASONS FOR CHANGE

The Committee believes that Federal financial assistance under the Clean Coal Power Initiative should be excludable from the income of investors in order to make such assistance as effective as possible in encouraging clean coal power. In addition, the Committee believes that a corresponding basis reduction is necessary in all cases to prevent any unintended double benefit under the incentive.

#### EXPLANATION OF PROVISION

With respect to eligible non-corporate recipients, the proposal excludes from gross income and alternative minimum taxable income any grant, award, or allowance made pursuant to section 402 of the Energy Policy Act of 2005. The proposal requires that, to the extent the grant, award or allowance is related to depreciable property, the adjusted basis is reduced by the amount excluded from income under the proposal. The proposal requires eligible non-corporate recipients to pay an upfront payment to the Federal government equal to 1.18 percent of the value of the grant, award, or allowance.

Under the proposal, eligible non-corporate recipients are defined as (1) any recipient (other than a corporation) of any grant, award, or allowance made pursuant to Section 402 of the Energy Policy

Act of 2005 that (2) makes the upfront 1.18-percent payment, where (3) the grant, award, or allowance would have been excludable from income by reason of Code section 118 if the taxpayer had been a corporation. In the case of a partnership, the eligible non-corporate recipients are the partners.

#### EFFECTIVE DATE

The proposal is effective for payments received in taxable years beginning after December 31, 2011.

### III. BUDGET EFFECTS OF THE BILL

#### A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 308(a)(1) of the Congressional Budget and Impoundment Control Act of 1974, as amended (the “Budget Act”), the following statement is made concerning the estimated budget effects of the revenue provisions of the bill as reported.

The bill is estimated to alter Federal fiscal year budget receipts by the following amounts for the period 2015–2025:

FISCAL YEARS												
[Millions of Dollars]												
2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015– 20	2015–25
–96	52	–25	8	41	48	34	24	17	8	2	–79	6

NOTE: Details do not add to totals due to rounding.

#### B. BUDGET AUTHORITY AND TAX EXPENDITURES

##### *Budget authority*

In compliance with section 308(a)(1) of the Budget Act, the Committee states that no provisions of the bill as reported involve new or increased budget authority.

##### *Tax expenditures*

In compliance with section 308(a)(1) of the Budget Act, the Committee states that certain provisions of the bill as reported affect the levels of tax expenditures (see revenue table in part A., above).

#### C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 402 of the Budget Act, the Committee advises that the Congressional Budget Office has not submitted a statement on the bill. The letter from the Congressional Budget Office will be provided separately.

### IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that, with a majority present, the bill was ordered favorably reported by voice vote on February 11, 2015.

## V. REGULATORY IMPACT AND OTHER MATTERS

### A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill.

*Impact on individuals and businesses, personal privacy and paperwork*

The bill excludes from gross income certain clean coal power grants. The provisions of the bill are not expected to impose additional administrative requirements or regulatory burdens on individuals or businesses.

The provisions of the bill do not impact personal privacy.

### B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the tax provisions of the reported bill do not contain Federal private sector mandates or Federal intergovernmental mandates on State, local, or tribal governments within the meaning of Public Law 104-4, the Unfunded Mandates Reform Act of 1995.

### C. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (“IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small businesses.

## VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).