

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1551
OFFERED BY MR. BRADY OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. MODIFICATIONS OF CREDIT FOR PRODUCTION
2 FROM ADVANCED NUCLEAR POWER FACILITIES.
3 TIES.**

4 (a) TREATMENT OF UNUTILIZED LIMITATION
5 AMOUNTS.—Section 45J(b) of the Internal Revenue Code
6 of 1986 is amended—

7 (1) in paragraph (4), by inserting “or any
8 amendment to” after “enactment of”, and

9 (2) by adding at the end the following new
10 paragraph:

11 “(5) ALLOCATION OF UNUTILIZED LIMITA-
12 TION.—

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

1 “(i) first to facilities placed in service
2 on or before such date to the extent that
3 such facilities did not receive an allocation
4 equal to their full nameplate capacity, and

5 “(ii) then to facilities placed in service
6 after such date in the order in which such
7 facilities are placed in service.

8 “(B) UNUTILIZED NATIONAL MEGAWATT
9 CAPACITY LIMITATION.—The term ‘unutilized
10 national megawatt capacity limitation’ means
11 the excess (if any) of—

12 “(i) 6,000 megawatts, over

13 “(ii) the aggregate amount of national
14 megawatt capacity limitation allocated by
15 the Secretary before January 1, 2021, re-
16 duced by any amount of such limitation
17 which was allocated to a facility which was
18 not placed in service before such date.

19 “(C) COORDINATION WITH OTHER PROVI-
20 SIONS.—In the case of any unutilized national
21 megawatt capacity limitation allocated by the
22 Secretary pursuant to this paragraph—

23 “(i) such allocation shall be treated
24 for purposes of this section in the same

1 manner as an allocation of national mega-
2 watt capacity limitation, and

3 “(ii) subsection (d)(1)(B) shall not
4 apply to any facility which receives such al-
5 location.”.

6 (b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
7 TITIES.—

8 (1) IN GENERAL.—Section 45J of such Code is
9 amended—

10 (A) by redesignating subsection (e) as sub-
11 section (f), and

12 (B) by inserting after subsection (d) the
13 following new subsection:

14 “(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
15 TITIES.—

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

18 “(A) the taxpayer would be a qualified
19 public entity, and

20 “(B) such entity elects the application of
21 this paragraph for such taxable year with re-
22 spect to all (or any portion specified in such
23 election) of such credit,

24 the eligible project partner specified in such election
25 (and not the qualified public entity) shall be treated

1 as the taxpayer for purposes of this title with re-
2 spect to such credit (or such portion thereof).

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) QUALIFIED PUBLIC ENTITY.—The
6 term ‘qualified public entity’ means—

7 “(i) a Federal, State, or local govern-
8 ment entity, or any political subdivision,
9 agency, or instrumentality thereof,

10 “(ii) a mutual or cooperative electric
11 company described in section 501(e)(12) or
12 section 1381(a)(2), or

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

17 “(B) ELIGIBLE PROJECT PARTNER.—The
18 term ‘eligible project partner’ means—

19 “(i) any person responsible for, or
20 participating in, the design or construction
21 of the advanced nuclear power facility to
22 which the credit under subsection (a) re-
23 lates,

24 “(ii) any person who participates in
25 the provision of the nuclear steam supply

1 system to the advanced nuclear power fa-
2 cility to which the credit under subsection
3 (a) relates,

4 “(iii) any person who participates in
5 the provision of nuclear fuel to the ad-
6 vanced nuclear power facility to which the
7 credit under subsection (a) relates, or

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

10 “(3) SPECIAL RULES.—

11 “(A) APPLICATION TO PARTNERSHIPS.—In
12 the case of a credit under subsection (a) which
13 is determined at the partnership level—

14 “(i) for purposes of paragraph (1)(A),
15 a qualified public entity shall be treated as
16 the taxpayer with respect to such entity’s
17 distributive share of such credit, and

18 “(ii) the term ‘eligible project partner’
19 shall include any partner of the partner-
20 ship.

21 “(B) TAXABLE YEAR IN WHICH CREDIT
22 TAKEN INTO ACCOUNT.—In the case of any
23 credit (or portion thereof) with respect to which
24 an election is made under paragraph (1), such
25 credit shall be taken into account in the first

1 taxable year of the eligible project partner end-
2 ing with, or after, the qualified public entity's
3 taxable year with respect to which the credit
4 was determined.

5 “(C) TREATMENT OF TRANSFER UNDER
6 PRIVATE USE RULES.—For purposes of section
7 141(b)(1), any benefit derived by an eligible
8 project partner in connection with an election
9 under this subsection shall not be taken into ac-
10 count as a private business use.”.

11 (2) SPECIAL RULE FOR PROCEEDS OF TRANS-
12 FERS FOR MUTUAL OR COOPERATIVE ELECTRIC
13 COMPANIES.—Section 501(c)(12) of such Code is
14 amended by adding at the end the following new
15 subparagraph:

16 “(I) In the case of a mutual or cooperative
17 electric company described in this paragraph or
18 an organization described in section 1381(a)(2),
19 income received or accrued in connection with
20 an election under section 45J(e)(1) shall be
21 treated as an amount collected from members
22 for the sole purpose of meeting losses and ex-
23 penses.”.

24 (c) EFFECTIVE DATES.—

1 (1) TREATMENT OF UNUTILIZED LIMITATION
2 AMOUNTS.—The amendment made by subsection (a)
3 shall take effect on the date of the enactment of this
4 Act.

5 (2) TRANSFER OF CREDIT BY CERTAIN PUBLIC
6 ENTITIES.—The amendments made by subsection
7 (b) shall apply to taxable years beginning after the
8 date of the enactment of this Act.

