

115TH CONGRESS  
1ST SESSION

# H. R. 1551

---

## AN ACT

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,*

1 **SECTION 1. MODIFICATIONS OF CREDIT FOR PRODUCTION**  
2 **FROM ADVANCED NUCLEAR POWER FACILI-**  
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—

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

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

25 “(B) UNUTILIZED NATIONAL MEGAWATT  
26 CAPACITY LIMITATION.—The term ‘unutilized

1 national megawatt capacity limitation’ means  
2 the excess (if any) of—

3 “(i) 6,000 megawatts, over

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

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

14 “(i) such allocation shall be treated  
15 for purposes of this section in the same  
16 manner as an allocation of national mega-  
17 watt capacity limitation; and

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

21 (b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-  
22 TITIES.—

23 (1) IN GENERAL.—Section 45J of such Code is  
24 amended—

1 (A) by redesignating subsection (e) as sub-  
2 section (f); and

3 (B) by inserting after subsection (d) the  
4 following new subsection:

5 “(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-  
6 TITIES.—

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

9 “(A) the taxpayer would be a qualified  
10 public entity; and

11 “(B) such entity elects the application of  
12 this paragraph for such taxable year with re-  
13 spect to all (or any portion specified in such  
14 election) of such credit,

15 the eligible project partner specified in such election  
16 (and not the qualified public entity) shall be treated  
17 as the taxpayer for purposes of this title with re-  
18 spect to such credit (or such portion thereof).

19 “(2) DEFINITIONS.—For purposes of this sub-  
20 section—

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

23 “(i) a Federal, State, or local govern-  
24 ment entity, or any political subdivision,  
25 agency, or instrumentality thereof;

1           “(ii) a mutual or cooperative electric  
2 company described in section 501(e)(12) or  
3 section 1381(a)(2); or

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

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

10           “(i) any person responsible for, or  
11 participating in, the design or construction  
12 of the advanced nuclear power facility to  
13 which the credit under subsection (a) re-  
14 lates;

15           “(ii) any person who participates in  
16 the provision of the nuclear steam supply  
17 system to the advanced nuclear power fa-  
18 cility to which the credit under subsection  
19 (a) relates;

20           “(iii) any person who participates in  
21 the provision of nuclear fuel to the ad-  
22 vanced nuclear power facility to which the  
23 credit under subsection (a) relates; or

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

1           “(3) SPECIAL RULES.—

2                   “(A) APPLICATION TO PARTNERSHIPS.—In  
3 the case of a credit under subsection (a) which  
4 is determined at the partnership level—

5                           “(i) for purposes of paragraph (1)(A),  
6 a qualified public entity shall be treated as  
7 the taxpayer with respect to such entity’s  
8 distributive share of such credit; and

9                           “(ii) the term ‘eligible project partner’  
10 shall include any partner of the partner-  
11 ship.

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

21                   “(C) TREATMENT OF TRANSFER UNDER  
22 PRIVATE USE RULES.—For purposes of section  
23 141(b)(1), any benefit derived by an eligible  
24 project partner in connection with an election

1           under this subsection shall not be taken into ac-  
2           count as a private business use.”.

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

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

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

1 (b) shall apply to taxable years beginning after the  
2 date of the enactment of this Act.

Passed the House of Representatives June 20, 2017.

Attest:

*Clerk.*





115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

---

---

**H. R. 1551**

**AN ACT**

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.