

112TH CONGRESS
1ST SESSION

S. 631

To extend certain Federal benefits and income tax provisions to energy generated by hydropower resources.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

Ms. MURKOWSKI (for herself and Mr. BEGICH) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To extend certain Federal benefits and income tax provisions to energy generated by hydropower resources.

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. SHORT TITLE.**

4 This Act may be cited as the “Hydropower Renew-
5 able Energy Development Act of 2011”.

6 **SEC. 2. HYDROELECTRIC ENERGY TREATED AS RENEW-**
7 **ABLE ENERGY.**

8 Notwithstanding any other provision of law or regula-
9 tion, for purposes of any Federal program or standard,
10 the term “renewable energy” shall include hydroelectric

1 energy generated in the United States by a hydroelectric
2 facility, including electric power produced by efficiency im-
3 provements and capacity additions, generation added to
4 nonpower dams, conduits, marine and hydrokinetic re-
5 sources, lake taps, pumped storage facilities, and conven-
6 tional hydropower.

7 **SEC. 3. PRODUCTION TAX CREDIT FOR HYDROPOWER RE-**
8 **SOURCES.**

9 (a) IN GENERAL.—Subparagraph (A) of section
10 45(c)(8) of the Internal Revenue Code of 1986 is amend-
11 ed—

12 (1) by striking “and” at the end of clause (i),

13 (2) by striking the period at the end of clause
14 (ii) and inserting “, and”, and

15 (3) by adding at the end the following new
16 clause:

17 “(iii) in the case of any hydropower
18 facility described in subparagraph (D), the
19 hydropower production from the facility for
20 the taxable year.”.

21 (b) PRODUCTION.—Paragraph (8) of section 45(c) of
22 the Internal Revenue Code of 1986 is amended by adding
23 at the end the following new subparagraph:

24 “(D) OTHER HYDROPOWER PRODUCTION
25 FACILITIES.—For purposes of subparagraph

1 (A), a facility is described in this subparagraph
 2 if such facility—

3 “(i) is a hydroelectric dam or non-
 4 hydroelectric dam—

5 “(I) which is placed in service
 6 after the date of the enactment of the
 7 Hydropower Renewable Energy Devel-
 8 opment Act of 2011, and

9 “(II) which would be described in
 10 subparagraph (A)(i) or (C) but for the
 11 placed in service date,

12 “(ii) is a hydroelectric facility not de-
 13 scribed in clause (i) which has a nameplate
 14 capacity rating of less than 50 megawatts,
 15 or

16 “(iii) is not described in clause (i) or
 17 (ii) and generates energy through the use
 18 of a lake tap or pumped storage.”.

19 (c) QUALIFIED FACILITIES.—Paragraph (9) of sec-
 20 tion 45(d) of the Internal Revenue Code of 1986 is amend-
 21 ed to read as follows:

22 “(9) QUALIFIED HYDROPOWER FACILITY.—

23 “(A) INCREMENTAL HYDROPOWER PRO-
 24 Duction.—In the case of a facility described in
 25 subsection (c)(8), without regard to subpara-

1 graph (C) or (D) thereof, which produces incre-
2 mental hydropower production, the term ‘quali-
3 fied facility’ means such facility but only to the
4 extent of such incremental hydropower produc-
5 tion attributable to efficiency improvements or
6 additions to capacity described in subsection
7 (c)(8)(B) placed in service after August 8,
8 2005, and before January 1, 2014.

9 “(B) PRODUCTION FROM CERTAIN NON-
10 HYDROELECTRIC DAMS.—In the case of a facil-
11 ity described in subsection (c)(8)(C) which pro-
12 duces qualified hydropower production, the
13 term ‘qualified facility’ means any such facility
14 placed in service after August 8, 2005, and be-
15 fore January 1, 2014.

16 “(C) PRODUCTION FROM OTHER HYDRO-
17 POWER FACILITIES.—In the case of qualified
18 hydropower production at a facility after the
19 date of the enactment of the Hydropower Re-
20 newable Energy Development Act of 2011, the
21 term ‘qualified facility’ includes any such facil-
22 ity which is described in subsection (c)(8)(D).

23 “(D) CREDIT PERIOD.—In the case of a
24 qualified facility described in subparagraph (A),
25 the 10-year period referred to in subsection (a)

1 shall be treated as beginning on the date the ef-
 2 ficiency improvements or additions to capacity
 3 are placed in service.”.

4 (d) INCREASE IN CREDIT RATE.—Subparagraph (A)
 5 of section 45(b)(4) of the Internal Revenue Code of 1986
 6 is amended by striking “(7), (9), or (11)” and inserting
 7 “or (7)”.

8 (e) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to electricity produced after the
 10 date of the enactment of this Act.

11 **SEC. 4. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR**
 12 **EQUIPMENT WHICH PRODUCES ELECTRICITY**
 13 **FROM MARINE RENEWABLES AND HYDRO-**
 14 **POWER.**

15 (a) IN GENERAL.—Subclause (III) of section
 16 168(e)(3)(B)(vi) of the Internal Revenue Code of 1986 is
 17 amended to read as follows:

18 “(III) is described in section
 19 45(d)(11) (without regard to any
 20 placed in service date) and converts
 21 marine and hydrokinetic renewable
 22 energy (as defined in section
 23 45(c)(10)) into useable energy,”.

24 (b) CONVENTIONAL HYDROPOWER.—Clause (vi) of
 25 section 168(e)(3)(B) of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 subclause:

3 “(IV) is described in section
4 45(d)(9) (without regard to any
5 placed in service date) and has quali-
6 fied hydropower production (as de-
7 fined in section 45(e)(8)), and”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to property placed in service after
10 the date of the enactment of this Act.

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