

112TH CONGRESS
1ST SESSION

H. R. 3238

To amend the Internal Revenue Code of 1986 to provide for an investment tax credit related to the production of electricity from offshore wind.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2011

Mr. PASCRELL (for himself and Mr. LOBIONDO) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for an investment tax credit related to the production of electricity from offshore wind.

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 “Incentivizing Offshore
5 Wind Power Act”.

6 **SEC. 2. QUALIFYING OFFSHORE WIND FACILITY CREDIT.**

7 (a) IN GENERAL.—Section 46 of the Internal Rev-
8 enue Code of 1986 is amended by striking “and” at the
9 end of paragraph (5), by striking the period at the end

1 of paragraph (6), and by adding at the end the following
2 new paragraph:

3 “(7) the qualifying offshore wind facility cred-
4 it.”.

5 (b) AMOUNT OF CREDIT.—Subpart E of part IV of
6 subchapter A of chapter 1 of the Internal Revenue Code
7 of 1986 is amended by inserting after section 48D the fol-
8 lowing new section:

9 **“SEC. 48E. CREDIT FOR OFFSHORE WIND FACILITIES.**

10 “(a) IN GENERAL.—For purposes of section 46, the
11 qualifying offshore wind facility credit for any taxable year
12 is an amount equal to 30 percent of the qualified invest-
13 ment for such taxable year with respect to any qualifying
14 offshore wind facility of the taxpayer.

15 “(b) QUALIFIED INVESTMENT.—

16 “(1) IN GENERAL.—For purposes of subsection
17 (a), the qualified investment for any taxable year is
18 the basis of eligible property placed in service by the
19 taxpayer during such taxable year which is part of
20 a qualifying offshore wind facility.

21 “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-
22 TURES RULES MADE APPLICABLE.—Rules similar to
23 the rules of subsections (c)(4) and (d) of section 46
24 (as in effect on the day before the enactment of the

1 Revenue Reconciliation Act of 1990) shall apply for
2 purposes of this section.

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFYING OFFSHORE WIND FACILITY.—

5 “(A) IN GENERAL.—The term ‘qualifying
6 offshore wind facility’ means an offshore facility
7 using wind to produce electricity.

8 “(B) OFFSHORE FACILITY.—The term
9 ‘offshore facility’ means any facility located in
10 the inland navigable waters of the United
11 States, including the Great Lakes, or in the
12 coastal waters of the United States, including
13 the territorial seas of the United States, the ex-
14 clusive economic zone of United States, and the
15 outer Continental Shelf of the United States.

16 “(2) ELIGIBLE PROPERTY.—The term ‘eligible
17 property’ means any property—

18 “(A) which is—

19 “(i) tangible personal property, or

20 “(ii) other tangible property (not in-
21 cluding a building or its structural compo-
22 nents), but only if such property is used as
23 an integral part of the qualifying offshore
24 wind facility, and

1 “(B) with respect to which depreciation (or
2 amortization in lieu of depreciation) is allow-
3 able.

4 “(d) QUALIFYING CREDIT FOR OFFSHORE WIND FA-
5 CILITIES PROGRAM.—

6 “(1) ESTABLISHMENT.—

7 “(A) IN GENERAL.—Not later than 180
8 days after the date of the enactment of this sec-
9 tion, the Secretary, in consultation with the
10 Secretary of Energy and the Secretary of the
11 Interior, shall establish a qualifying credit for
12 offshore wind facilities program to consider and
13 award certifications for qualified investments el-
14 igible for credits under this section to qualifying
15 offshore wind facility sponsors.

16 “(B) LIMITATION.—The total amount of
17 megawatt capacity for offshore facilities with
18 respect to which credits may be allocated under
19 the program shall not exceed 3,000 megawatts.

20 “(2) CERTIFICATION.—

21 “(A) APPLICATION PERIOD.—Each appli-
22 cant for certification under this paragraph shall
23 submit an application containing such informa-
24 tion as the Secretary may require beginning on

1 the date the Secretary establishes the program
2 under paragraph (1).

3 “(B) PERIOD OF ISSUANCE.—An applicant
4 which receives a certification shall have 5 years
5 from the date of issuance of the certification in
6 order to place the facility in service and if such
7 facility is not placed in service by that time pe-
8 riod, then the certification shall no longer be
9 valid.

10 “(3) SELECTION CRITERIA.—In determining
11 which qualifying offshore wind facilities to certify
12 under this section, the Secretary shall—

13 “(A) take into consideration which facili-
14 ties will be placed in service at the earliest date,
15 and

16 “(B) take into account the technology of
17 the facility that may lead to reduced industry
18 and consumer costs or expand access to off-
19 shore wind.

20 “(4) REVIEW AND REDISTRIBUTION.—

21 “(A) REVIEW.—Not later than 4 years
22 after the date of the enactment of this section,
23 the Secretary shall review the credits allocated
24 under this section as of such date.

1 “(B) REDISTRIBUTION.—The Secretary
2 may reallocate credits awarded under this sec-
3 tion if the Secretary determines that—

4 “(i) there is an insufficient quantity
5 of qualifying applications for certification
6 pending at the time of the review, or

7 “(ii) scheduled placed-in-service dates
8 of previously certified facilities have been
9 significantly delayed and the Secretary de-
10 termines the applicant will not meet the
11 timeline pursuant to paragraph (2)(B).

12 “(C) REALLOCATION.—If the Secretary de-
13 termines that credits under this section are
14 available for reallocation pursuant to the re-
15 quirements set forth in paragraph (2), the Sec-
16 retary is authorized to conduct an additional
17 program for applications for certification.

18 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
19 retary shall, upon making a certification under this
20 subsection, publicly disclose the identity of the appli-
21 cant and the amount of the credit with respect to
22 such applicant.

23 “(e) DENIAL OF DOUBLE BENEFIT.—A credit shall
24 not be allowed under this section with respect to any facil-
25 ity if—

1 “(1) a credit has been allowed to such facility
2 under section 45 for such taxable year or any prior
3 taxable year,

4 “(2) a credit has been allowed with respect to
5 such facility under section 46 by reason of section
6 48(a) or 48C(a) for such taxable or any preceding
7 taxable year, or

8 “(3) a grant has been made with respect to
9 such facility under section 1603 of the American Re-
10 covery and Reinvestment Act of 2009.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 49(a)(1)(C) of the Internal Revenue
13 Code of 1986 is amended—

14 (A) by striking “and” at the end of clause
15 (v),

16 (B) by striking the period at the end of
17 clause (vi) and inserting “, and”; and

18 (C) by adding after clause (vi) the fol-
19 lowing new clause:

20 “(vi) the basis of any property which
21 is part of a qualifying offshore wind facil-
22 ity under section 48E.”.

23 (2) The table of sections for subpart E of part
24 IV of subchapter A of chapter 1 of the Internal Rev-

1 enue Code of 1986 is amended by inserting after the
2 item relating to section 48D the following new item:

“48E. Credit for offshore wind facilities.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to periods after the date of the
5 enactment of this Act, under rules similar to the rules of
6 section 48(m) of the Internal Revenue Code of 1986 (as
7 in effect on the day before the date of the enactment of
8 the Revenue Reconciliation Act of 1990).

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