

111TH CONGRESS  
2D SESSION

# S. 3064

To amend the Internal Revenue Code of 1986 to provide a credit for the production of energy from deep water offshore wind.

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IN THE SENATE OF THE UNITED STATES

MARCH 3, 2010

Ms. SNOWE (for herself, Mr. CARPER, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for the production of energy from deep water 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 “Deepwater Offshore  
5 Wind Incentive Act”.

6 **SEC. 2. CREDIT FOR PRODUCTION OF ENERGY FROM DEEP**  
7 **WATER OFFSHORE WIND.**

8 (a) PRODUCTION CREDIT.—

9 (1) IN GENERAL.—Subpart D of part IV of  
10 subchapter A of chapter 1 of the Internal Revenue

1 Code of 1986 is amended by adding at the end the  
 2 following new section:

3 **“SEC. 45R. CREDIT FOR PRODUCTION FOR DEEP WATER**  
 4 **OFFSHORE WIND.**

5 “(a) GENERAL RULE.—For purposes of section 38,  
 6 the deep water offshore wind production credit of any tax-  
 7 payer for any taxable year is equal to the product of—

8 “(1) 3.04 cents, multiplied by

9 “(2) the kilowatt hours of electricity—

10 “(A) produced by the taxpayer at a deep  
 11 water offshore wind facility during the 10-year  
 12 period beginning on the date the facility was  
 13 originally placed in service, and

14 “(B) sold by the taxpayer to an unrelated  
 15 person during the taxable year.

16 “(b) NATIONAL LIMITATION.—

17 “(1) IN GENERAL.—The amount of credit  
 18 which would (but for this subsection) be allowed  
 19 with respect to any facility for any taxable year shall  
 20 not exceed the amount which bears the same ratio  
 21 to such amount of credit as—

22 “(A) the national megawatt capacity limi-  
 23 tation allocated to the facility, bears to

24 “(B) the total megawatt nameplate capac-  
 25 ity of such facility.

1           “(2) AMOUNT OF NATIONAL LIMITATION.—The  
2       aggregate amount of national megawatt capacity  
3       limitation allocated by the Secretary under para-  
4       graph (3) shall not exceed 6,000 megawatts.

5           “(3) ALLOCATION OF LIMITATION.—The Sec-  
6       retary shall allocate the national megawatt capacity  
7       limitation in the following manner:

8           “(A) The Secretary shall allocate the first  
9       5,000 megawatts of the national megawatt ca-  
10      pacity limitation to facilities by giving priority  
11      to facilities which will be placed in service at  
12      the earliest date.

13          “(B) The Secretary shall allocate the re-  
14      maining megawatts of the national megawatt  
15      capacity limitation by taking into account the  
16      technology of the facility.

17          “(4) REGULATIONS.—Not later than 6 months  
18      after the date of the enactment of this section, the  
19      Secretary shall prescribe such regulations as may be  
20      necessary or appropriate to carry out the purposes  
21      of this subsection. Such regulations shall provide a  
22      certification process under which the Secretary, after  
23      consultation with the Secretary of Energy, shall ap-  
24      prove and allocate the national megawatt capacity  
25      limitation.

1 “(c) DEEP WATER OFFSHORE WIND FACILITY.—

2 For purposes of this section—

3 “(1) IN GENERAL.—The term ‘deep water off-  
4 shore wind facility’ means any facility which—

5 “(A) is owned by the taxpayer,

6 “(B) uses wind to produce electricity,

7 “(C) operates in 60 meters or more of  
8 water,

9 “(D) is located within the internal or terri-  
10 torial waters of the United States, and

11 “(E) is placed in service after the date of  
12 the enactment of this section and before Janu-  
13 ary 1, 2030.

14 “(2) EXCEPTIONS.—Such term shall not in-  
15 clude any facility if—

16 “(A) a credit has been allowed to such fa-  
17 cility under section 45 for such taxable year or  
18 any prior taxable year,

19 “(B) a credit has been allowed with respect  
20 to such facility under section 46 by reason of  
21 section 48(a) for such taxable or any preceding  
22 taxable year, or

23 “(C) a grant has been made with respect  
24 to such facility under section 1603 of the Amer-  
25 ican Recovery and Reinvestment Act of 2009.

1       “(d) OTHER RULES TO APPLY.—Rules similar to the  
 2 rules of paragraphs (1), (3), (4), and (5) of section 45(e)  
 3 shall apply for purposes of this section.

4       “(e) INFLATION ADJUSTMENT.—

5               “(1) IN GENERAL.—In the case of any calendar  
 6 year after 2010, the 3.04 cent amount in subsection  
 7 (a)(1) shall be adjusted by multiplying such amount  
 8 by the inflation adjustment factor for the calendar  
 9 year in which the sale occurs. If any amount as in-  
 10 creased under the preceding sentence is not a mul-  
 11 tiple of 0.01 cent, such amount shall be rounded to  
 12 the nearest multiple of 0.01 cent.

13              “(2) INFLATION ADJUSTMENT FACTOR.—For  
 14 purposes of paragraph (1), the term ‘inflation ad-  
 15 justment factor’ has the meaning given such term  
 16 under section 45(e)(2)(B), except that ‘calendar year  
 17 2010’ shall be substituted for ‘calendar year  
 18 1992’.”.

19              (2) CREDIT MADE PART OF GENERAL BUSINESS  
 20 CREDIT.—Section 38(b) of the Internal Revenue  
 21 Code of 1986 is amended—

22                      (A) by striking “plus” at the end of para-  
 23 graph (34),

24                      (B) by striking the period at the end of  
 25 paragraph (35) and inserting “, plus”, and

1 (C) by adding at the end the following new  
2 paragraph:

3 “(36) the deep water offshore wind production  
4 credit determined under section 45R(a).”.

5 (3) COORDINATION WITH OTHER BENEFITS.—

6 (A) SECTION 45 PRODUCTION CREDIT.—

7 Section 45(e) of the Internal Revenue Code of  
8 1986 is amended by adding at the end the fol-  
9 lowing new paragraph:

10 “(12) COORDINATION WITH DEEP WATER OFF-  
11 SHORE WIND CREDIT.—No credit shall be allowed  
12 under subsection (a) with respect to any qualified fa-  
13 cility described in subsection (d)(1) if a credit has  
14 been allowed to such facility under section 45J for  
15 such taxable year or any prior taxable year.”.

16 (B) INVESTMENT CREDIT.—Subsections

17 (B) and (C) of section 48(d)(5)(B) of such  
18 Code are each amended by inserting “or section  
19 45R” after “section 45”.

20 (C) GRANTS.—Section 48(d)(1) of such

21 Code is amended by striking “or section 45”  
22 and inserting “, section 45, or section 45R”.

23 (4) CLERICAL AMENDMENT.—The table of sec-

24 tions for subpart D of part IV of subchapter A of

1 chapter 1 of the Internal Revenue Code of 1986 is  
2 amended by adding at the end the following:

“Sec. 45R. Credit for production for deep water offshore wind.”.

3 (b) OPTION TO ELECT INVESTMENT CREDIT IN LIEU  
4 OF PRODUCTION CREDIT.—Section 48(a)(5)(C)(i) of the  
5 Internal Revenue Code of 1986 is amended by inserting  
6 “, or any deep water offshore wind facility (within the  
7 meaning of section 45R) if such facility is placed in service  
8 before 2030” before the period at the end.

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

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