

111TH CONGRESS  
2D SESSION

# S. 3571

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

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IN THE SENATE OF THE UNITED STATES

JULY 13, 2010

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 2010”.

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, pumped storage facilities, ma-  
 5 rine and hydrokinetic resources, and conventional hydro-  
 6 power.

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 2010, 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-

graph (C) or (D) thereof, which produces incremental hydropower production, the term ‘qualified facility’ means such facility but only to the extent of such incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after August 8, 2005, and before January 1, 2014.

“(B) PRODUCTION FROM CERTAIN NON-HYDROELECTRIC DAMS.—In the case of a facility described in subsection (c)(8)(C) which produces qualified hydropower production, the term ‘qualified facility’ means any such facility placed in service after August 8, 2005, and before January 1, 2014.

“(C) PRODUCTION FROM OTHER HYDROPOWER FACILITIES.—In the case of qualified hydropower production at a facility after the date of the enactment of the Hydropower Renewable Energy Development Act of 2010, the term ‘qualified facility’ includes any such facility which is described in subsection (c)(8)(D).

“(D) CREDIT PERIOD.—In the case of a qualified facility described in subparagraph (A), 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 “(9),”.

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

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