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-

- 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 HYDRO-POWER 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 2011, 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 "(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-
1314	FROM MARINE RENEWABLES AND HYDRO- POWER.
14	POWER.
14 15	POWER. (a) In General.—Subclause (III) of section
141516	POWER. (a) IN GENERAL.—Subclause (III) of section 168(e)(3)(B)(vi) of the Internal Revenue Code of 1986 is
14151617	POWER. (a) IN GENERAL.—Subclause (III) of section $168(e)(3)(B)(vi)$ of the Internal Revenue Code of 1986 is amended to read as follows:
14 15 16 17 18	POWER. (a) IN GENERAL.—Subclause (III) of section $168(e)(3)(B)(vi)$ of the Internal Revenue Code of 1986 is amended to read as follows: "(III) is described in section
14 15 16 17 18 19	power. (a) In General.—Subclause (III) of section $168(e)(3)(B)(vi)$ of the Internal Revenue Code of 1986 is amended to read as follows: "(III) is described in section $45(d)(11)$ (without regard to any
14151617181920	POWER. (a) IN GENERAL.—Subclause (III) of section $168(e)(3)(B)(vi)$ of the Internal Revenue Code of 1986 is amended to read as follows: "(III) is described in section $45(d)(11)$ (without regard to any placed in service date) and converts
14 15 16 17 18 19 20 21	(a) In General.—Subclause (III) of section 168(e)(3)(B)(vi) of the Internal Revenue Code of 1986 is amended to read as follows: "(III) is described in section 45(d)(11) (without regard to any placed in service date) and converts marine and hydrokinetic renewable
14 15 16 17 18 19 20 21 22	(a) In General.—Subclause (III) of section 168(e)(3)(B)(vi) of the Internal Revenue Code of 1986 is amended to read as follows: "(III) is described in section 45(d)(11) (without regard to any placed in service date) and converts marine and hydrokinetic renewable energy (as defined in section

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 $45(c)(8)$, and".
8	(c) Effective Date.—The amendments made by
9	this section shall apply to property placed in service after

 \bigcirc

10 the date of the enactment of this Act.