

113TH CONGRESS
1ST SESSION

H. R. 924

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

FEBRUARY 28, 2013

Mr. PASCRELL (for himself, Mr. LOBIONDO, and Mr. CARNEY) 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—

9 (1) by striking “and” at the end of paragraph

10 (5),

1 (2) by striking the period at the end of para-
2 graph (6) and inserting “, and”, and

3 (3) by adding at the end the following new
4 paragraph:

5 “(7) the qualifying offshore wind facility cred-
6 it.”.

7 (b) AMOUNT OF CREDIT.—Subpart E of part IV of
8 subchapter A of chapter 1 is amended by inserting after
9 section 48D the following new section:

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

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

16 “(b) QUALIFIED INVESTMENT.—

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

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

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

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

“(1) QUALIFYING OFFSHORE WIND FACILITY.—

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

“(B) OFFSHORE FACILITY.—The term ‘offshore facility’ means any facility located in the inland navigable waters of the United States, including the Great Lakes, or in the coastal waters of the United States, including the territorial seas of the United States, the exclusive economic zone of the United States, and the outer Continental Shelf of the United States.

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

“(A) which is—

“(i) tangible personal property, or

“(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualifying offshore 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 an offshore wind facilities program to consider
13 and award certifications for qualified invest-
14 ments eligible for credits under this section to
15 qualifying 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, ADDITIONAL ALLOCATIONS, AND
21 REALLOCATIONS.—

22 “(A) REVIEW.—Periodically, but not later
23 than 4 years after the date of the enactment of
24 this section, the Secretary shall review the cred-

1 its allocated under this section as of the date of
2 such review.

3 “(B) ADDITIONAL ALLOCATIONS AND RE-
4 ALLOCATIONS.—The Secretary may make addi-
5 tional allocations and reallocations of credits
6 under this section if the Secretary determines
7 that—

8 “(i) the limitation under paragraph
9 (1)(B) has not been attained at the time of
10 the review, or

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

16 “(C) ADDITIONAL PROGRAM FOR ALLOCA-
17 TIONS AND REALLOCATIONS.—If the Secretary
18 determines that credits under this section are
19 available for further allocation or reallocation,
20 but there is an insufficient quantity of quali-
21 fying applications for certification pending at
22 the time of the review, the Secretary is author-
23 ized to conduct an additional program for appli-
24 cations for certification.

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

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

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

12 “(2) a credit has been allowed with respect to
 13 such facility under section 46 by reason of section
 14 48(a) or 48C(a) for such taxable or any preceding
 15 taxable year, or

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

19 (c) CONFORMING AMENDMENTS.—

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

22 (A) by striking “and” at the end of clause
 23 (v),

24 (B) by striking the period at the end of
 25 clause (vi) and inserting “, and”, and

1 (C) by adding after clause (vi) the fol-
2 lowing new clause:

3 “(vii) the basis of any property which
4 is part of a qualifying offshore wind facil-
5 ity under section 48E.”.

6 (2) The table of sections for subpart E of part
7 IV of subchapter A of chapter 1 of the Internal Rev-
8 enue Code of 1986 is amended by inserting after the
9 item relating to section 48D the following new item:

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

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to periods after the date of the
12 enactment of this Act, under rules similar to the rules of
13 section 48(m) of the Internal Revenue Code of 1986 (as
14 in effect on the day before the date of the enactment of
15 the Revenue Reconciliation Act of 1990).

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