

113TH CONGRESS
2D SESSION

S. 1899

To amend the Internal Revenue Code of 1986 to provide a consumer renewable credit for a utility that sells renewable power, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2014

Ms. KLOBUCHAR (for herself, Mr. HOEVEN, and Mr. JOHNSON of South Dakota) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a consumer renewable credit for a utility that sells renewable power, and for other purposes.

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. CONSUMER RENEWABLE CREDIT.**

4 (a) BUSINESS CREDIT.—

5 (1) IN GENERAL.—Subpart D of part IV of
6 subchapter A of chapter 1 of the Internal Revenue
7 Code of 1986 is amended by adding at the end the
8 following new section:

1 **“SEC. 45S. CONSUMER RENEWABLE CREDIT.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 in the case of an eligible taxpayer, the consumer renewable
4 credit for any taxable year is an amount equal to the prod-
5 uct of—

6 “(1) the renewable portfolio factor of such eligi-
7 ble taxpayer, and

8 “(2) subject to subsection (e), the number of
9 kilowatt hours of renewable electricity—

10 “(A) purchased or produced by such tax-
11 payer, and

12 “(B) sold by such taxpayer to a retail cus-
13 tomer during the taxable year.

14 “(b) RENEWABLE PORTFOLIO FACTOR.—In the case
15 of taxable years beginning before January 1, 2019, the
16 renewable portfolio factor for an eligible taxpayer shall be
17 determined as follows:

“Renewable electricity percentage:	Renewable portfolio factor:
Less than 6 percent	zero cents
At least 6 percent but less than 8 percent	0.1 cents
At least 8 percent but less than 12 percent	0.2 cents
At least 12 percent but less than 16 percent	0.3 cents
At least 16 percent but less than 20 percent	0.4 cents
At least 20 percent but less than 24 percent	0.5 cents
Equal to or greater than 24 percent	0.6 cents.

18 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
19 poses of this section—

1 “(1) ELIGIBLE TAXPAYER.—The term ‘eligible
2 taxpayer’ means an electric utility, as defined in sec-
3 tion 3(22) of the Federal Power Act (16 U.S.C.
4 796(22)).

5 “(2) RENEWABLE ELECTRICITY.—The term ‘re-
6 newable electricity’ means electricity generated by
7 any facility using wind or solar energy to generate
8 such electricity.

9 “(3) RENEWABLE ELECTRICITY PERCENT-
10 AGE.—The term ‘renewable electricity percentage’
11 means the percentage of an eligible taxpayer’s total
12 sales of electricity to retail customers which is de-
13 rived from renewable electricity (determined without
14 regard to whether such electricity was produced by
15 the taxpayer).

16 “(4) APPLICATION OF OTHER RULES.—For
17 purposes of this section, rules similar to the rules of
18 paragraphs (1), (3), and (5) of section 45(e) shall
19 apply.

20 “(5) CREDIT ALLOWED ONLY WITH RESPECT
21 TO ONE ELIGIBLE ENTITY.—No credit shall be al-
22 lowed under subsection (a) with respect to renewable
23 electricity purchased from another eligible entity if a
24 credit has been allowed under this section to such
25 other eligible entity.

1 “(d) COORDINATION WITH PAYMENTS.—The amount
2 of the credit determined under this section with respect
3 to any electricity shall be reduced to take into account any
4 payment provided with respect to such electricity solely by
5 reason of the application of section 6433.

6 “(e) RENEWABLE ELECTRICITY ENHANCEMENT.—

7 “(1) NATIVE AMERICAN WIND AND SOLAR.—In
8 the case of renewable electricity generated by a wind
9 or solar energy facility which is located on an Indian
10 reservation (as defined in section 168(j)(6)), the
11 number of kilowatt hours of such renewable elec-
12 tricity shall, for purposes of subsection (a)(2), be
13 equal to 200 percent of the kilowatt hours of such
14 renewable electricity actually purchased or produced
15 and sold during the taxable year.

16 “(2) ELECTRIC COOPERATIVE WIND AND
17 SOLAR.—In the case of renewable electricity gen-
18 erated by a wind or solar energy facility which is
19 wholly owned by a mutual or cooperative electric
20 company (as described in section 501(c)(12) or
21 1381(a)(2)(C)), the number of kilowatt hours of
22 such renewable electricity shall, for purposes of sub-
23 section (a)(2), be equal to 150 percent of the kilo-
24 watt hours of such renewable electricity actually pur-

1 chased or produced and sold during the taxable
2 year.”.

3 (2) CREDIT MADE PART OF GENERAL BUSINESS
4 CREDIT.—Subsection (b) of section 38 of the Inter-
5 nal Revenue Code of 1986 is amended by striking
6 “plus” at the end of paragraph (35), by striking the
7 period at the end of paragraph (36) and inserting “,
8 plus”, and by adding at the end the following new
9 paragraph:

10 “(37) the consumer renewable credit deter-
11 mined under section 45S(a).”.

12 (3) SPECIFIED CREDIT.—Subparagraph (B) of
13 section 38(c)(4) of the Internal Revenue Code of
14 1986 is amended by redesignating clauses (vii)
15 through (ix) as clauses (viii) through (x), respec-
16 tively, and by inserting after clause (v) the following
17 new clause:

18 “(vi) the credit determined under sec-
19 tion 45S.”.

20 (4) CLERICAL AMENDMENT.—The table of sec-
21 tions for subpart D of part IV of subchapter A of
22 chapter 1 of the Internal Revenue Code of 1986 is
23 amended by adding at the end the following new
24 item:

“Sec. 45S. Consumer renewable credit.”.

25 (b) PAYMENTS IN LIEU OF CREDIT.—

1 (1) IN GENERAL.—Subchapter B of chapter 65
 2 of the Internal Revenue Code of 1986 is amended by
 3 adding at the end the following new section:

4 **“SEC. 6433. CONSUMER RENEWABLE CREDIT PAYMENTS.**

5 “(a) IN GENERAL.—If any eligible person sells re-
 6 newable electricity to a retail customer, the Secretary shall
 7 pay (without interest) to any such person who elects to
 8 receive a payment an amount equal to the product of—

9 “(1) the intermittent renewable portfolio factor
 10 of such eligible person, and

11 “(2) the number of kilowatt hours of renewable
 12 electricity—

13 “(A) purchased or produced by such per-
 14 son, and

15 “(B) sold by such person in the trade or
 16 business of such person to a retail customer.

17 “(b) TIMING OF PAYMENTS.—

18 “(1) IN GENERAL.—Except as provided in para-
 19 graph (2), rules similar to the rules of section
 20 6427(i)(1) shall apply for purposes of this section.

21 “(2) QUARTERLY PAYMENTS.—

22 “(A) IN GENERAL.—If, at the close of any
 23 quarter of the taxable year of any person (or,
 24 in the case of an eligible person that does not
 25 have a taxable year, the close of any quarter of

the fiscal year), at least \$750 is payable in the aggregate under subsection (a), to such person with respect to electricity purchased or produced during—

“(i) such quarter, or

“(ii) any prior quarter (for which no other claim has been filed) during such year,

a claim may be filed under this section with respect to such electricity.

“(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

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

“(1) ELIGIBLE PERSON.—The term ‘eligible person’ means—

“(A) an electric utility, as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22)), or

“(B) a Federal power marketing agency, as defined in section 3(19) of such Act (16 U.S.C. 796(19)).

1 “(2) OTHER DEFINITIONS.—Any term used in
 2 this section which is also used in section 45S shall
 3 have the meaning given such term under section
 4 45S.

5 “(3) APPLICATION OF OTHER RULES.—For
 6 purposes of this section, rules similar to the rules of
 7 paragraphs (1) and (3) of section 45(e) shall apply.

8 “(d) PAYMENT DISALLOWED UNLESS AMOUNT
 9 PASSED TO THIRD-PARTY GENERATORS CHARGED FOR
 10 INTEGRATION COSTS.—

11 “(1) IN GENERAL.—In the case of renewable
 12 electricity eligible for the payment under subsection
 13 (a) that is purchased and not produced by an eligi-
 14 ble person, no payment shall be made under this sec-
 15 tion unless any charge the eligible person has as-
 16 sessed the seller to recover the integration costs as-
 17 sociated with such electricity has been reduced (but
 18 not below zero) to the extent of the payment re-
 19 ceived under subsection (a) associated with such
 20 electricity.

21 “(2) DEFINITIONS.—For purposes of paragraph
 22 (1), charges intended to recover integration costs do
 23 not include amounts paid by the producer of the
 24 electricity for interconnection facilities, distribution
 25 upgrades, network upgrades, or stand alone network

1 upgrades as those terms have been defined by the
 2 Federal Energy Regulatory Commission in its
 3 Standard Interconnection Procedures.

4 “(e) PAYMENT ALLOWED FOR SPECIAL GENERATING
 5 AND TRANSMITTING ENTITIES.—

6 “(1) IN GENERAL.—Notwithstanding subsection
 7 (a)(2), a special generating and transmitting entity
 8 shall be eligible for payment under subsection (a)
 9 based on the number of kilowatt hours of renewable
 10 electricity transmitted, regardless of whether such
 11 entity purchased or sold such electricity to retail
 12 customers.

13 “(2) DEFINITION.—For purposes of this sub-
 14 section, the term ‘special generating and transmit-
 15 ting entity’ means—

16 “(A) an entity which is—

17 “(i) primarily engaged in marketing
 18 electricity,

19 “(ii) provides transmissions services
 20 for greater than 4,000 megawatts of re-
 21 newable electricity generating facilities, as
 22 determined by reference to the machine or
 23 nameplate capacity thereof, and

1 “(iii) transmits the majority of such
 2 renewable electricity to customers located
 3 outside of the region that it serves, or

4 “(B) a generation and transmission coop-
 5 erative which engages primarily in providing
 6 wholesale electric services to its members (gen-
 7 erally consisting of distribution cooperatives).”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
 9 tions for subpart B of chapter 65 of the Internal
 10 Revenue Code of 1986 is amended by adding at the
 11 end the following new item:

“Sec. 6433. Consumer renewable credit payments.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to electricity produced or pur-
 14 chased and sold after December 31, 2013, and before Jan-
 15 uary 1, 2019.

16 **SEC. 2. DELAY IN APPLICATION OF WORLDWIDE INTEREST.**

17 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
 18 tion 864(f) of the Internal Revenue Code of 1986 are each
 19 amended by striking “December 31, 2020” and inserting
 20 “December 31, 2022”.

21 (b) EFFECTIVE DATE.—The amendments made by
 22 this section shall take effect on the date of the enactment
 23 of this Act.

