

112TH CONGRESS  
1ST SESSION

# S. 1291

To amend the Internal Revenue Code of 1986 to provide a renewable electricity integration credit for a utility that purchases or produces renewable power.

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## IN THE SENATE OF THE UNITED STATES

JUNE 28, 2011

Ms. KLOBUCHAR (for herself and Mr. JOHNSON of South Dakota) 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 renewable electricity integration credit for a utility that purchases or produces renewable power.

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. RENEWABLE ELECTRICITY INTEGRATION**  
4 **CREDIT.**

5 (a) BUSINESS CREDIT.—

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

1 **“SEC. 45S. RENEWABLE ELECTRICITY INTEGRATION CRED-**2 **IT.**

3 “(a) GENERAL RULE.—For purposes of section 38,  
4 in the case of an eligible taxpayer, the renewable electricity  
5 integration credit for any taxable year is an amount equal  
6 to the product of—

7 “(1) the intermittent renewable portfolio factor  
8 of such eligible taxpayer, and

9 “(2) the number of kilowatt hours of renewable  
10 electricity—

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

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

15 “(b) INTERMITTENT RENEWABLE PORTFOLIO FAC-  
16 TOR.—

17 “(1) YEARS BEFORE 2017.—In the case of tax-  
18 able years beginning before January 1, 2017, the  
19 intermittent renewable portfolio factor for an eligible  
20 taxpayer shall be determined as follows:

<b>“In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:</b>	<b>For taxable years beginning before 2012, the intermittent renewable portfolio factor is:</b>	<b>For taxable years beginning in or after 2012, the intermittent renewable portfolio factor is:</b>
Less than 4 percent .....	zero cents	zero cents
At least 4 percent but less than 8 percent .....	0.1 cents	zero cents
At least 8 percent but less than 12 percent ...	0.2 cents	0.2 cents

<b>“In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:</b>	<b>For taxable years beginning before 2012, the intermittent renewable portfolio factor is:</b>	<b>For taxable years beginning in or after 2012, the intermittent renewable portfolio factor is:</b>
At least 12 percent but less than 16 percent ...	0.3 cents	0.3 cents
At least 16 percent but less than 20 percent ...	0.4 cents	0.4 cents
At least 20 percent but less than 24 percent ...	0.5 cents	0.5 cents
Equal to or greater than 24 percent .....	0.6 cents	0.6 cents.

1           “(2) YEARS AFTER 2016.—In the case of tax-  
2           able years beginning after December 31, 2016, the  
3           intermittent renewable portfolio factor for an eligible  
4           taxpayer shall be determined as follows:

<b>“In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:</b>	<b>For taxable years beginning before 2019, the intermittent renewable portfolio factor is:</b>	<b>For taxable years beginning in or after 2019, the intermittent renewable portfolio factor is:</b>
Less than 10 percent .....	zero cents	zero cents
At least 10 percent but less than 12 percent ...	0.2 cents	zero cents
At least 12 percent but less than 16 percent ...	0.3 cents	0.15 cents
At least 16 percent but less than 20 percent ...	0.4 cents	0.4 cents
At least 20 percent but less than 24 percent ...	0.5 cents	0.5 cents
Equal to or greater than 24 percent .....	0.6 cents	0.6 cents.

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

7           “(1) ELIGIBLE TAXPAYER.—The term ‘eligible  
8           taxpayer’ means an electric utility (as defined in sec-  
9           tion 3(22) of the Federal Power Act, 16 U.S.C.  
10          796(22)).

1           “(2) RENEWABLE ELECTRICITY.—The term ‘re-  
2           newable electricity’ means electricity generated by—

3                   “(A) any facility using wind to generate  
4                   such electricity,

5                   “(B) any facility using solar energy to gen-  
6                   erate such electricity, or

7                   “(C) any facility using any other intermit-  
8                   tent renewable energy source which the Sec-  
9                   retary of Energy determines has a capacity fac-  
10                  tor of less than 50 percent on an annual basis.

11           “(3) INTERMITTENT RENEWABLE ELECTRICITY  
12           PERCENTAGE.—The term ‘intermittent renewable  
13           electricity percentage’ means the percentage of an el-  
14           igible taxpayer’s total sales of electricity to retail  
15           customers that is derived from renewable electricity  
16           (determine without regard to whether such elec-  
17           tricity was produced by the taxpayer).

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

22           “(5) CREDIT ALLOWED ONLY WITH RESPECT  
23           TO 1 ELIGIBLE ENTITY.—No credit shall be allowed  
24           under subsection (a) with respect to renewable elec-  
25           tricity purchased from another eligible entity if a

1 credit has been allowed under this section or a pay-  
2 ment has been made under section 6433 to such  
3 other eligible entity.

4 “(d) CREDIT DISALLOWED UNLESS CREDIT PASSED  
5 TO THIRD PARTY GENERATORS CHARGED FOR INTEGRA-  
6 TION COSTS.—

7 “(1) IN GENERAL.—In the case of renewable  
8 electricity eligible for the credit under subsection (a)  
9 that is purchased and not produced by an eligible  
10 taxpayer, no credit shall be allowed unless any  
11 charge the taxpayer has assessed the seller to re-  
12 cover the integration costs associated with such elec-  
13 tricity has been reduced (but not below zero) to the  
14 extent of the credit received under subsection (a) as-  
15 sociated with such electricity.

16 “(2) DEFINITIONS.—For purposes of paragraph  
17 (1), charges intended to recover integration costs do  
18 not include amounts paid by the producer of the  
19 electricity for interconnection facilities, distribution  
20 upgrades, network upgrades, or stand alone network  
21 upgrades as those terms have been defined by the  
22 Federal Energy Regulatory Commission in its  
23 Standard Interconnection Procedures.

24 “(e) COORDINATION WITH PAYMENTS.—The amount  
25 of the credit determined under this section with respect

1 to any electricity shall be reduced to take into account any  
 2 payment provided with respect to such electricity solely by  
 3 reason of the application of section 6433.”.

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

11 “(37) the renewable electricity integration cred-  
 12 it determined under section 45S(a).”.

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

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

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

“Sec. 45S. Renewable electricity integration credit.”.

1 (b) PAYMENTS IN LIEU OF CREDIT.—

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

5 **“SEC. 6433. RENEWABLE ELECTRICITY INTEGRATION PAY-**  
6 **MENTS.**

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

11 “(1) the intermittent renewable portfolio factor  
12 of such eligible person, and

13 “(2) the number of kilowatt hours of renewable  
14 electricity—

15 “(A) purchased or produced by such per-  
16 son, and

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

19 “(b) TIMING OF PAYMENTS.—

20 “(1) IN GENERAL.—Except as provided in para-  
21 graph (2), rules similar to the rules of section  
22 6427(i)(1) shall apply for purposes of this section.

23 “(2) QUARTERLY PAYMENTS.—

24 “(A) IN GENERAL.—If, at the close of any  
25 quarter of the taxable year of any person, at

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

4                   “(i) such quarter, or

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

8           a claim may be filed under this section with re-  
 9           spect to such electricity.

10                   “(B) TIME FOR FILING CLAIM.—No claim  
 11                   filed under this paragraph shall be allowed un-  
 12                   less filed on or before the last day of the first  
 13                   quarter following the earliest quarter included  
 14                   in the claim.

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

17                   “(1) ELIGIBLE PERSON.—The term ‘eligible  
 18                   person’ means an electric utility (as defined in sec-  
 19                   tion 3(22) of the Federal Power Act, 16 U.S.C.  
 20                   796(22)).

21                   “(2) OTHER DEFINITIONS.—Any term used in  
 22                   this section which is also used in section 45S shall  
 23                   have the meaning given such term under section  
 24                   45S.



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

4           “(d) PAYMENT DISALLOWED UNLESS AMOUNT  
5 PASSED TO THIRD PARTY GENERATORS CHARGED FOR  
6 INTEGRATION COSTS.—

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

17           “(2) DEFINITIONS.—For purposes of paragraph  
18 (1), charges intended to recover integration costs do  
19 not include amounts paid by the producer of the  
20 electricity for interconnection facilities, distribution  
21 upgrades, network upgrades, or stand alone network  
22 upgrades as those terms have been defined by the  
23 Federal Energy Regulatory Commission in its  
24 Standard Interconnection Procedures.”.

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

“Sec. 6433. Renewable electricity integration payments.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply to electricity produced or pur-  
7           chased after December 31, 2009.

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