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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to support upgrades at existing hydroelectric dams in order to increase clean energy production, improve the resiliency and reliability of the United States electric grid, enhance the health of the Nation's rivers and associated wildlife habitats, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Nebraska introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to support upgrades at existing hydroelectric dams in order to increase clean energy production, improve the resiliency and reliability of the United States electric grid, enhance the health of the Nation's rivers and associated wildlife habitats, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Maintaining and En-
3 hancing Hydroelectricity and River Restoration Act of
4 2023”.

5 **SEC. 2. CREDIT FOR MAINTAINING AND ENHANCING HY-**
6 **DROELECTRIC FACILITIES.**

7 (a) IN GENERAL.—Subpart E of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 48E the fol-
10 lowing new section:

11 **“SEC. 48F. CREDIT FOR MAINTAINING AND ENHANCING HY-**
12 **DROELECTRIC FACILITIES.**

13 “(a) IN GENERAL.—For purposes of section 46, the
14 credit for maintaining and enhancing hydroelectric facili-
15 ties for any taxable year is an amount equal to 30 percent
16 of the basis of any hydropower improvement property
17 placed in service during such taxable year.

18 “(b) CERTAIN PROGRESS EXPENDITURE RULES
19 MADE APPLICABLE.—Rules similar to the rules of sub-
20 sections (c)(4) and (d) of section 46 (as in effect on the
21 day before the date of the enactment of the Revenue Rec-
22 onciliation Act of 1990) shall apply for purposes of sub-
23 section (a).

24 “(c) HYDROPOWER IMPROVEMENT PROPERTY.—In
25 this section, the term ‘hydropower improvement property’
26 means property—

1 “(1) which—

2 “(A) adds or improves fish passage at a
3 qualified dam,

4 “(B) maintains or improves the quality of
5 the water retained or released by a qualified
6 dam,

7 “(C) promotes downstream sediment trans-
8 port processes and habitat maintenance with re-
9 spect to a qualified dam,

10 “(D) upgrades, repairs, or reconstructs a
11 qualified dam to meet Federal dam safety and
12 security standards,

13 “(E) improves the public uses of, and ac-
14 cess to, public waterways impacted by a quali-
15 fied dam in a manner consistent with a license
16 issued by the Federal Energy Regulatory Com-
17 mission or a settlement agreement related to
18 such a license,

19 “(F) removes an obsolete river obstruction,
20 or

21 “(G) places into service an approved re-
22 mote dam, and

23 “(2) for which, prior to January 1, 2032, the
24 taxpayer receives written approval with respect to
25 any property described in paragraph (1) from the

1 Federal Energy Regulatory Commission or State or
2 local officials, as appropriate.

3 “(d) OTHER DEFINITIONS.—In this section—

4 “(1) APPROVED REMOTE DAM.—The term ‘ap-
5 proved remote dam’ means—

6 “(A) a hydroelectric dam which—

7 “(i) exclusively services communities
8 not interconnected to the Electric Reli-
9 ability Council of Texas, the Eastern Inter-
10 connection, or the Western Interconnec-
11 tion,

12 “(ii) was licensed by the Federal En-
13 ergy Regulatory Commission before De-
14 cember 31, 2020,

15 “(iii) does not contribute to atmos-
16 phere pollution, and

17 “(iv) has a maximum net output of
18 not greater than 20 megawatts, and

19 “(B) any interconnection property associ-
20 ated with a dam described in subparagraph (A).

21 “(2) FISH PASSAGE.—The term ‘fish passage’
22 means, with respect to any qualified dam, any new
23 or upgraded turbine, fishway, or other fish passage
24 technology which improves fish migration and sur-
25 vival rates.

1 “(3) INTERCONNECTION PROPERTY.—The term
2 ‘interconnection property’ means, with respect to
3 any dam described in paragraph (1)(A), any tangible
4 property—

5 “(A) to enable the delivery of electricity
6 from such dam to any customer, and

7 “(B) which satisfies the requirements
8 under clauses (ii) and (iii) of section
9 48(a)(8)(B).

10 “(4) OBSOLETE RIVER OBSTRUCTION.—The
11 term ‘obsolete river obstruction’ means a qualified
12 nonpowered dam (as defined in section 34(e)(3) of
13 the Federal Power Act (16 U.S.C. 823e(e)(3))) no
14 longer serving its intended purpose.

15 “(5) QUALIFIED DAM.—The term ‘qualified
16 dam’ means a hydroelectric dam that is licensed by
17 the Federal Energy Regulatory Commission or le-
18 gally operating without such a license before the
19 date of enactment of this section.”.

20 (b) ELECTIVE PAYMENT AND TRANSFER OF CRED-
21 IT.—

22 (1) ELECTIVE PAYMENT.—Section 6417 of the
23 Internal Revenue Code of 1986 is amended—

24 (A) in subsection (b), by adding at the end
25 the following:

1 “(13) The credit for maintaining and enhancing
2 hydroelectric facilities under section 48F.”, and

3 (B) in subsection (d)(1)—

4 (i) in subparagraph (E), by striking
5 “(C), or (D)” each place it appears and in-
6 serting “(C), (D), or (E)”,

7 (ii) by redesignating subparagraph
8 (E) (as amended by clause (i)) as subpara-
9 graph (F), and

10 (iii) by inserting after subparagraph
11 (D) the following:

12 “(E) ELECTION WITH RESPECT TO CREDIT
13 FOR MAINTAINING AND ENHANCING HYDRO-
14 ELECTRIC FACILITIES.—If a taxpayer other
15 than an entity described in subparagraph (A)
16 makes an election under this subparagraph with
17 respect to any taxable year in which such tax-
18 payer has, after December 31, 2022, placed in
19 service hydropower improvement property (as
20 defined in section 48F(c)), such taxpayer shall
21 be treated as an applicable entity for purposes
22 of this section for such taxable year, but only
23 with respect to the credit described in sub-
24 section (b)(13).”.

1 (2) TRANSFER.—Section 6418(f)(1)(A) of the
2 Internal Revenue Code of 1986 is amended by add-
3 ing at the end the following:

4 “(xii) The credit for maintaining and
5 enhancing hydroelectric facilities under
6 section 48F.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 46 of the Internal Revenue Code of
9 1986 is amended—

10 (A) in paragraph (6), by striking “and” at
11 the end,

12 (B) in paragraph (7), by striking the pe-
13 riod at the end and inserting “, and”, and

14 (C) by adding at the end the following:

15 “(8) the credit for maintaining and enhancing
16 hydroelectric facilities.”.

17 (2) Section 49(a)(1)(C) of such Code is amend-
18 ed—

19 (A) in clause (vii), by striking “and” at the
20 end,

21 (B) in clause (viii), by striking the period
22 at the end and inserting “, and”, and

23 (C) by adding at the end the following:

24 “(ix) the basis of any hydropower im-
25 provement property under section 48F.”.

1 (3) Section 50 of such Code is amended—

2 (A) in subsection (a)(2)(E), as amended by
3 section 13702(b) of Public Law 117–169, by
4 striking “or 48E(e)” and inserting “48E(e), or
5 48F(b)”, and

6 (B) in subsection (d)(2)—

7 (i) in the matter preceding subpara-
8 graph (A), by inserting “or any hydro-
9 power improvement property (as defined in
10 section 48F(c))” after “any energy storage
11 technology (as defined in section
12 48(c)(6))”, and

13 (ii) in subparagraph (B), by striking
14 “energy storage technology” each place it
15 appears and inserting “energy storage
16 technology or hydropower improvement
17 property”.

18 (4) The table of sections for subpart E of part
19 IV of subchapter A of chapter 1 of such Code is
20 amended by inserting after the item relating to sec-
21 tion 48E the following new item:

“Sec. 48F. Credit for maintaining and enhancing hydroelectric facilities.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service after
24 December 31, 2022.