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 SENATE OF THE UNITED STATES

Mr. Carper (for himself, Ms. Collins, Mr. Brown, Mr. Coons, Mr. King, Mr. Schatz, Mr. Markey, Mr. Menendez, Ms. Warren, and Mr. Whitehouse) introduced the following bill; which was read twice and referred to the Committee on

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Incentivizing Offshore Wind Power Act”.

SEC. 2. QUALIFYING OFFSHORE WIND FACILITY CREDIT.

(a) In General.—Section 46 of the Internal Revenue Code of 1986 is amended—
(1) by striking “and” at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting “, and”, and

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

“(7) the qualifying offshore wind facility credit.”.

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

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

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

“(b) QUALIFIED INVESTMENT.—

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

“(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to
the rules of subsections (c)(4) and (d) of section 46
(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 ex-
clusive economic zone of 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 in-
cluding a building or its structural compo-
nents), but only if such property is used as
an integral part of the qualifying offshore wind facility, and

“(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

“(d) QUALIFYING CREDIT FOR OFFSHORE WIND FACILITIES PROGRAM.—

“(1) Establishment.—

“(A) In general.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy and the Secretary of the Interior, shall establish a qualifying credit for offshore wind facilities program to consider and award certifications for qualified investments eligible for credits under this section to qualifying offshore wind facility sponsors.

“(B) Limitation.—The total amount of megawatt capacity for offshore facilities with respect to which credits may be allocated under the program shall not exceed 3,000 megawatts.

“(2) Certification.—

“(A) Application period.—Each applicant for certification under this paragraph shall submit an application containing such informa-
tion as the Secretary may require beginning on
the date the Secretary establishes the program
under paragraph (1).

“(B) PERIOD OF ISSUANCE.—An applicant
which receives a certification shall have 5 years
from the date of issuance of the certification in
order to place the facility in service and if such
facility is not placed in service by that time pe-
riod, then the certification shall no longer be
valid.

“(3) SELECTION CRITERIA.—In determining
which qualifying offshore wind facilities to certify
under this section, the Secretary shall—

“(A) take into consideration which facili-
ties will be placed in service at the earliest date,
and

“(B) take into account the technology of
the facility that may lead to reduced industry
and consumer costs or expand access to off-
shore wind.

“(4) REVIEW, ADDITIONAL ALLOCATIONS, AND
REALLOCATIONS.—

“(A) REVIEW.—Periodically, but not later
than 4 years after the date of the enactment of
this section, the Secretary shall review the cred-
its allocated under this section as of the date of such review.

“(B) ADDITIONAL ALLOCATIONS AND REALLOCATIONS.—The Secretary may make additional allocations and reallocations of credits under this section if the Secretary determines that—

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

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

“(C) ADDITIONAL PROGRAM FOR ALLOCATIONS AND REALLOCATIONS.—If the Secretary determines that credits under this section are available for further allocation or reallocation, but there is an insufficient quantity of qualifying applications for certification pending at the time of the review, the Secretary is authorized to conduct an additional program for applications for certification.
“(5) Disclosure of Allocations.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

“(e) Denial of Double Benefit.—A credit shall not be allowed under this section with respect to any facility if—

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

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

“(3) a grant has been made with respect to such facility under section 1603 of the American Recovery and Reinvestment Act of 2009.”.

(c) Conforming Amendments.—

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

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

(B) by striking the period at the end of clause (vi) and inserting “, and”, and
(C) by adding after clause (vi) the following new clause:

“(vii) the basis of any property which is part of a qualifying offshore wind facility under section 48E.”.

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

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

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