

117TH CONGRESS  
1ST SESSION

# H. R. 4499

To amend the Internal Revenue Code of 1986 to support upgrades at existing hydroelectric dams and the removal of obsolete river obstructions to improve the health of the Nation's rivers and associated wildlife habitat and increase clean energy production, public safety, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Mr. YOUNG (for himself, Ms. KUSTER, Mr. FITZPATRICK, and Ms. DELBENE) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to support upgrades at existing hydroelectric dams and the removal of obsolete river obstructions to improve the health of the Nation's rivers and associated wildlife habitat and increase clean energy production, public safety, 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 2021”.

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

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 adding after section 48C the following  
10 new section:

11 **“SEC. 48D. CREDIT FOR MAINTAINING AND ENHANCING HY-**  
12 **DROELECTRIC DAMS.**

13       “(a) IN GENERAL.—For purposes of section 46, the  
14 credit for maintaining and enhancing hydroelectric dams  
15 for any taxable year is 30 percent of the basis of any quali-  
16 fied dam safety, environmental, and grid resilience en-  
17 hancement property placed in service during such taxable  
18 year.

19       “(b) LIMITATION.—No credit shall be allowed under  
20 subsection (a) with respect to any qualified dam safety,  
21 environmental, and grid resilience property unless the  
22 qualified dam in connection with which such property was  
23 placed in service meets all applicable Federal, State, and  
24 tribal requirements with respect to such dam on the date  
25 such property is placed in service.

1       “(c) CERTAIN PROGRESS EXPENDITURE RULES  
2 MADE APPLICABLE.—Rules similar to the rules of sub-  
3 sections (c)(4) and (d) of section 46 (as in effect on the  
4 day before the date of the enactment of the Revenue Rec-  
5 onciliation Act of 1990) shall apply for purposes of sub-  
6 section (a).

7       “(d) DEFINITIONS.—For purposes of this section—

8               “(1) QUALIFIED DAM SAFETY, ENVIRON-  
9 MENTAL, AND GRID RESILIENCE PROPERTY.—The  
10 term ‘qualified dam safety, environmental, and grid  
11 resilience enhancement property’ means any prop-  
12 erty—

13                       “(A) which is—

14                               “(i) dam safety property,

15                               “(ii) environmental improvement  
16 property, or

17                               “(iii) grid resilience property,

18                       “(B)(i) the construction, reconstruction, or  
19 erection of which is completed by the taxpayer,  
20 or

21                               “(ii) which is acquired by the taxpayer if  
22 the original use of such property commences  
23 with the taxpayer, and

1           “(C) with respect to which depreciation (or  
2           amortization in lieu of depreciation) is allow-  
3           able.

4           “(2) DAM SAFETY PROPERTY.—The term ‘dam  
5           safety property’ means property the purpose of  
6           which is to maintain or improve dam safety on a  
7           qualified dam to ensure acceptable performance  
8           under all loading conditions (static, hydrologic, seis-  
9           mic) in accordance with applicable regulatory cri-  
10          teria and risk guidelines, including—

11           “(A) the maintenance or upgrade of spill-  
12          ways or other appurtenant structures,

13           “(B) dam stability, including erosion re-  
14          pair and enhanced seepage controls, and

15           “(C) upgrades or replacements of flood-  
16          gates or natural infrastructure restoration or  
17          protection to improve flood risk reduction.

18          “(3) ENVIRONMENTAL IMPROVEMENT PROP-  
19          ERTY.—The term ‘environmental improvement prop-  
20          erty’ means property the purpose of which is to—

21           “(A) add or improve safe and effective fish  
22          passage, including new or upgraded turbine  
23          technology, fish ladders, fishways, and all other  
24          associated technology, equipment, or other fish  
25          passage technology to a qualified dam,

1           “(B) maintain or improve the quality of  
2           the water retained or released by a qualified  
3           dam,

4           “(C) promote downstream sediment trans-  
5           port processes and habitat maintenance with re-  
6           spect to a qualified dam, or

7           “(D) provide for or improve recreational  
8           access to the vicinity of a qualified dam, includ-  
9           ing roads, trails, boat ingress and egress, flows  
10          to improve recreation, and infrastructure that  
11          improves river recreation opportunity.

12          “(4) GRID RESILIENCE PROPERTY.—

13                 “(A) IN GENERAL.—The term ‘grid resil-  
14                 ience property’ means property—

15                         “(i) the purpose of which is to provide  
16                         the ability of a hydroelectric facility at a  
17                         qualified dam to contribute to electricity  
18                         grid resilience and efficiency by—

19                                 “(I) adapting more quickly to  
20                                 changing grid conditions,

21                                 “(II) providing ancillary services  
22                                 (including black start capabilities,  
23                                 voltage support, and spinning re-  
24                                 serves),

1 “(III) integrating other variable  
2 sources of electricity generation, or

3 “(IV) managing accumulated res-  
4 ervoir sediments, or

5 “(ii) which is a qualified dam de-  
6 scribed in paragraph (5)(B).

7 “(B) MITIGATION AND ENVIRONMENTAL  
8 REVIEW REQUIREMENTS.—Such term shall not  
9 include any property described in subparagraph  
10 (A)(i) unless any physical or operational  
11 changes instituted in connection with the activi-  
12 ties described in such subparagraph have been  
13 authorized under applicable Federal, State, and  
14 tribal permitting or licensing processes which  
15 include appropriate mitigation conditions aris-  
16 ing from consultation and environmental review  
17 under such processes.

18 “(5) QUALIFIED DAM.—The term ‘qualified  
19 dam’ means any of the following:

20 “(A) A hydroelectric dam which is licensed  
21 by the Federal Energy Regulatory Commission  
22 or legally operating without such a license and  
23 was placed in service before the date of the en-  
24 actment of this section.

25 “(B) A hydroelectric dam which—

1 “(i) was licensed by the Federal En-  
2 ergy Regulatory Commission before De-  
3 cember 31, 2020,

4 “(ii) is under active license from the  
5 Federal Energy Regulatory Commission on  
6 the date of enactment of this section,

7 “(iii) meets the requirements of sub-  
8 clauses (I) and (III) of sections  
9 242(b)(1)(B)(ii) of the Energy Policy Act  
10 of 2005 (42 U.S.C. 15881),

11 “(iv) is placed in service on or after  
12 the date of the enactment of this section,  
13 and

14 “(v) does not contribute to atmos-  
15 pheric pollution.

16 “(C) Any dam which—

17 “(i) was placed in service before the  
18 date of the enactment of this section,

19 “(ii) is operated on such date of en-  
20 actment for any beneficial public use ex-  
21 cept hydropower generation, and

22 “(iii) is authorized after such date of  
23 the enactment for hydropower development  
24 by the Federal Energy Regulatory Com-

1 mission, the Bureau of Reclamation, or a  
2 State, as appropriate.

3 “(D) Any dam which was placed in service  
4 before the date of the enactment of this section  
5 and which is a qualified nonpowered dam (as  
6 defined in section 34(e)(3) of the Federal  
7 Power Act (16 U.S.C. § 823e(e)(3))).

8 “(e) ELECTIVE PAYMENT.—

9 “(1) IN GENERAL.—In the case of a taxpayer  
10 making an election (at such time and in such man-  
11 ner as the Secretary may provide) under this sub-  
12 section with respect to any portion of the credit  
13 which would (without regard to this subsection) be  
14 determined under this section with respect to such  
15 taxpayer, such taxpayer shall be treated as making  
16 a payment against the tax imposed by subtitle A for  
17 the taxable year equal to 100 percent of such  
18 amount.

19 “(2) TIMING.—The payment described in sub-  
20 section (a) shall be treated as made on the later of  
21 the due date of the return of tax for such taxable  
22 year or the date on which such return is filed.

23 “(3) DENIAL OF DOUBLE BENEFIT.—Solely for  
24 purposes of section 38, in the case of a taxpayer  
25 making an election under this subsection, the credit



1       determined under this section shall be reduced by  
 2       the amount of the portion of such credit with respect  
 3       to which the taxpayer makes such election.

4               “(4) APPLICATION TO CERTAIN TAX-EXEMPT  
 5       PERSONS.—In the case of a taxpayer making an  
 6       election under this subsection, the credit subject to  
 7       such an election shall be determined notwith-  
 8       standing—

9                       “(A) section 50(b)(3), and

10                      “(B) section 50(b)(4), with respect to an  
 11                      entity described in section 50(b)(4)(A)(i).

12       “(f) SPECIAL RULE FOR PROPERTY FINANCED BY  
 13       SUBSIDIZED ENERGY FINANCING OR TAX-EXEMPT  
 14       BONDS.—For purposes of this section, rules similar to the  
 15       rules of section 48(a)(4) (determined without regard to  
 16       subparagraph (D) thereof) shall apply.”.

17       (b) CONFORMING AMENDMENTS.—

18               (1) Section 46 of the Internal Revenue Code of  
 19       1986 is amended by striking “and” at the end of  
 20       paragraph (5), by striking the period at the end of  
 21       paragraph (6) and inserting “, and”, and by adding  
 22       at the end the following new paragraph:

23                      “(7) the credit for maintaining and enhancing  
 24       hydroelectric dams.”.

1           (2) Section 49(a)(1)(C) of such Code is amend-  
 2           ed by striking “and” at the end of clause (iv), by  
 3           striking the period at the end of clause (v) and in-  
 4           serting “, and”, and by adding at the end the fol-  
 5           lowing new clause:

6                           “(vi) the basis of any qualified prop-  
 7                           erty taken into account under section  
 8                           48D(d).”.

9           (3) Section 50(a)(2)(E) of such Code is amend-  
 10          ed by striking “or 48C(b)(2)” and inserting  
 11          “48C(b)(2), or 48D(c)”.

12          (4) The table of sections for subpart E of part  
 13          IV of subchapter A of chapter 1 of such Code is  
 14          amended by inserting after the item relating to sec-  
 15          tion 48C the following new item:

“Sec. 48D. Credit for maintaining and enhancing hydroelectric dams.”.

16          (c) EFFECTIVE DATE.—The amendments made by  
 17          this section shall apply to property placed in service after  
 18          the date of the enactment of this Act, under rules similar  
 19          to the rules of section 48(m) of the Internal Revenue Code  
 20          of 1986 (as in effect on the day before the date of the  
 21          enactment of the Revenue Reconciliation Act of 1990).

22       **SEC. 3. CREDIT FOR OBSOLETE RIVER OBSTRUCTION RE-**  
 23       **MOVAL EXPENDITURES.**

24          (a) IN GENERAL.—Subpart D of part IV of sub-  
 25          chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding after section 45T the following  
2 new section:

3 **“SEC. 45U. CREDIT FOR OBSOLETE RIVER OBSTRUCTION**  
4 **REMOVAL EXPENDITURES.**

5 “(a) IN GENERAL.—For purposes of section 38, the  
6 credit for obsolete river obstruction removal expenditures  
7 for any taxable year is 30 percent of the qualified obsolete  
8 river obstruction removal expenditures incurred during  
9 such taxable year.

10 “(b) QUALIFIED OBSOLETE RIVER OBSTRUCTION  
11 REMOVAL EXPENDITURES.—For purposes of this sec-  
12 tion—

13 “(1) IN GENERAL.—The term ‘qualified obso-  
14 lete river obstruction removal expenditures’ means  
15 any expenditure to demolish and remove, in whole or  
16 in part, any dam described in paragraph (2) and its  
17 associated infrastructure, including all associated re-  
18 mediation and ecosystem restoration costs, so long  
19 as—

20 “(A) the work is performed with the con-  
21 sent of the dam owner, if available, and

22 “(B) none of the expenses incurred are  
23 used to demolish or remove a federally owned  
24 hydroelectric dam.

1           “(2) DAM DESCRIBED.—A dam is described in  
2 this paragraph if such dam is—

3           “(A) a qualified nonpowered dam (as de-  
4 fined in section 34(e)(3) of the Federal Power  
5 Act (16 U.S.C. § 823e(e)(3)), or

6           “(B) a hydroelectric dam which is not  
7 owned by the Federal government.

8           “(c) APPLICATION TO TAX-EXEMPT ENTITIES.—

9           “(1) IN GENERAL.—In the case of qualified ob-  
10 solete river obstruction removal expenditures in-  
11 curred by an eligible entity, the Secretary shall pro-  
12 mulgate regulations to allow the allocation of the  
13 credit under this section to the person primarily re-  
14 sponsible for designing the property in lieu of the  
15 owner of such property, with such person to be  
16 treated as the taxpayer for purposes of this section.

17           “(2) ELIGIBLE ENTITY.—For purposes of this  
18 subsection, the term ‘eligible entity’ means—

19           “(A) a Federal, State, or local government  
20 or a political subdivision thereof,

21           “(B) an Indian tribe (as defined in section  
22 45A(c)(6)), or

23           “(C) an organization described in section  
24 501(c) and exempt from tax under section  
25 501(a).

1 “(d) ELECTIVE PAYMENT.—

2 “(1) IN GENERAL.—In the case of a taxpayer  
3 making an election (at such time and in such man-  
4 ner as the Secretary may provide) under this sub-  
5 section with respect to any portion of the credit  
6 which would (without regard to this subsection) be  
7 determined under this section with respect to such  
8 taxpayer, such taxpayer shall be treated as making  
9 a payment against the tax imposed by subtitle A for  
10 the taxable year equal to 100 percent of such  
11 amount.

12 “(2) TIMING.—The payment described in sub-  
13 section (a) shall be treated as made on the later of  
14 the due date of the return of tax for such taxable  
15 year or the date on which such return is filed.

16 “(3) DENIAL OF DOUBLE BENEFIT.—Solely for  
17 purposes of section 38, in the case of a taxpayer  
18 making an election under this subsection, the credit  
19 determined under this section shall be reduced by  
20 the amount of the portion of such credit with respect  
21 to which the taxpayer makes such election.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 38(b) of the Internal Revenue Code  
24 of 1986 is amended by striking “plus” at the end of  
25 paragraph (32), by striking the period at the end of

1 paragraph (33) and inserting “, plus”, and by add-  
 2 ing at the end the following new paragraph:

3 “(34) the credit for obsolete river obstruction  
 4 removal expenditures under section 45U(a).”.

5 (2) Section 280C of such Code is amended by  
 6 adding at the end the following new subsection:

7 “(i) CREDIT FOR OBSOLETE RIVER OBSTRUCTION  
 8 REMOVAL EXPENDITURES.—No deduction shall be al-  
 9 lowed for that portion of the expenses otherwise allowable  
 10 as a deduction taken into account in determining the cred-  
 11 it under section 45U for the taxable year which is equal  
 12 to the amount of the credit determined for such taxable  
 13 year under section 45U(a).”.

14 (3) The table of sections for subpart D of part  
 15 IV of subchapter A of chapter 1 of such Code is  
 16 amended by inserting after the item relating to sec-  
 17 tion 45T the following new item:

“Sec. 45U. Credit for obsolete river obstruction removal expenditures.”.

18 (c) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to any obsolete river obstruction  
 20 removal expenditures (as defined in section 45U of the In-  
 21 ternal Revenue Code of 1986, as added by this section)  
 22 incurred after the date of the enactment of this Act.

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