

119TH CONGRESS
2D SESSION

S. 5350

To amend the Internal Revenue Code of 1986 to include foreign oil and gas extraction income in net CFC tested income, to include income from the extraction of minerals from oil shale and tar sands in the definitions of foreign oil and gas extraction income and foreign oil related income, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2026

Mr. HEINRICH 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 include foreign oil and gas extraction income in net CFC tested income, to include income from the extraction of minerals from oil shale and tar sands in the definitions of foreign oil and gas extraction income and foreign oil related income, 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. SHORT TITLE.**

4 This Act may be cited as the “American Energy Inde-
5 pendence and Tax Fairness Act”.

1 **SEC. 2. FOREIGN OIL AND GAS EXTRACTION INCOME IN-**
2 **CLUDED IN NET CFC TESTED INCOME.**

3 (a) IN GENERAL.—Section 951A(b)(2)(A)(i) of the
4 Internal Revenue Code of 1986 is amended by inserting
5 “and” at the end of subclause (III), by striking “and”
6 at the end of subclause (IV) and inserting “over”, and
7 by striking subclause (V).

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years of foreign corpora-
10 tions beginning after the date of the enactment of this
11 Act, and to taxable years of United States shareholders
12 in which or with which such tax years of foreign corpora-
13 tions end.

14 **SEC. 3. FOREIGN OIL AND GAS EXTRACTION INCOME AND**
15 **FOREIGN OIL RELATED INCOME TO INCLUDE**
16 **OIL SHALE AND TAR SANDS.**

17 (a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of
18 section 907(c) of the Internal Revenue Code of 1986 are
19 each amended by inserting “(or oil shale or tar sands)”
20 after “oil or gas wells”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 the date of the enactment of this Act.

1 **SEC. 4. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
 2 **APPLICABLE TO CERTAIN TAXPAYERS RE-**
 3 **CEIVING SPECIFIC ECONOMIC BENEFITS.**

4 (a) IN GENERAL.—Section 901 of the Internal Rev-
 5 enue Code of 1986 is amended by redesignating subsection
 6 (n) as subsection (o) and by inserting after subsection (m)
 7 the following new subsection:

8 “(n) SPECIAL RULES RELATING TO DUAL CAPACITY
 9 TAXPAYERS.—

10 “(1) GENERAL RULE.—Notwithstanding any
 11 other provision of this chapter, any amount paid or
 12 accrued by a dual capacity taxpayer to a foreign
 13 country or possession of the United States for any
 14 period with respect to combined foreign oil and gas
 15 income (as defined in section 907(b)(1)) shall not be
 16 considered a tax—

17 “(A) if, for such period, the foreign coun-
 18 try or possession does not impose a generally
 19 applicable income tax, or

20 “(B) to the extent such amount exceeds
 21 the amount which would be paid or accrued by
 22 such dual capacity taxpayer under the generally
 23 applicable income tax imposed by such country
 24 or possession if such taxpayer were not a dual
 25 capacity taxpayer.

1 Nothing in this paragraph shall be construed to
 2 imply the proper treatment of any such amount not
 3 in excess of the amount determined under subpara-
 4 graph (B).

5 “(2) DUAL CAPACITY TAXPAYER.—For pur-
 6 poses of this subsection, the term ‘dual capacity tax-
 7 payer’ means, with respect to any foreign country or
 8 possession of the United States, a person who—

9 “(A) is subject to a levy of such country or
 10 possession, and

11 “(B) receives (or will receive) directly or
 12 indirectly a specific economic benefit from such
 13 country or possession (or any political subdivi-
 14 sion, agency, or instrumentality thereof).

15 “(3) GENERALLY APPLICABLE INCOME TAX.—
 16 For purposes of this subsection, the term ‘generally
 17 applicable income tax’ means an income tax (or a se-
 18 ries of income taxes) which is generally imposed
 19 under the laws of a foreign country or possession of
 20 the United States on residents of such foreign coun-
 21 try or possession that are not dual capacity tax-
 22 payers.”.

23 (b) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years of foreign corpora-
 25 tions beginning after December 31, 2026, and to taxable

- 1 years of United States shareholders in which or with which
- 2 such taxable years of foreign corporations end.

