

106TH CONGRESS
1ST SESSION

S. 1050

To amend the Internal Revenue Code of 1986 to provide incentives for gas and oil producers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 1999

Mr. MURKOWSKI 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 provide incentives for gas and oil producers, 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 “Energy Security Tax
5 Policy Act of 1999”.

6 **SEC. 2. ELIMINATION OF CERTAIN AMT PREFERENCES FOR**
7 **OIL AND GAS ASSETS.**

8 (a) DEPLETION.—Section 57(a)(1) of the Internal
9 Revenue Code of 1986 (relating to depletion) is amended
10 by striking the second sentence and inserting the fol-

1 lowing: “This paragraph shall not apply to any deduction
2 for depletion computed in accordance with section 613A.”

3 (b) INTANGIBLE DRILLING COSTS.—Section
4 57(a)(2)(E) of the Internal Revenue Code of 1986 (relat-
5 ing to exception for independent producers) is amended
6 to read as follows:

7 “(E) TERMINATION OF APPLICATION TO
8 OIL AND GAS PROPERTIES.—In the case of any
9 taxable year beginning after December 31,
10 1998, this paragraph shall not apply in the case
11 of any oil or gas property.”

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 1998.

15 **SEC. 3. DEPRECIATION ADJUSTMENT NOT TO APPLY TO**
16 **OIL AND GAS ASSETS.**

17 (a) IN GENERAL.—Subparagraph (B) of section
18 56(a)(1) of the Internal Revenue Code of 1986 (relating
19 to depreciation adjustments) is amended to read as fol-
20 lows:

21 “(B) EXCEPTIONS.—This paragraph shall
22 not apply to—

23 “(i) property described in paragraph
24 (1), (2), (3), or (4) of section 168(f), or

1 “(ii) property used in the active con-
2 duct of the trade or business of exploring
3 for, extracting, developing, or gathering
4 crude oil or natural gas.”

5 (b) DEPRECIATION ADJUSTMENT FOR PURPOSES OF
6 ADJUSTED CURRENT EARNINGS.—Paragraph (4)(A) of
7 section 56(g) of such Code (relating to adjustments based
8 on adjusted current earnings) is amended by adding at
9 the end the following new clause:

10 “(vi) OIL AND GAS PROPERTY.—In
11 the case of property used in the active con-
12 duct of the trade or business of exploring
13 for, extracting, developing, or gathering
14 crude oil or natural gas, the amount allow-
15 able as depreciation or amortization with
16 respect to such property shall be deter-
17 mined in the same manner as for purposes
18 of computing the regular tax.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1998.

1 **SEC. 4. REPEAL CERTAIN ADJUSTMENTS BASED ON AD-**
 2 **JUSTED CURRENT EARNINGS RELATING TO**
 3 **OIL AND GAS ASSETS.**

4 (a) INTANGIBLE DRILLING COSTS.—Clause (i) of
 5 section 56(g)(4)(D) of the Internal Revenue Code of 1986
 6 (relating to certain other earnings and profits adjust-
 7 ments) is amended by striking the second sentence and
 8 inserting the following: “In the case of any oil or gas well,
 9 this clause shall not apply to amounts paid or incurred
 10 in taxable years beginning after December 31, 1998.”

11 (b) DEPLETION.—Clause (ii) of section 56(g)(4)(F)
 12 of the Internal Revenue Code of 1986 (relating to deple-
 13 tion) is amended to read as follows:

14 “(ii) EXCEPTION FOR OIL AND GAS
 15 WELLS.—In the case of any taxable year
 16 beginning after December 31, 1998, clause
 17 (i) (and subparagraph (C)(i)) shall not
 18 apply to any deduction for depletion com-
 19 puted in accordance with section 613A.”

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 1998.

1 **SEC. 5. ENHANCED OIL RECOVERY CREDIT AND CREDIT**
 2 **FOR PRODUCING FUEL FROM A NONCONVEN-**
 3 **TIONAL SOURCE ALLOWED AGAINST MIN-**
 4 **IMUM TAX.**

5 (a) ENHANCED OIL RECOVERY CREDIT ALLOWED
 6 AGAINST REGULAR AND MINIMUM TAX.—

7 (1) ALLOWING CREDIT AGAINST MINIMUM
 8 TAX.—Subsection (c) of section 38 of the Internal
 9 Revenue Code of 1986 (relating to limitation based
 10 on amount of tax) is amended by redesignating
 11 paragraph (3) as paragraph (4) and by inserting
 12 after paragraph (2) the following new paragraph:

13 “(3) SPECIAL RULES FOR ENHANCED OIL RE-
 14 COVERY CREDIT.—

15 “(A) IN GENERAL.—In the case of the en-
 16 hanced oil recovery credit—

17 “(i) this section and section 39 shall
 18 be applied separately with respect to the
 19 credit, and

20 “(ii) in applying paragraph (1) to the
 21 credit—

22 “(I) subparagraphs (A) and (B)
 23 thereof shall not apply, and

24 “(II) the limitation under para-
 25 graph (1) (as modified by subclause
 26 (I)) shall be reduced by the credit al-

1 lowed under subsection (a) for the
 2 taxable year (other than the enhanced
 3 oil recovery credit).

4 “(B) ENHANCED OIL RECOVERY CRED-
 5 IT.—For purposes of this subsection, the term
 6 ‘enhanced oil recovery credit’ means the credit
 7 allowable under subsection (a) by reason of sec-
 8 tion 43(a).”.

9 (2) CONFORMING AMENDMENT.—Subclause (II)
 10 of section 38(c)(2)(A)(ii) of such Code is amended
 11 by inserting “or the enhanced oil recovery credit”
 12 after “employment credit”.

13 (b) CREDIT FOR PRODUCING FUEL FROM A NON-
 14 CONVENTIONAL SOURCE.—

15 (1) ALLOWING CREDIT AGAINST MINIMUM
 16 TAX.—Section 29(b)(6) of the Internal Revenue
 17 Code of 1986 is amended to read as follows:

18 “(6) APPLICATION WITH OTHER CREDITS.—
 19 The credit allowed by subsection (a) for any taxable
 20 year shall not exceed—

21 “(A) the regular tax for the taxable year
 22 and the tax imposed by section 55, reduced by

23 “(B) the sum of the credits allowable
 24 under subpart A and section 27.”

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 53(d)(1)(B)(iii) of such Code
 2 is amended by inserting “as in effect on the
 3 date of the enactment of the Energy Security
 4 Tax Policy Act of 1999,” after “29(b)(6)(B),”.

5 (B) Section 55(c)(2) of such Code is
 6 amended by striking “29(b)(6),”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 1998.

10 **SEC. 6. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND**
 11 **NATURAL GAS WELL PRODUCTION.**

12 (a) CREDIT FOR PRODUCING OIL AND GAS FROM
 13 MARGINAL WELLS.—Subpart D of part IV of subchapter
 14 A of chapter 1 of the Internal Revenue Code of 1986 (re-
 15 lating to business credits) is amended by adding at the
 16 end the following new section:

17 **“SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM**
 18 **MARGINAL WELLS.**

19 “(a) GENERAL RULE.—For purposes of section 38,
 20 the marginal well production credit for any taxable year
 21 is an amount equal to the product of—

22 “(1) the credit amount, and

23 “(2) the qualified crude oil production and the
 24 qualified natural gas production which is attrib-
 25 utable to the taxpayer.

1 “(b) CREDIT AMOUNT.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The credit amount is—

4 “(A) \$3 per barrel of qualified crude oil
5 production, and

6 “(B) 50 cents per 1,000 cubic feet of
7 qualified natural gas production.

8 “(2) REDUCTION AS OIL AND GAS PRICES IN-
9 CREASE.—

10 “(A) IN GENERAL.—The \$3 and 50 cents
11 amounts under paragraph (1) shall each be re-
12 duced (but not below zero) by an amount which
13 bears the same ratio to such amount (deter-
14 mined without regard to this paragraph) as—

15 “(i) the excess (if any) of the applica-
16 ble reference price over \$14 (\$1.56 for
17 qualified natural gas production), bears to

18 “(ii) \$3 (\$0.33 for qualified natural
19 gas production).

20 The applicable reference price for a taxable
21 year is the reference price for the calendar year
22 preceding the calendar year in which the tax-
23 able year begins.

24 “(B) INFLATION ADJUSTMENT.—In the
25 case of any taxable year beginning in a calendar

year after 2000, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting ‘1999’ for ‘1990’).

“(C) REFERENCE PRICE.—For purposes of this paragraph, the term ‘reference price’ means, with respect to any calendar year—

“(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

“(ii) in the case of qualified natural gas production, the Secretary’s estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

“(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The terms ‘qualified crude oil production’ and ‘qualified natural gas production’ mean domestic crude oil or natural gas which is produced from a marginal well.

1 “(2) LIMITATION ON AMOUNT OF PRODUCTION
2 WHICH MAY QUALIFY.—

3 “(A) IN GENERAL.—Crude oil or natural
4 gas produced during any taxable year from any
5 well shall not be treated as qualified crude oil
6 production or qualified natural gas production
7 to the extent production from the well during
8 the taxable year exceeds 1,095 barrels or barrel
9 equivalents.

10 “(B) PROPORTIONATE REDUCTIONS.—

11 “(i) SHORT TAXABLE YEARS.—In the
12 case of a short taxable year, the limitations
13 under this paragraph shall be proportion-
14 ately reduced to reflect the ratio which the
15 number of days in such taxable year bears
16 to 365.

17 “(ii) WELLS NOT IN PRODUCTION EN-
18 TIRE YEAR.—In the case of a well which is
19 not capable of production during each day
20 of a taxable year, the limitations under
21 this paragraph applicable to the well shall
22 be proportionately reduced to reflect the
23 ratio which the number of days of produc-
24 tion bears to the total number of days in
25 the taxable year.

1 “(3) DEFINITIONS.—

2 “(A) MARGINAL WELL.—The term ‘mar-
3 ginal well’ means a domestic well—

4 “(i) the production from which during
5 the taxable year is treated as marginal
6 production under section 613A(c)(6), or

7 “(ii) which, during the taxable year—

8 “(I) has average daily production
9 of not more than 25 barrel equiva-
10 lents, and

11 “(II) produces water at a rate
12 not less than 95 percent of total well
13 effluent.

14 “(B) CRUDE OIL, ETC.—The terms ‘crude
15 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have
16 the meanings given such terms by section
17 613A(e).

18 “(C) BARREL EQUIVALENT.—The term
19 ‘barrel equivalent’ means, with respect to nat-
20 ural gas, a conversion ratio of 6,000 cubic feet
21 of natural gas to 1 barrel of crude oil.

22 “(d) OTHER RULES.—

23 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
24 PAYER.—In the case of a marginal well in which
25 there is more than one owner of operating interests

1 in the well and the crude oil or natural gas produc-
 2 tion exceeds the limitation under subsection (c)(2),
 3 qualifying crude oil production or qualifying natural
 4 gas production attributable to the taxpayer shall be
 5 determined on the basis of the ratio which tax-
 6 payer's revenue interest in the production bears to
 7 the aggregate of the revenue interests of all oper-
 8 ating interest owners in the production.

9 “(2) OPERATING INTEREST REQUIRED.—Any
 10 credit under this section may be claimed only on
 11 production which is attributable to the holder of an
 12 operating interest.

13 “(3) PRODUCTION FROM NONCONVENTIONAL
 14 SOURCES EXCLUDED.—In the case of production
 15 from a marginal well which is eligible for the credit
 16 allowed under section 29 for the taxable year, no
 17 credit shall be allowable under this section unless
 18 the taxpayer elects not to claim the credit under sec-
 19 tion 29 with respect to the well.”

20 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
 21 tion 38(b) of the Internal Revenue Code of 1986 (relating
 22 to current year business credit) is amended by striking
 23 “plus” at the end of paragraph (11), by striking the period
 24 at the end of paragraph (12) and inserting “, plus”, and
 25 by adding at the end the following new paragraph:

1 “(13) the marginal oil and gas well production
2 credit determined under section 45D(a).”.

3 (c) CREDIT ALLOWED AGAINST REGULAR AND MIN-
4 IMUM TAX.—

5 (1) IN GENERAL.—Subsection (c) of section 38
6 of the Internal Revenue Code of 1986 (relating to
7 limitation based on amount of tax), as amended by
8 section 5(a)(1), is amended by redesignating para-
9 graph (4) as paragraph (5) and by inserting after
10 paragraph (3) the following new paragraph:

11 “(4) SPECIAL RULES FOR MARGINAL OIL AND
12 GAS WELL PRODUCTION CREDIT.—

13 “(A) IN GENERAL.—In the case of the
14 marginal oil and gas well production credit—

15 “(i) this section and section 39 shall
16 be applied separately with respect to the
17 credit, and

18 “(ii) in applying paragraph (1) to the
19 credit—

20 “(I) subparagraphs (A) and (B)
21 thereof shall not apply, and

22 “(II) the limitation under para-
23 graph (1) (as modified by subclause
24 (I)) shall be reduced by the credit al-
25 lowed under subsection (a) for the

1 taxable year (other than the marginal
2 oil and gas well production credit).

3 “(B) MARGINAL OIL AND GAS WELL PRO-
4 Duction CREDIT.—For purposes of this sub-
5 section, the term ‘marginal oil and gas well pro-
6 duction credit’ means the credit allowable under
7 subsection (a) by reason of section 45D(a).”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Subclause (II) of section
10 38(c)(2)(A)(ii) of such Code, as amended by
11 section 5(a)(2), is amended by striking “or the
12 enhanced oil recovery credit” and inserting “the
13 enhanced oil recovery credit, or the marginal oil
14 and gas well production credit”.

15 (B) Subclause (II) of section
16 38(c)(3)(A)(ii) of such Code, as added by sec-
17 tion 5(a)(1), is amended by inserting “or the
18 marginal oil and gas well production credit”
19 after “recovery credit”.

20 (d) COORDINATION WITH SECTION 29.—Section
21 29(d) of the Internal Revenue Code of 1986 (relating to
22 other definitions and special rules) is amended by adding
23 at the end the following new paragraph:

24 “(9) ELECTION NOT TO TAKE CREDIT.—No
25 credit shall be allowed under subsection (a) with re-

1 spect to production from any marginal well (as de-
 2 fined in section 45D(c)(3)(A)) if the taxpayer elects
 3 to not have this section apply to such well.”

4 (e) CLERICAL AMENDMENT.—The table of sections
 5 for subpart D of part IV of subchapter A of chapter 1
 6 of the Internal Revenue Code of 1986 is amended by add-
 7 ing at the end the following new item:

“45D. Credit for producing oil and gas from marginal wells.”

8 (f) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to production in taxable years end-
 10 ing after the date of the enactment of this Act.

11 **SEC. 7. ALLOWANCE OF ADDITIONAL ENHANCED OIL RE-**
 12 **COVERY METHOD.**

13 (a) IN GENERAL.—Clause (i) of section 43(c)(2)(A)
 14 of the Internal Revenue Code of 1986 (defining qualified
 15 enhanced oil recovery project) is amended to read as fol-
 16 lows:

17 “(i) which involves the application (in
 18 accordance with sound engineering prin-
 19 ciples) of—

20 “(I) one or more tertiary recov-
 21 ery methods (as defined in section
 22 193(b)(3)) which can reasonably be
 23 expected to result in more than an in-
 24 significant increase in the amount of

1 crude oil which will ultimately be re-
 2 covered, or

3 “(II) a qualified horizontal drill-
 4 ing method which can reasonably be
 5 expected to result in more than an in-
 6 significant increase in the amount of
 7 crude oil which will ultimately be re-
 8 covered or lead to the discovery or de-
 9 lineation of previously undeveloped ac-
 10 cumulations of crude oil,”

11 (b) QUALIFIED HORIZONTAL DRILLING METHOD.—
 12 Section 43(c)(2) of the Internal Revenue Code of 1986
 13 (relating to qualified enhanced oil recovery project) is
 14 amended by adding at the end the following new subpara-
 15 graph:

16 “(C) QUALIFIED HORIZONTAL DRILLING
 17 METHOD.—For purposes of this paragraph—

18 “(i) IN GENERAL.—The term ‘quali-
 19 fied horizontal drilling method’ means the
 20 drilling of a horizontal well in order to
 21 penetrate hydrocarbon bearing formations
 22 located north of latitude 54 degrees North.

23 “(ii) HORIZONTAL WELL.—The term
 24 ‘horizontal well’ means a well which is
 25 drilled—

1 “(I) at an inclination of at least
2 70 degrees off the vertical, and
3 “(II) for a distance in excess of
4 1,000 feet.”

5 (c) CONFORMING AMENDMENT.—Clause (iii) of sec-
6 tion 43(c)(2)(A) of the Internal Revenue Code of 1986
7 is amended to read as follows:

8 “(iii) with respect to which—

9 “(I) in the case of a tertiary re-
10 covery method, the first injection of
11 liquids, gases, or other matter com-
12 mences after December 31, 1990, and

13 “(II) in the case of a qualified
14 horizontal drilling method, the imple-
15 mentation of the method begins after
16 December 31, 1998.”

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years ending after De-
19 cember 31, 1998.

20 **SEC. 8. NATURAL GAS GATHERING LINES TREATED AS 7-**
21 **YEAR PROPERTY.**

22 (a) IN GENERAL.—Subparagraph (C) of section
23 168(e)(3) of the Internal Revenue Code of 1986 (relating
24 to classification of certain property) is amended by redes-

1 ignating clause (ii) as clause (iii) and by inserting after
 2 clause (i) the following new clause:

3 “(ii) any natural gas gathering line,
 4 and”.

5 (b) NATURAL GAS GATHERING LINE.—Subsection (i)
 6 of section 168 of the Internal Revenue Code of 1986 is
 7 amended by adding at the end the following new para-
 8 graph:

9 “(15) NATURAL GAS GATHERING LINE.—The
 10 term ‘natural gas gathering line’ means the pipe,
 11 equipment, and appurtenances used to deliver nat-
 12 ural gas from the wellhead to the point at which
 13 such gas first reaches—

14 “(A) a gas processing plant,

15 “(B) an interconnection with an interstate
 16 natural-gas company (as defined in section 2(6)
 17 of the Natural Gas Act (15 U.S.C. 717a(6))),
 18 or

19 “(C) an interconnection with an intrastate
 20 transmission pipeline.”

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to property placed in service be-
 23 fore, on, or after the date of the enactment of this Act.

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