

114TH CONGRESS
2D SESSION

S. 2996

To amend the Internal Revenue Code of 1986 to phase out tax preferences for fossil fuels on the same schedule as the phase out of the tax credits for wind facilities.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2016

Mr. SCHATZ (for himself, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Mr. MERKLEY, Ms. WARREN, and Mr. MARKEY) 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 phase out tax preferences for fossil fuels on the same schedule as the phase out of the tax credits for wind facilities.

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 “Fossil Aid is Inefficient
5 and Regressive Energy Policy Act” or the “FAIR Energy
6 Policy Act”.

7 **SEC. 2. PHASE OUT OF TAX PREFERENCES FOR FOSSIL**
8 **FUELS.**

9 (a) FINDINGS.—Congress finds the following:

1 (1) United States tax policy has provided tax
 2 preferences, such as special deductions, special tax
 3 rates, tax credits, and grants in lieu of tax credits,
 4 for oil and gas production for 100 years.

5 (2) United States tax policy has provided tax
 6 preferences for coal production for over 80 years.

7 (3) In order to ensure that all sources of energy
 8 compete on an equal footing, as tax credits for re-
 9 newable energy are phased out over the next 4 years,
 10 fossil fuel tax preferences should be phased out on
 11 the same schedule.

12 (b) EXPENSING OF INTANGIBLE DRILLING COSTS.—
 13 Section 263 of the Internal Revenue Code of 1986 is
 14 amended—

15 (1) in subsection (c), by striking “subsection
 16 (i)” and inserting “subsections (i) and (j)”, and

17 (2) by adding at the end the following new sub-
 18 section:

19 “(j) PHASE OUT OF DEDUCTION FOR INTANGIBLE
 20 DRILLING COSTS.—In the case of a dual capacity tax-
 21 payer which is a major integrated oil company (within the
 22 meaning of section 167(h)(5)), for any intangible drilling
 23 and development costs paid or incurred with respect to
 24 an oil or gas well, the amount of such costs allowed as
 25 a deduction under subsection (c) shall be reduced by—

1 “(1) in the case of any costs paid or incurred
 2 after December 31, 2016, and before January 1,
 3 2018, 20 percent,

4 “(2) in the case of any costs paid or incurred
 5 after December 31, 2017, and before January 1,
 6 2019, 40 percent,

7 “(3) in the case of any costs paid or incurred
 8 after December 31, 2018, and before January 1,
 9 2020, 60 percent, and

10 “(4) in the case of any costs paid or incurred
 11 after December 31, 2019, 100 percent.”.

12 (c) PERCENTAGE DEPLETION FOR OIL AND NAT-
 13 URAL GAS WELLS.—Section 613A(d) of such Code is
 14 amended by adding at the end the following new para-
 15 graph:

16 “(6) PHASE OUT OF PERCENTAGE DEPLETION
 17 FOR OIL AND NATURAL GAS WELLS.—In the case of
 18 a dual capacity taxpayer which is a major integrated
 19 oil company (within the meaning of section
 20 167(h)(5)), the amount allowed as a deduction for
 21 the taxable year which is attributable to the applica-
 22 tion of subsection (c) (determined after the applica-
 23 tion of paragraphs (1) through (5) of this subsection
 24 and without regard to this paragraph) shall be re-
 25 duced by—

1 “(A) in the case of any crude oil or natural
 2 gas produced after December 31, 2016, and be-
 3 fore January 1, 2018, 20 percent,

4 “(B) in the case of any crude oil or natural
 5 gas produced after December 31, 2017, and be-
 6 fore January 1, 2019, 40 percent,

7 “(C) in the case of any crude oil or natural
 8 gas produced after December 31, 2018, and be-
 9 fore January 1, 2020, 60 percent, and

10 “(D) in the case of any crude oil or nat-
 11 ural gas produced after December 31, 2019,
 12 100 percent.”.

13 (d) DOMESTIC MANUFACTURING DEDUCTION FOR
 14 FOSSIL FUELS.—Section 199(d)(9) of such Code is
 15 amended by adding at the end the following new subpara-
 16 graph:

17 “(D) PHASE OUT OF DEDUCTION FOR OIL
 18 RELATED QUALIFIED PRODUCTION ACTIVITIES
 19 INCOME.—In the case of a dual capacity tax-
 20 payer which is a major integrated oil company
 21 (within the meaning of section 167(h)(5)), the
 22 amount allowable as a deduction under sub-
 23 section (a) (determined after the application of
 24 subparagraph (A) and without regard to this
 25 subparagraph) shall be reduced by—

1 “(i) in the case of any oil related
 2 qualified production activities income re-
 3 ceived or accrued after December 31,
 4 2016, and before January 1, 2018, 20 per-
 5 cent,

6 “(ii) in the case of any oil related
 7 qualified production activities income re-
 8 ceived or accrued after December 31,
 9 2017, and before January 1, 2019, 40 per-
 10 cent,

11 “(iii) in the case of any oil related
 12 qualified production activities income re-
 13 ceived or accrued after December 31,
 14 2018, and before January 1, 2020, 60 per-
 15 cent, and

16 “(iv) in the case of any oil related
 17 qualified production activities income re-
 18 ceived or accrued after December 31,
 19 2019, 100 percent.”.

20 (e) AMORTIZATION OF GEOLOGICAL AND GEO-
 21 PHYSICAL EXPENDITURES.—Section 167(h) of such Code
 22 is amended by adding at the end the following new para-
 23 graph:

24 “(6) PHASE OUT OF AMORTIZATION OF GEO-
 25 LOGICAL AND GEOPHYSICAL EXPENDITURES.—In

the case of a dual capacity taxpayer which is a major integrated oil company (within the meaning of section 167(h)(5)), the amount of geological and geophysical expenses paid or incurred by a taxpayer which are allowed as a deduction under this subsection (without regard to this paragraph) shall be reduced by—

“(A) in the case of any such expenses paid or incurred after December 31, 2016, and before January 1, 2018, 20 percent,

“(B) in the case of any such expenses paid or incurred after December 31, 2017, and before January 1, 2019, 40 percent,

“(C) in the case of any such expenses paid or incurred after December 31, 2018, and before January 1, 2020, 60 percent, and

“(D) in the case of any such expenses paid or incurred after December 31, 2019, 100 percent.”.

(f) PERCENTAGE DEPLETION FOR OIL SHALE.—Section 613 of such Code is amended by adding at the end the following new subsection:

“(f) PHASE OUT OF PERCENTAGE DEPLETION FOR OIL SHALE.—In the case of a dual capacity taxpayer which is a major integrated oil company (within the mean-

ing of section 167(h)(5)), the allowance for depletion for oil shale determined under this section (without regard to this subsection) shall be reduced by—

“(1) in the case of any income received or accrued from the property after December 31, 2016, and before January 1, 2018, 20 percent,

“(2) in the case of any income received or accrued from the property after December 31, 2017, and before January 1, 2019, 40 percent,

“(3) in the case of any income received or accrued from the property after December 31, 2018, and before January 1, 2020, 60 percent, and

“(4) in the case of any income received or accrued from the property after December 31, 2019, 100 percent.”.

(g) EXPENSING OF EXPLORATION AND DEVELOPMENT COSTS FOR OIL SHALE.—Section 617 of such Code is amended—

(1) by redesignating subsection (i) as subsection (j), and

(2) by inserting after subsection (h) the following new subsection:

“(i) PHASE OUT OF EXPENSING OF EXPLORATION AND DEVELOPMENT COSTS FOR OIL SHALE.—In the case of a dual capacity taxpayer which is a major integrated

1 oil company (within the meaning of section 167(h)(5)), the
 2 amount of expenditures related to oil shale which are al-
 3 lowed as a deduction under subsection (a) shall be reduced
 4 by—

5 “(1) in the case of any such expenditures paid
 6 or incurred after December 31, 2016, and before
 7 January 1, 2018, 20 percent,

8 “(2) in the case of any such expenditures paid
 9 or incurred after December 31, 2017, and before
 10 January 1, 2019, 40 percent,

11 “(3) in the case of any such expenditures paid
 12 or incurred after December 31, 2018, and before
 13 January 1, 2020, 60 percent, and

14 “(4) in the case of any such expenditures paid
 15 or incurred after December 31, 2019, 100 percent.”.

16 (h) CAPITAL GAINS TREATMENT FOR ROYALTIES OF
 17 COAL.—Section 631 of such Code is amended by adding
 18 at the end the following new subsection:

19 “(d) PHASE OUT OF CAPITAL GAINS TREATMENT
 20 FOR ROYALTIES OF COAL.—In the case of coal (including
 21 lignite), the amount of gain or loss on the sale of such
 22 coal to which subsection (c) applies shall be reduced by—

23 “(1) in the case of any such gain or loss after
 24 December 31, 2016, and before January 1, 2018, 20
 25 percent,

1 “(2) in the case of any such gain or loss after
2 December 31, 2017, and before January 1, 2019, 40
3 percent,

4 “(3) in the case of any such gain or loss after
5 December 31, 2018, and before January 1, 2020, 60
6 percent, and

7 “(4) in the case of any such gain or loss after
8 December 31, 2019, 100 percent.”.

9 (i) DEDUCTION FOR TERTIARY INJECTANTS.—Sec-
10 tion 193 of such Code is amended by adding at the end
11 the following new subsection:

12 “(d) PHASE OUT OF DEDUCTION FOR TERTIARY
13 INJECTANTS.—In the case of a dual capacity taxpayer
14 which is a major integrated oil company (within the mean-
15 ing of section 167(h)(5)), the amount of qualified tertiary
16 injectant expenses allowable as a deduction under sub-
17 section (a) shall be reduced by—

18 “(1) in the case of any such expenditures paid
19 or incurred after December 31, 2016, and before
20 January 1, 2018, 20 percent,

21 “(2) in the case of any such expenditures paid
22 or incurred after December 31, 2017, and before
23 January 1, 2019, 40 percent,

1 “(3) in the case of any such expenditures paid
 2 or incurred after December 31, 2018, and before
 3 January 1, 2020, 60 percent, and

4 “(4) in the case of any such expenditures paid
 5 or incurred after December 31, 2019, 100 percent.”.

6 (j) EXCEPTION TO PASSIVE LOSS LIMITATION FOR
 7 WORKING INTERESTS IN OIL AND NATURAL GAS PROP-
 8 ERTIES.—Section 469(c) of such Code is amended by add-
 9 ing at the end the following new paragraph:

10 “(8) PHASE OUT OF EXCEPTION TO PASSIVE
 11 LOSS LIMITATION FOR WORKING INTERESTS IN OIL
 12 AND NATURAL GAS PROPERTIES.—In the case of a
 13 dual capacity taxpayer which is a major integrated
 14 oil company (within the meaning of section
 15 167(h)(5)), for any loss from a working interest in
 16 any oil or gas property, the amount of such loss to
 17 which paragraph (3) applies shall be reduced by—

18 “(A) in the case of any such loss after De-
 19 cember 31, 2016, and before January 1, 2018,
 20 20 percent,

21 “(B) in the case of any such loss after De-
 22 cember 31, 2017, and before January 1, 2019,
 23 40 percent,

1 “(C) in the case of any such loss after De-
2 cember 31, 2018, and before January 1, 2020,
3 60 percent, and

4 “(D) in the case of any such loss after De-
5 cember 31, 2019, 100 percent.”.

6 (k) MARGINAL WELLS CREDIT.—Section 45I(d) of
7 such Code is amended by adding at the end the following
8 new paragraph:

9 “(4) PHASE OUT OF MARGINAL WELLS CRED-
10 IT.—In the case of a dual capacity taxpayer which
11 is a major integrated oil company (within the mean-
12 ing of section 167(h)(5)), the amount of the credit
13 determined under subsection (a) shall be reduced
14 by—

15 “(A) in the case of any qualified crude oil
16 production or qualified natural gas production
17 after December 31, 2016, and before January
18 1, 2018, 20 percent,

19 “(B) in the case of any qualified crude oil
20 production or qualified natural gas production
21 after December 31, 2017, and before January
22 1, 2019, 40 percent,

23 “(C) in the case of any qualified crude oil
24 production or qualified natural gas production

1 after December 31, 2018, and before January
2 1, 2020, 60 percent, and
3 “(D) in the case of any qualified crude oil
4 production or qualified natural gas production
5 after December 31, 2019, 100 percent.”.

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