II

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

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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.

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 ''Fossil Aid is Inefficient and Regressive Energy Policy Act'' or the ''FAIR Energy Policy Act''.

SEC. 2. PHASE OUT OF TAX PREFERENCES FOR FOSSIL FUELS.

(a) FINDINGS.—Congress finds the following:

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

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

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

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

(1) in subsection (c), by striking ''subsection (i)'' and inserting ''subsections (i) and (j)'', and

(2) by adding at the end the following new subsection:

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

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

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

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

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

(c) PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS WELLS.—Section 613A(d) of such Code is amended by adding at the end the following new paragraph:

"(6) PHASE OUT OF PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS WELLS.—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 allowed as a deduction for the taxable year which is attributable to the application of subsection (c) (determined after the application of paragraphs (1) through (5) of this subsection and without regard to this paragraph) shall be reduced by—

"(A) in the case of any crude oil or natural gas produced after December 31, 2016, and before January 1, 2018, 20 percent,

"(B) in the case of any crude oil or natural gas produced after December 31, 2017, and before January 1, 2019, 40 percent,

"(C) in the case of any crude oil or natural gas produced after December 31, 2018, and before January 1, 2020, 60 percent, and

"(D) in the case of any crude oil or natural gas produced after December 31, 2019, 100 percent.".

(d) DOMESTIC MANUFACTURING DEDUCTION FOR FOSSIL FUELS.—Section 199(d)(9) of such Code is amended by adding at the end the following new subparagraph:

"(D) PHASE OUT OF DEDUCTION FOR OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—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 allowable as a deduction under subsection (a) (determined after the application of subparagraph (A) and without regard to this subparagraph) shall be reduced by—

"(i) in the case of any oil related qualified production activities income received or accrued after December 31, 2016, and before January 1, 2018, 20 percent,

"(ii) in the case of any oil related qualified production activities income received or accrued after December 31, 2017, and before January 1, 2019, 40 percent,

"(iii) in the case of any oil related qualified production activities income received or accrued after December 31, 2018, and before January 1, 2020, 60 percent, and

"(iv) in the case of any oil related qualified production activities income received or accrued after December 31, 2019, 100 percent.".

(e) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—Section 167(h) of such Code is amended by adding at the end the following new paragraph:

"(6) PHASE OUT OF AMORTIZATION OF GEOLOGICAL 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 meaning 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 oil company (within the meaning of section 167(h)(5)), the amount of expenditures related to oil shale which are allowed as a deduction under subsection (a) shall be reduced by—

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

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

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

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

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

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

"(1) in the case of any such gain or loss after December 31, 2016, and before January 1, 2018, 20 percent, "(2) in the case of any such gain or loss after December 31, 2017, and before January 1, 2019, 40 percent,

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

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

(i) DEDUCTION FOR TERTIARY INJECTANTS.—Section 193 of such Code is amended by adding at the end the following new subsection:

"(d) PHASE OUT OF DEDUCTION FOR TERTIARY INJECTANTS.—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 qualified tertiary injectant expenses allowable as a deduction under subsection (a) shall be reduced by—

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

"(2) in the case of any such expenditures paid or incurred after December 31, 2017, and before January 1, 2019, 40 percent, "(3) in the case of any such expenditures paid or incurred after December 31, 2018, and before January 1, 2020, 60 percent, and

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

(j) EXCEPTION TO PASSIVE LOSS LIMITATION FOR WORKING INTERESTS IN OIL AND NATURAL GAS PROPERTIES.—Section 469(c) of such Code is amended by adding at the end the following new paragraph:

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

"(A) in the case of any such loss after December 31, 2016, and before January 1, 2018, 20 percent,

"(B) in the case of any such loss after December 31, 2017, and before January 1, 2019, 40 percent, "(C) in the case of any such loss after December 31, 2018, and before January 1, 2020, 60 percent, and

"(D) in the case of any such loss after December 31, 2019, 100 percent.".

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

"(4) PHASE OUT OF MARGINAL WELLS CREDIT.—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 the credit determined under subsection (a) shall be reduced by—

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

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

"(C) in the case of any qualified crude oil production or qualified natural gas production after December 31, 2018, and before January 1, 2020, 60 percent, and

"(D) in the case of any qualified crude oil production or qualified natural gas production after December 31, 2019, 100 percent.".

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