

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(e)(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

1 year after 2000, each of the dollar amounts  
2 contained in subparagraph (A) shall be in-  
3 creased to an amount equal to such dollar  
4 amount multiplied by the inflation adjustment  
5 factor for such calendar year (determined under  
6 section 43(b)(3)(B) by substituting ‘1999’ for  
7 ‘1990’).

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

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

14 “(ii) in the case of qualified natural  
15 gas production, the Secretary’s estimate of  
16 the annual average wellhead price per  
17 1,000 cubic feet for all domestic natural  
18 gas.

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

21 “(1) IN GENERAL.—The terms ‘qualified crude  
22 oil production’ and ‘qualified natural gas production’  
23 mean domestic crude oil or natural gas which is pro-  
24 duced 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 redesc-

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.

○