

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: 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—114th Cong., 2d Sess.**

**S. 2012**

To provide for the modernization of the energy policy of the United States, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SCHATZ to the amendment (No. 2953) proposed by Ms. MURKOWSKI

Viz:

1 At the appropriate place, insert the following:

2 **SEC. \_\_\_\_ . PHASE OUT OF TAX PREFERENCES FOR FOSSIL**  
 3 **FUELS.**

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

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

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

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

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

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

11          (2) by adding at the end the following new sub-  
12          section:

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

20                 “(1) in the case of any costs paid or incurred  
21                 after December 31, 2016, and before January 1,  
22                 2018, 20 percent,

23                 “(2) in the case of any costs paid or incurred  
24                 after December 31, 2017, and before January 1,  
25                 2019, 40 percent,

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

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

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

10           “(6) PHASE OUT OF PERCENTAGE DEPLETION  
11           FOR OIL AND NATURAL GAS WELLS.—In the case of  
12           a dual capacity taxpayer which is a major integrated  
13           oil company (within the meaning of section  
14           167(h)(5)), the amount allowed as a deduction for  
15           the taxable year which is attributable to the applica-  
16           tion of subsection (c) (determined after the applica-  
17           tion of paragraphs (1) through (5) of this subsection  
18           and without regard to this paragraph) shall be re-  
19           duced by—

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

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

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

4           “(D) in the case of any crude oil or nat-  
5 ural gas produced after December 31, 2019,  
6 100 percent.”.

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

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

20           “(i) in the case of any oil related  
21 qualified production activities income re-  
22 ceived or accrued after December 31,  
23 2016, and before January 1, 2018, 20 per-  
24 cent,

1                   “(ii) in the case of any oil related  
2                   qualified production activities income re-  
3                   ceived or accrued after December 31,  
4                   2017, and before January 1, 2019, 40 per-  
5                   cent,

6                   “(iii) in the case of any oil related  
7                   qualified production activities income re-  
8                   ceived or accrued after December 31,  
9                   2018, and before January 1, 2020, 60 per-  
10                  cent, and

11                  “(iv) in the case of any oil related  
12                  qualified production activities income re-  
13                  ceived or accrued after December 31,  
14                  2019, 100 percent.”.

15                  (e) AMORTIZATION OF GEOLOGICAL AND GEO-  
16                  PHYSICAL EXPENDITURES.—Section 167(h) of such Code  
17                  is amended by adding at the end the following new para-  
18                  graph:

19                  “(6) PHASE OUT OF AMORTIZATION OF GEO-  
20                  LOGICAL AND GEOPHYSICAL EXPENDITURES.—In  
21                  the case of a dual capacity taxpayer which is a  
22                  major integrated oil company (within the meaning of  
23                  section 167(h)(5)), the amount of geological and  
24                  geophysical expenses paid or incurred by a taxpayer  
25                  which are allowed as a deduction under this sub-

1 section (without regard to this paragraph) shall be  
2 reduced by—

3 “(A) in the case of any such expenses paid  
4 or incurred after December 31, 2016, and be-  
5 fore January 1, 2018, 20 percent,

6 “(B) in the case of any such expenses paid  
7 or incurred after December 31, 2017, and be-  
8 fore January 1, 2019, 40 percent,

9 “(C) in the case of any such expenses paid  
10 or incurred after December 31, 2018, and be-  
11 fore January 1, 2020, 60 percent, and

12 “(D) in the case of any such expenses paid  
13 or incurred after December 31, 2019, 100 per-  
14 cent.”.

15 (f) PERCENTAGE DEPLETION FOR OIL SHALE.—Sec-  
16 tion 613 of such Code is amended by adding at the end  
17 the following new subsection:

18 “(f) PHASE OUT OF PERCENTAGE DEPLETION FOR  
19 OIL SHALE.—In the case of a dual capacity taxpayer  
20 which is a major integrated oil company (within the mean-  
21 ing of section 167(h)(5)), the allowance for depletion for  
22 oil shale determined under this section (without regard to  
23 this subsection) shall be reduced by—

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

4           “(2) in the case of any income received or ac-  
5           crued from the property after December 31, 2017,  
6           and before January 1, 2019, 40 percent,

7           “(3) in the case of any income received or ac-  
8           crued from the property after December 31, 2018,  
9           and before January 1, 2020, 60 percent, and

10           “(4) in the case of any income received or ac-  
11           crued from the property after December 31, 2019,  
12           100 percent.”.

13           (g) EXPENSING OF EXPLORATION AND DEVELOP-  
14           MENT COSTS FOR OIL SHALE.—Section 617 of such Code  
15           is amended—

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

18           (2) by inserting after subsection (h) the fol-  
19           lowing new subsection:

20           “(i) PHASE OUT OF EXPENSING OF EXPLORATION  
21           AND DEVELOPMENT COSTS FOR OIL SHALE.—In the case  
22           of a dual capacity taxpayer which is a major integrated  
23           oil company (within the meaning of section 167(h)(5)), the  
24           amount of expenditures related to oil shale which are al-

1 lowed as a deduction under subsection (a) shall be reduced  
2 by—

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

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

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

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

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

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

21 “(1) in the case of any such gain or loss after  
22 December 31, 2016, and before January 1, 2018, 20  
23 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.”.