

104TH CONGRESS
1ST SESSION

S. 32

To amend the Internal Revenue Code of 1986 to provide a tax credit for the production of oil and gas from existing marginal oil and gas wells and from new oil and gas wells.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. BREAUX (for himself and Mr. JOHNSTON) 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 a tax credit for the production of oil and gas from existing marginal oil and gas wells and from new oil and gas wells.

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. TAX CREDIT FOR MARGINAL AND NEW DOMES-**
4 **TIC OIL AND NATURAL GAS PRODUCTION.**

5 (a) CREDIT FOR PRODUCING OIL AND GAS FROM
6 NEW WELLS AND MARGINAL WELLS.—Subpart D of part
7 IV of subchapter A of chapter 1 of the Internal Revenue

1 Code of 1986 (relating to business credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45C. CREDIT FOR PRODUCING OIL AND GAS FROM**
4 **NEW WELLS AND MARGINAL WELLS.**

5 “(a) GENERAL RULE.—For purposes of section 38,
6 the new and marginal well production credit for any tax-
7 able year is an amount equal to the product of—

8 “(1) the credit amount, and

9 “(2) the qualified crude oil production and the
10 qualified natural gas production which is attrib-
11 utable to the taxpayer.

12 “(b) CREDIT AMOUNT.—For purposes of this sec-
13 tion—

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

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

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

19 “(2) REDUCTION AS OIL AND GAS PRICES IN-
20 CREASE.—

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

1 “(i) the amount by which the ref-
2 erence price for the calendar year preced-
3 ing the calendar year in which the taxable
4 year begins exceeds \$14 (\$2.49 for quali-
5 fied natural gas production), bears to

6 “(ii) \$6 (\$1.06 for qualified natural
7 gas production).

8 “(B) INFLATION ADJUSTMENT.—In the
9 case of any taxable year beginning in a calendar
10 year after 1995, each of the dollar amounts
11 contained in subparagraph (A) shall be in-
12 creased to an amount equal to such dollar
13 amount multiplied by the inflation adjustment
14 factor for such calendar year (determined under
15 section 43(c)(3)(B) by substituting ‘1994’ for
16 ‘1990’).

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

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

23 “(ii) in the case of qualified natural
24 gas production, the Secretary’s estimate of
25 the annual average wellhead price per

1 1,000 cubic feet for all domestic natural
2 gas.

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

5 “(1) IN GENERAL.—The terms ‘qualified crude
6 oil production’ and ‘qualified natural gas production’
7 mean domestic crude oil or natural gas which is pro-
8 duced from—

9 “(A) a marginal well, or

10 “(B) a new well.

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

13 “(A) IN GENERAL.—Crude oil or natural
14 gas produced during any taxable year from any
15 well shall not be treated as qualified crude oil
16 production or qualified natural gas production
17 to the extent production from the well during
18 the taxable year exceeds—

19 “(i) in the case of a marginal well,
20 1,095 barrels or barrel equivalents, or

21 “(ii) in the case of a new well, 5,475
22 barrels or barrel equivalents.

23 “(B) SPECIAL RULE WHERE WELL PRO-
24 DUCES BOTH.—In the case of a new well which
25 produces crude oil and natural gas, the limita-

tion for any taxable year applicable to natural gas produced from the well shall be reduced by the barrel equivalents (expressed in cubic feet) of the crude oil produced from the well during the taxable year.

“(C) PROPORTIONATE REDUCTIONS.—

“(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in the year bears to 365.

“(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

“(3) DEFINITIONS.—

“(A) MARGINAL WELL.—The term ‘marginal well’ means a domestic well (other than a new well)—

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

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

5 “(I) has average daily production
6 of not more than 25 barrel equiva-
7 lents, and

8 “(II) produces water at a rate
9 not less than 95 percent of total well
10 effluent.

11 “(B) NEW WELL.—The term ‘new well’
12 means a domestic well drilled after December
13 31, 1994.

14 “(C) 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 “(D) BARREL EQUIVALENT.—The term
19 ‘barrel equivalent’ means, with respect to natu-
20 ral 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 or new well
25 in which there is more than one owner of operating

1 interests in the well and the crude oil or natural gas
2 production exceeds the limitation under subsection
3 (c)(2), qualifying crude oil production or qualifying
4 natural gas production attributable to the taxpayer
5 shall be determined on the basis of the ratio which
6 taxpayer's revenue interest in the production bears
7 to 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 as defined in section 614(d).

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 such Code is amended by striking “plus”
22 at the end of paragraph (10), by striking the period at
23 the end of paragraph (11) and inserting “, plus”, and by
24 adding at the end the following new paragraph:

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

3 (c) CREDIT ALLOWED AGAINST REGULAR AND MINI-
4 MUM TAX.—

5 (1) IN GENERAL.—Subsection (c) of section 38
6 of such Code (relating to limitation based on amount
7 of tax) is amended by redesignating paragraph (3)
8 as paragraph (4) and by inserting after paragraph
9 (2) the following new paragraph:

10 “(3) SPECIAL RULES FOR OIL AND GAS PRO-
11 Duction CREDIT.—

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

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

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

19 “(I) subparagraph (A) shall not
20 apply, and

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

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

3 “(B) OIL AND GAS PRODUCTION CRED-
4 IT.—For purposes of this subsection, the term
5 ‘oil and gas production credit’ means the credit
6 allowable under subsection (a) by reason of sec-
7 tion 45C(a).”

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

12 (d) COORDINATION WITH SECTION 29.—Section
13 29(a) of such Code is amended by striking “There” and
14 inserting “At the election of the taxpayer, there”.

15 (e) CLERICAL AMENDMENT.—The table of sections
16 for subpart D of part IV of subchapter A of chapter 1
17 of such Code is amended by adding at the end the follow-
18 ing item:

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

19 (f) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to production after the date of the
21 enactment of this Act.

○