

106TH CONGRESS  
2D SESSION

# S. 2265

To amend the Internal Revenue Code of 1986 to preserve marginal domestic oil and natural gas well production, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 21, 2000

Mrs. HUTCHISON (for herself, Mr. BREAUX, Mr. LOTT, Mr. BROWNBACK, Mr. BINGAMAN, Mr. GRAMM, Mr. THOMAS, and Mr. INHOFE) 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 preserve marginal domestic oil and natural gas well production, 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Marginal Well Preservation Act of 2000”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND**  
4 **NATURAL GAS WELL PRODUCTION.**

5 (a) PURPOSE.—The purpose of this section is to pre-  
6 vent the abandonment of marginal oil and gas wells re-  
7 sponsible for half of the domestic production of oil and  
8 gas in the United States.

9 (b) CREDIT FOR PRODUCING OIL AND GAS FROM  
10 MARGINAL WELLS.—Subpart D of part IV of subchapter  
11 A of chapter 1 (relating to business credits) is amended  
12 by adding at the end the following new section:

13 **“SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM**  
14 **MARGINAL WELLS.**

15 “(a) GENERAL RULE.—For purposes of section 38,  
16 the marginal well production credit for any taxable year  
17 is an amount equal to the product of—

18 “(1) the credit amount, and

19 “(2) the qualified crude oil production and the  
20 qualified natural gas production which is attrib-  
21 utable to the taxpayer.

22 “(b) CREDIT AMOUNT.—For purposes of this  
23 section—

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

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

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

5           “(2) REDUCTION AS OIL AND GAS PRICES IN-  
6 CREASE.—

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

12                   “(i) the excess (if any) of the applica-  
13 ble reference price over \$14 (\$1.56 for  
14 qualified natural gas production), bears to

15                   “(ii) \$3 (\$0.33 for qualified natural  
16 gas production).

17           The applicable reference price for a taxable  
18 year is the reference price for the calendar year  
19 preceding the calendar year in which the tax-  
20 able year begins.

21           “(B) INFLATION ADJUSTMENT.—In the  
22 case of any taxable year beginning in a calendar  
23 year after 2000, each of the dollar amounts  
24 contained in subparagraph (A) shall be in-  
25 creased to an amount equal to such dollar

1 amount multiplied by the inflation adjustment  
2 factor for such calendar year (determined under  
3 section 43(b)(3)(B) by substituting ‘1999’ for  
4 ‘1990’).

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

8 “(i) in the case of qualified crude oil  
9 production, the reference price determined  
10 under section 29(d)(2)(C), and

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

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

18 “(1) IN GENERAL.—The terms ‘qualified crude  
19 oil production’ and ‘qualified natural gas production’  
20 mean domestic crude oil or natural gas which is pro-  
21 duced from a marginal well.

22 “(2) LIMITATION ON AMOUNT OF PRODUCTION  
23 WHICH MAY QUALIFY.—

24 “(A) IN GENERAL.—Crude oil or natural  
25 gas produced during any taxable year from any

1 well shall not be treated as qualified crude oil  
2 production or qualified natural gas production  
3 to the extent production from the well during  
4 the taxable year exceeds 1,095 barrels or barrel  
5 equivalents.

6 “(B) PROPORTIONATE REDUCTIONS.—

7 “(i) SHORT TAXABLE YEARS.—In the  
8 case of a short taxable year, the limitations  
9 under this paragraph shall be proportion-  
10 ately reduced to reflect the ratio which the  
11 number of days in such taxable year bears  
12 to 365.

13 “(ii) WELLS NOT IN PRODUCTION EN-  
14 TIRE YEAR.—In the case of a well which is  
15 not capable of production during each day  
16 of a taxable year, the limitations under  
17 this paragraph applicable to the well shall  
18 be proportionately reduced to reflect the  
19 ratio which the number of days of produc-  
20 tion bears to the total number of days in  
21 the taxable year.

22 “(3) DEFINITIONS.—

23 “(A) MARGINAL WELL.—The term ‘mar-  
24 ginal well’ means a domestic 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) CRUDE OIL, ETC.—The terms ‘crude  
12           oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have  
13           the meanings given such terms by section  
14           613A(e).

15           “(C) BARREL EQUIVALENT.—The term  
16           ‘barrel equivalent’ means, with respect to nat-  
17           ural gas, a conversion ratio of 6,000 cubic feet  
18           of natural gas to 1 barrel of crude oil.

19           “(d) OTHER RULES.—

20                 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-  
21                 PAYER.—In the case of a marginal well in which  
22                 there is more than one owner of operating interests  
23                 in the well and the crude oil or natural gas produc-  
24                 tion exceeds the limitation under subsection (c)(2),  
25                 qualifying crude oil production or qualifying natural

1 gas production attributable to the taxpayer shall be  
2 determined on the basis of the ratio which tax-  
3 payer's revenue interest in the production bears to  
4 the aggregate of the revenue interests of all oper-  
5 ating interest owners in the production.

6 “(2) OPERATING INTEREST REQUIRED.—Any  
7 credit under this section may be claimed only on  
8 production which is attributable to the holder of an  
9 operating interest.

10 “(3) PRODUCTION FROM NONCONVENTIONAL  
11 SOURCES EXCLUDED.—In the case of production  
12 from a marginal well which is eligible for the credit  
13 allowed under section 29 for the taxable year, no  
14 credit shall be allowable under this section unless  
15 the taxpayer elects not to claim the credit under sec-  
16 tion 29 with respect to the well.”

17 “(e) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
18 tion 38(b) is amended by striking “plus” at the end of  
19 paragraph (11), by striking the period at the end of para-  
20 graph (12) and inserting “, plus”, and by adding at the  
21 end the following new paragraph:

22 “(13) the marginal oil and gas well production  
23 credit determined under section 45D(a).”

24 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-  
25 IMUM TAX.—

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

6           “(3) SPECIAL RULES FOR MARGINAL OIL AND  
7           GAS WELL PRODUCTION CREDIT.—

8           “(A) IN GENERAL.—In the case of the  
9           marginal oil and gas well production credit—

10           “(i) this section and section 39 shall  
11           be applied separately with respect to the  
12           credit, and

13           “(ii) in applying paragraph (1) to the  
14           credit—

15           “(I) subparagraphs (A) and (B)  
16           thereof shall not apply, and

17           “(II) the limitation under para-  
18           graph (1) (as modified by subclause  
19           (I)) shall be reduced by the credit al-  
20           lowed under subsection (a) for the  
21           taxable year (other than the marginal  
22           oil and gas well production credit).

23           “(B) MARGINAL OIL AND GAS WELL PRO-  
24           DUCTION CREDIT.—For purposes of this sub-  
25           section, the term ‘marginal oil and gas well pro-

1           duction credit’ means the credit allowable under  
2           subsection (a) by reason of section 45D(a).”

3           (2) CONFORMING AMENDMENT.—Subclause (II)  
4           of section 38(c)(2)(A)(ii) is amended by inserting  
5           “or the marginal oil and gas well production credit”  
6           after “employment credit”.

7           (e) CARRYBACK.—Subsection (a) of section 39 (relat-  
8           ing to carryback and carryforward of unused credits gen-  
9           erally) is amended by adding at the end the following new  
10          paragraph:

11           “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL  
12          AND GAS WELL PRODUCTION CREDIT.—In the case  
13          of the marginal oil and gas well production credit—

14           “(A) this section shall be applied sepa-  
15          rately from the business credit (other than the  
16          marginal oil and gas well production credit),

17           “(B) paragraph (1) shall be applied by  
18          substituting ‘10 taxable years’ for ‘1 taxable  
19          years’ in subparagraph (A) thereof, and

20           “(C) paragraph (2) shall be applied—

21           “(i) by substituting ‘31 taxable years’  
22          for ‘21 taxable years’ in subparagraph (A)  
23          thereof, and

1                   “(ii) by substituting ‘30 taxable years’  
 2                   for ‘20 taxable years’ in subparagraph (B)  
 3                   thereof.”

4           (f) COORDINATION WITH SECTION 29.—Section  
 5 29(a) is amended by striking “There” and inserting “At  
 6 the election of the taxpayer, there”.

7           (g) CLERICAL AMENDMENT.—The table of sections  
 8 for subpart D of part IV of subchapter A of chapter 1  
 9 is amended by adding at the end the following item:

                  “Sec. 45D. Credit for producing oil and gas from marginal wells.”

10          (h) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to production in taxable years be-  
 12 ginning after December 31, 1999.

13 **SEC. 3. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**  
 14                   **PHYSICAL EXPENDITURES AND DELAY RENT-**  
 15                   **AL PAYMENTS.**

16          (a) PURPOSE.—The purpose of this section is to rec-  
 17 ognize that geological and geophysical expenditures and  
 18 delay rentals are ordinary and necessary business expenses  
 19 that should be deducted in the year the expense is in-  
 20 curred.

21          (b) ELECTION TO EXPENSE GEOLOGICAL AND GEO-  
 22 PHYSICAL EXPENDITURES.—

23               (1) IN GENERAL.—Section 263 (relating to cap-  
 24 ital expenditures) is amended by adding at the end  
 25 the following new subsection:

1       “(j) GEOLOGICAL AND GEOPHYSICAL EXPENDI-  
2 TURES FOR OIL AND GAS WELLS.—Notwithstanding sub-  
3 section (a), a taxpayer may elect to treat geological and  
4 geophysical expenses incurred in connection with the ex-  
5 ploration for, or development of, oil or gas as expenses  
6 which are not chargeable to capital account. Any expenses  
7 so treated shall be allowed as a deduction in the taxable  
8 year in which paid or incurred.”

9           (2) CONFORMING AMENDMENT.—Section  
10       263A(c)(3) is amended by inserting “263(j),” after  
11       “263(i),”.

12           (3) EFFECTIVE DATE.—

13           (A) IN GENERAL.—The amendments made  
14       by this subsection shall apply to expenses paid  
15       or incurred after the date of the enactment of  
16       this Act.

17           (B) TRANSITION RULE.—In the case of  
18       any expenses described in section 263(j) of the  
19       Internal Revenue Code of 1986, as added by  
20       this subsection, which were paid or incurred on  
21       or before the date of the enactment of this Act,  
22       the taxpayer may elect, at such time and in  
23       such manner as the Secretary of the Treasury  
24       may prescribe, to amortize the suspended por-  
25       tion of such expenses over the 36-month period

1 beginning with the month in which the date of  
2 the enactment of this Act occurs. For purposes  
3 of this subparagraph, the suspended portion of  
4 any expense is that portion of such expense  
5 which, as of the first day of the 36-month pe-  
6 riod, has not been included in the cost of a  
7 property or otherwise deducted.

8 (c) ELECTION TO EXPENSE DELAY RENTAL PAY-  
9 MENTS.—

10 (1) IN GENERAL.—Section 263 (relating to cap-  
11 ital expenditures), as amended by subsection (b)(1),  
12 is amended by adding at the end the following new  
13 subsection:

14 “(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL  
15 AND GAS WELLS.—

16 “(1) IN GENERAL.—Notwithstanding subsection  
17 (a), a taxpayer may elect to treat delay rental pay-  
18 ments incurred in connection with the development  
19 of oil or gas within the United States (as defined in  
20 section 638) as payments which are not chargeable  
21 to capital account. Any payments so treated shall be  
22 allowed as a deduction in the taxable year in which  
23 paid or incurred.

24 “(2) DELAY RENTAL PAYMENTS.—For purposes  
25 of paragraph (1), the term ‘delay rental payment’

1 means an amount paid for the privilege of deferring  
2 the drilling of an oil or gas well under an oil or gas  
3 lease.”

4 (2) CONFORMING AMENDMENT.—Section  
5 263A(c)(3), as amended by subsection (b)(2), is  
6 amended by inserting “263(k),” after “263(j),”.

7 (3) EFFECTIVE DATE.—

8 (A) IN GENERAL.—The amendments made  
9 by this subsection shall apply to payments made  
10 or incurred after the date of the enactment of  
11 this Act.

12 (B) TRANSITION RULE.—In the case of  
13 any payments described in section 263(k) of the  
14 Internal Revenue Code of 1986, as added by  
15 this subsection, which were made or incurred on  
16 or before the date of the enactment of this Act,  
17 the taxpayer may elect, at such time and in  
18 such manner as the Secretary of the Treasury  
19 may prescribe, to amortize the suspended por-  
20 tion of such payments over the 36-month period  
21 beginning with the month in which the date of  
22 the enactment of this Act occurs. For purposes  
23 of this subparagraph, the suspended portion of  
24 any payment is that portion of such payment  
25 which, as of the first day of the 36-month pe-

1            riod, has not been included in the cost of a  
2            property or otherwise deducted.

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