110TH CONGRESS
1ST SESSION

# S. 115

To suspend royalty relief, to repeal certain provisions of the Energy Policy Act of 2005, and to amend the Internal Revenue Code of 1986 to repeal certain tax incentives for the oil and gas industry.

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. OBAMA introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

To suspend royalty relief, to repeal certain provisions of the Energy Policy Act of 2005, and to amend the Internal Revenue Code of 1986 to repeal certain tax incentives for the oil and gas industry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Oil Subsidy Elimination for New Strategies on Energy Act" or the "Oil SENSE Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—TERMINATION OF CERTAIN PROVISIONS OF THE ENERGY POLICY ACT OF 2005

Sec. 101. Termination of certain provisions of the Energy Policy Act of 2005.

TITLE II—SUSPENSION OF ROYALTY RELIEF

Sec. 201. Suspension of royalty relief.
Sec. 202. Renegotiation of existing leases.

TITLE III—REPEAL OF CERTAIN ENERGY TAX INCENTIVES

Sec. 301. Repeal of tax subsidies enacted by the Energy Policy Act of 2005 for oil and gas.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) record highs in oil and natural gas prices have resulted in record profits for oil and natural gas producers and refiners;

(2) oil prices are projected to remain high for the foreseeable future;

(3) the Department of the Interior estimates that as much as $66,000,000,000 worth of oil and natural gas taken from the deep waters of the Gulf of Mexico over the next 5 years will be exempt from Government royalty payments, which could amount to the Government losing an estimated $7,000,000,000 to $9,500,000,000 based on anticipated production and current price projections for oil and gas, according to an analysis in the 5-year budget plan of the Department of the Interior;

(4) the chief executive officers of the top 5 oil companies stated at a November 9, 2005, joint hearing of the Committee on Energy and Natural Resource of the Senate and the Committee on Environment and Public Works of the Senate that their companies did not need the Federal tax incentives provided in the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.);

(5) the Statement of Administration Policy of June 14, 2005, on the energy bill that would become the Energy Policy Act of 2005 states, ''The President believes that additional taxpayer subsidies for oil-and-gas exploration are unwarranted in today's price environment, and urges the Senate to eliminate the Federal oil-and-gas subsidies and other exploration incentives contained in the bill.''; and

(6) incentives for the energy industry should be focused on the development of renewable energy resources in the United States that will also promote, jobs, investment, innovation, and economic development in rural, agriculture-dependent areas.

# TITLE I—TERMINATION OF CERTAIN PROVISIONS OF THE ENERGY POLICY ACT OF 2005

## SEC. 101. TERMINATION OF CERTAIN PROVISIONS OF THE ENERGY POLICY ACT OF 2005.

(a) IN GENERAL.—The following provisions of the Energy Policy Act of 2005 are repealed as of the date of enactment of this Act:

(1) Section 343 (42 U.S.C. 15903) (relating to marginal property production incentives).

(2) Section 344 (42 U.S.C. 15904) (relating to incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico).

(3) Section 345 (42 U.S.C. 15905) (relating to royalty relief for deep water production).

(4) Section 346 (Public Law 109-58; 119 Stat. 794) (relating to Alaska offshore royalty suspension).

(5) Section 357 (42 U.S.C. 15912) (relating to comprehensive inventory of OCS oil and natural gas resources).

(6) Section 362 (42 U.S.C. 15921) (relating to management of Federal oil and gas leasing programs).

(7) Subtitle J of title IX (42 U.S.C. 16371 et seq.) (relating to ultra-deepwater and unconventional natural gas and other petroleum resources).

(b) TERMINATION OF ALASKA OFFSHORE ROYALTY SUSPENSION.—

(1) IN GENERAL.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking ‘‘and in the Planning Areas offshore Alaska’’.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as of the date of enactment of this Act.

# TITLE II—SUSPENSION OF ROYALTY RELIEF

## SEC. 201. SUSPENSION OF ROYALTY RELIEF.

(a) IN GENERAL.—Subject to subsection (c), the Secretary of the Interior (referred to in this title as the ‘‘Secretary’’) shall suspend the application of any provision of Federal law under which a person would otherwise be provided relief from a requirement to pay a royalty for the production of oil or natural gas from Federal land (including submerged land) occurring after the date of enactment of this Act during any period in which—

(1) for the production of oil, the average price of crude oil in the United States during the 4-week

period immediately preceding the suspension is greater than $34.71 per barrel; and

(2) for the production of natural gas, the average wellhead price of natural gas in the United States during the 4-week period immediately preceding the suspension is greater than $4.34 per 1,000 cubic feet.

(b) DETERMINATION OF AVERAGE PRICES.—For purposes of subsection (a), the Secretary shall determine average prices, taking into consideration the most recent data reported by the Energy Information Administration.

(c) REQUIRED ADJUSTMENT.—For fiscal year 2008 and each subsequent fiscal year, each dollar amount specified in subsection (a) shall be adjusted to reflect changes for the 1-year period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

**SEC. 202. RENEGOTIATION OF EXISTING LEASES.**

(a) REQUIREMENT.—The Secretary shall renegotiate each lease authorizing production of oil or natural gas on Federal land (including submerged land) issued by the Secretary before the date of enactment of this Act as the Secretary determines to be necessary to modify the terms of the lease to ensure that a suspension of a requirement to pay royalties under the lease does not apply to production described in section 201(a).

(b) FAILURE TO RENEGOTIATE AND MODIFY.—Beginning on the date that is 1 year after the date of enactment of this Act, a lessee under a lease described in subsection (a) shall not be eligible—

(1) to enter into a new lease described in that subsection; or

(2) to obtain by sale or other transfer any lease issued before that date, unless the lessee—

(A) renegotiates the lease; and

(B) enters into an agreement with the Secretary to modify the terms of the lease in accordance with subsection (a).

# TITLE III—REPEAL OF CERTAIN ENERGY TAX INCENTIVES

## SEC. 301. REPEAL OF CERTAIN PROVISIONS OF THE ENERGY POLICY ACT OF 2005 PROVIDING TAX SUBSIDIES FOR THE OIL AND GAS INDUSTRY.

(a) REPEAL OF ELECTION TO EXPENSE CERTAIN REFINERIES.—

(1) IN GENERAL.—Subparagraph (B) of section 179C(c)(1) of the Internal Revenue Code of 1986 (relating to qualified refinery property) is amended by striking "January 1, 2012" and inserting "the

date of the enactment of the Oil Subsidy Elimination for New Strategies on Energy Act''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property placed in service after the date of the enactment of this Act.

(b) REPEAL OF TREATMENT OF NATURAL GAS DISTRIBUTION LINES AS 15-YEAR PROPERTY.—

(1) IN GENERAL.—Clause (viii) of section 168(e)(3)(E) of such Code (relating to 15-year property) is amended by striking ''January 1, 2011'' and inserting ''the Oil Subsidy Elimination for New Strategies on Energy Act''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property placed in service after the date of the enactment of this Act.

(c) REPEAL OF TREATMENT OF NATURAL GAS GATHERING LINES AS 7-YEAR PROPERTY.—

(1) IN GENERAL.—Clause (iv) of section 168(e)(3)(C) of such Code (relating to 7-year property) is amended by inserting ''and which is placed in service before the date of the enactment of the Oil Subsidy Elimination for New Strategies on Energy Act'' after ''April 11, 2005,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property placed in service after the date of the enactment of this Act.

(d) REPEAL OF NEW RULE FOR DETERMINING SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.—

(1) IN GENERAL.—Paragraph (4) of section 613A(d) of such Code (relating to certain refiners excluded) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to such taxpayer if on any day during the taxable year the refinery runs of the taxpayer and such person exceed 50,000 barrels.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

(e) REPEAL OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

(1) IN GENERAL.—Section 167 of such Code (relating to depreciation) is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(2) CONFORMING AMENDMENT.—Section 263A(c)(3) of such Code is amended by striking "167(h),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after the date of the enactment of this Act.