119TH CONGRESS
2D SESSION

S. ______

To amend the Internal Revenue Code of 1986 to include foreign oil and gas extraction income in net CFC tested income, to include income from the extraction of minerals from oil shale and tar sands in the definitions of foreign oil and gas extraction income and foreign oil related income, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Internal Revenue Code of 1986 to include foreign oil and gas extraction income in net CFC tested income, to include income from the extraction of minerals from oil shale and tar sands in the definitions of foreign oil and gas extraction income and foreign oil related income, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘American Energy Independence and Tax Fairness Act’’.

SEC. 2. FOREIGN OIL AND GAS EXTRACTION INCOME INCLUDED IN NET CFC TESTED INCOME.

(a) IN GENERAL.—Section 951A(b)(2)(A)(i) of the Internal Revenue Code of 1986 is amended by inserting ‘‘and’’ at the end of subclause (III), by striking ‘‘and’’ at the end of subclause (IV) and inserting ‘‘over’’, and by striking subclause (V).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such tax years of foreign corporations end.

SEC. 3. FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME TO INCLUDE OIL SHALE AND TAR SANDS.

(a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of section 907(c) of the Internal Revenue Code of 1986 are each amended by inserting ‘‘(or oil shale or tar sands)’’ after ‘‘oil or gas wells’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO CERTAIN TAXPAYERS RECEIVING SPECIFIC ECONOMIC BENEFITS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period with respect to combined foreign oil and gas income (as defined in section 907(b)(1)) shall not be considered a tax—

"(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

"(B) to the extent such amount exceeds the amount which would be paid or accrued by such dual capacity taxpayer under the generally applicable income tax imposed by such country or possession if such taxpayer were not a dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

"(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

"(A) is subject to a levy of such country or possession, and

"(B) receives (or will receive) directly or indirectly a specific economic benefit from such country or possession (or any political subdivision, agency, or instrumentality thereof).

"(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection, the term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession of the United States on residents of such foreign country or possession that are not dual capacity taxpayers.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2026, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.