To deny certain tax benefits to oil and gas companies and to invest the savings in clean energy programs.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2011

Mr. TONKO introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Science, Space, and Technology, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To deny certain tax benefits to oil and gas companies and to invest the savings in clean energy programs.

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.
4 This Act may be cited as the “Pain at the Pump
5 Act”.

TITLE I—DENIAL OF CERTAIN TAX BENEFITS TO OIL AND GAS COMPANIES

SEC. 101. REPEAL OF ENHANCED OIL RECOVERY CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 43 (and the table of sections of such subpart is amended by striking the item relating to such section).

(b) Conforming Amendments.—

(1) Subsection (b) of section 38 of such Code is amended by striking paragraph (6) and redesignating paragraphs (7) through (36) as paragraphs (6) through (35), respectively.

(2) Paragraph (7) of section 45Q(d) of such Code is amended to read as follows:

“(7) Inflation Adjustment.—

“(A) In General.—In the case of any taxable year beginning in a calendar year after 2009, there shall be substituted for each dollar amount contained in subsection (a) an amount equal to the product of—

“(i) such dollar amount, multiplied by

“(ii) the inflation adjustment factor for such calendar year.
“(B) Inflation adjustment factor.—

The term ‘inflation adjustment factor’ means,

with respect to any calendar year, a fraction the

numerator of which is the GNP implicit price
deflator for the preceding calendar year and the
denominator of which is the GNP implicit price
deflator for 2008. For purposes of the pre-
ceding sentence, the term ‘GNP implicit price
deflator’ means the first revision of the implicit
price deflator for the gross national product as
computed and published by the Secretary of
Commerce. Not later than April 1 of any cal-
endar year, the Secretary shall publish the in-
flation adjustment factor for the preceding cal-
endar year.”.

(3) Subsection (c) of section 196 of such Code
is amended by striking paragraph (5) and redesig-
nating paragraphs (6) through (14) as paragraphs
(5) through (13), respectively.

(c) Effective date.—

(1) In general.—Except as otherwise pro-
vided in this subsection, the amendments made by
this section shall apply to taxable years beginning
after December 31, 2011.
(2) **CONTINUATION OF BASIS REDUCTIONS.**—Paragraph (2) of section 43(d) of the Internal Revenue Code of 1986 (as in effect before its repeal by this section) shall continue to apply with respect to credits determined for taxable years beginning on or before December 31, 2011.

**SEC. 102. REPEAL OF CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.**

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 45I (and the table of sections of such subpart is amended by striking the item relating to such section).

(b) **CONFORMING AMENDMENT.**—Subsection (b) of section 38 of such Code, as amended by section 101, is amended by striking paragraph (18) and redesignating paragraphs (19) through (35) as paragraphs (18) through (34), respectively.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. 103. REPEAL OF EXPENSING OF INTANGIBLE DRILLING AND DEVELOPMENT COSTS.**

(a) **IN GENERAL.**—Section 263 of the Internal Revenue Code of 1986 is amended by striking subsection (c).
(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 104. REPEAL OF DEDUCTION FOR TERTIARY INJECTANTS.

(a) In General.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 193 (and the table of sections of such subpart is amended by striking the item relating to such section).

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 105. REPEAL OF EXCEPTION TO PASSIVE LOSS LIMITATIONS FOR WORKING INTERESTS IN OIL AND GAS PROPERTIES.

(a) In General.—Paragraph (3) of section 469(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) Termination.—Subparagraph (A) shall not apply with respect to any taxable year beginning after the date of the enactment of this Act.”.
(b) **Effective Date.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. 106. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.**

(a) **In General.**—Part I of subchapter I of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 613A (and the table of sections of such part is amended by striking the item relating to such section).

(b) **Conforming Amendments.**—

(1) Subsection (d) of section 45H of such Code is amended—

(A) by striking “For purposes this section” and inserting the following:

“(1) **In General.**—For purposes of this section”,

(B) by striking “(within the meaning of section 613A(d)(3))”, and

(C) by adding at the end the following new paragraph:

“(2) **Related Person.**—For purposes of this subsection, a person is a related person with respect to the taxpayer if a significant ownership interest in either the taxpayer or such person is held by the
other, or if a third person has a significant ownership interest in both the taxpayer and such person. For purposes of the preceding sentence, the term ‘significant ownership interest’ means—

“(A) with respect to any corporation, 5 percent or more in value of the outstanding stock of such corporation,

“(B) with respect to a partnership, 5 percent or more interest in the profits or capital of such partnership, and

“(C) with respect to an estate or trust, 5 percent or more of the beneficial interests in such estate or trust.

For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be.”.

(2) Subparagraph (F) of section 56(g)(4) of such Code is amended to read as follows:

“(F) DEPLETION.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after De-
December 31, 1989, shall be cost depletion determined under section 611.”.

(3) Paragraph (1) of section 57(a) of such Code is amended by striking the last sentence.

(4) Paragraph (4) of section 291(b) of such Code is amended by adding at the end the following: “Any reference in the preceding sentence to section 613A shall be treated as a reference to such section as in effect prior to the date of the enactment of the Pain at the Pump Act.”.

(5) Subsection (d) of section 613 of such Code is amended by striking “Except as provided in section 613A, in the case of” and inserting “In the case of”.

(6) Subsection (c) of section 613 of such Code is amended—

(A) by striking “or section 613A” in paragraph (2), and

(B) by striking “any amount described in section 613A(d)(5)” in paragraph (3) and inserting “any lease bonus, advance royalty, or other amount payable without regard to production from property”.

(7) Subsection (a) of section 705 of such Code is amended—
(A) by inserting “and” at the end of paragraph (1)(C),

(B) by striking “; and” at the end of paragraph (2)(B) and inserting a period, and

(C) by striking paragraph (3).

(8) Section 776 of such Code is amended by striking subsection (a) and by redesignating subsection (b) as subsection (a).

(9) Subparagraph (D) of section 954(g)(2) of such Code is amended by inserting “(as in effect before the date of the enactment of the Pain at the Pump Act)” after “section 613A”.

(10) Subparagraph (C) of section 993(c)(2) of such Code is amended by striking “section 613 or 613A” and inserting “section 613 (determined without regard to subsection (d) thereof)”.

(11) Subparagraph (D) of section 1202(e)(3) of such Code is amended by striking “section 613 or 613A” and inserting “section 613 (determined without regard to subsection (d) thereof)”.

(12) Paragraph (2) of section 1367(a) of such Code is amended by inserting “and” at the end of subparagraph (C), by striking “, and” at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).
(13) Subsection (c) of section 1446 of such Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2011.

SEC. 107. DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES NOT ALLOWED WITH RESPECT TO OIL AND GAS ACTIVITIES.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by inserting after clause (iii) the following new clause:

“(iv) the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof.”.

(b) CONFORMING AMENDMENT.—Subsection (d) of section 199 of such Code is amended by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.
SEC. 108. 7-YEAR AMORTIZATION FOR GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Subsection (h) of section 167 of the Internal Revenue Code of 1986 is amended—

(1) by striking “24-month” in paragraphs (1) and (4) and inserting “7-year”, and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2011.

TITLE II—INVESTMENT IN CLEAN ENERGY PROGRAMS

SEC. 201. INVESTMENT IN CLEAN ENERGY PROGRAMS.

It is the sense of Congress that the increase in revenue to the Federal Government resulting from the provisions of, and amendments made by, title I should be used to make additional expenditures in the following areas and programs:

(1) Alternative fuel technology programs.

(2) Advanced battery development programs.

(3) Programs of the Advanced Research Projects Agency—Energy.

(4) Research and development of clean energy technologies.

(5) Clean energy loan guarantee programs.

(7) Weatherization Assistance Program.

(8) State Energy Program.

(9) Low Income Home Energy Assistance Program.

(10) Distributed generation and turbine research and development.