

109TH CONGRESS
1ST SESSION

H. R. 4479

To repeal provisions of the Energy Policy Act of 2005, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2005

Mr. HIGGINS (for himself, Mr. MARKEY, Mr. BISHOP of New York, Ms. DELAURO, Mr. RUSH, and Mr. ISRAEL) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Resources, Science, Energy and Commerce, Education and the Workforce, and Small Business, 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 repeal provisions of the Energy Policy Act of 2005,
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.**

4 This Act may be cited as the “Energy Consumer Re-
5 lief Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) During 2005, the price of crude oil reached
2 a record \$70 a barrel, the price of gas at the pump
3 reached a record price of \$3 per gallon, and the
4 price of natural gas reached a record of \$14.75 per
5 million BTUs on October 5, 2005.

6 (2) Record highs in oil and natural gas prices
7 have resulted in record profits for oil and natural
8 gas producers and refiners. In October 2005, the
9 five largest oil companies reported a total of \$32.7
10 billion in the third quarter profits, a record increase
11 of 52 percent over last year. Exxon Mobil recorded
12 \$9.9 billion, a 75 percent increase in profits;
13 ChevronTexaco recorded \$3.6 billion, a 13 percent
14 increase in profits; Conoco Phillips recorded \$3.8
15 billion, an 89 percent increase in profits; BP re-
16 corded \$6.5 billion, a 34 percent increase in profits;
17 and Royal Dutch Shell recorded \$9.03 billion, a 68
18 percent increase in profits. Over the first three quar-
19 ters of the year, the top five oil companies recorded
20 a combined total of \$81 billion in profits.

21 (3) Higher oil company profits have been ac-
22 companied by a dramatic increase in pay and com-
23 pensation for the senior executives at major oil com-
24 panies. The total 2004 direct compensation for the
25 top five oil and gas company executives, as reported

1 in a Wall Street Journal survey, averaged \$16.5 mil-
2 lion, double the prior year.

3 (4) The CEO's of the top five oil companies
4 stated at a November 9, 2005, joint hearing of the
5 Senate Energy and Natural Resource Committee
6 and the Senate Environment and Public Works
7 Committee that their respective companies did not
8 need the Federal tax incentives provided in the En-
9 ergy Policy Act of 2005.

10 (5) The effective tax rates of the top five oil
11 companies averaged 13.3 percent over the three-year
12 period 2001–2003, well below the 35 percent rate,
13 and in contrast to those in the health care industry,
14 the financial industry, the pharmaceutical industry,
15 the computer industry and the chemical industry.

16 (6) Oil prices are projected to remain high for
17 the foreseeable future, translating into continued
18 high oil company profits. According to the Adminis-
19 trator of the Energy Information Administration,
20 the Administration's 2006 Annual Energy Outlook
21 will forecast an oil price in 2025 that is nearly \$20
22 a barrel higher than the 2005 Outlook.

23 (7) The Federal budget deficit this year was
24 \$319 billion, the third largest in history, and the na-
25 tional debt is currently above \$8 trillion.

1 (8) In light of the size of the Federal budget
2 deficit and the national debt, the record price of oil
3 and natural gas, and the historic profits earned by
4 oil and natural gas producers, there is no justifica-
5 tion for granting such companies special tax breaks
6 and exemptions from paying royalties for drilling for
7 oil and natural gas on public lands, as was author-
8 ized in the Energy Policy Act of 2005.

9 (9) Home heating costs are expected to jump
10 dramatically this winter, even after consumers have
11 paid hundred of dollars more this year in gasoline
12 costs. This is squeezing the pocketbooks of millions
13 of hard-working families. Americans who heat their
14 homes with natural gas could see their fuel costs in-
15 crease as much as 50 percent in some parts of the
16 country. On average, the more than half of all Amer-
17 ican households heating with natural gas are ex-
18 pected to spend 38 percent more this winter on fuel.
19 Households heating with heating oil can expect to
20 pay 21 percent more this winter. The National En-
21 ergy Assistance Directors' Association reports that
22 the average family using heating oil will pay nearly
23 three times the amount families paid in 2001 to
24 2002.

1 **SEC. 3. REPEAL OF CERTAIN TAX SUBSIDIES FOR THE OIL**
2 **AND GAS INDUSTRY.**

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

5 (1) **IN GENERAL.**—Subparagraph (B) of section
6 179C(c)(1) of such Code (relating to qualified refin-
7 ery property) is amended by striking “January 1,
8 2012” and inserting “the date of the enactment of
9 the Energy Consumer Relief Act of 2005”.

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

13 (b) **REPEAL OF TREATMENT OF NATURAL GAS DIS-**
14 **TRIBUTION LINES AS 15-YEAR PROPERTY.—**

15 (1) **IN GENERAL.**—Clause (viii) of section
16 168(e)(3)(E) of such Code (relating to 15-year prop-
17 erty) is amended by striking “January 1, 2011” and
18 inserting “the Energy Consumer Relief Act of
19 2005”.

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

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

25 (1) **IN GENERAL.**—Clause (iv) of section
26 168(e)(3)(C) of such Code (relating to 7-year prop-

1 erty) is amended by inserting “and which is placed
2 in service before the date of the enactment of the
3 Energy Consumer Relief Act of 2005” after “April
4 11, 2005,”.

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

8 (d) REPEAL OF NEW RULE FOR DETERMINING
9 SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUC-
10 TION.—

11 (1) IN GENERAL.—Paragraph (4) of section
12 613A(d) of such Code (relating to certain refiners
13 excluded) is amended to read as follows:

14 “(4) CERTAIN REFINERS EXCLUDED.—If the
15 taxpayer or a related person engages in the refining
16 of crude oil, subsection (c) shall not apply to such
17 taxpayer if on any day during the taxable year the
18 refinery runs of the taxpayer and such person exceed
19 50,000 barrels.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply to taxable years begin-
22 ning after the date of the enactment of this Act.

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

1 (1) IN GENERAL.—Section 167 of such Code
2 (relating to depreciation) is amended by striking
3 subsection (h).

4 (2) CONFORMING AMENDMENT.—Section
5 263A(c)(3) of such Code is amended by striking
6 “167(h),”.

7 (3) EFFECTIVE DATE.—The amendments made
8 by this subsection shall apply to amounts paid or in-
9 curred after the date of the enactment of this Act.

10 **SEC. 4. REPEAL OF CERTAIN OTHER PROVISIONS PRO-**
11 **VIDING INCENTIVES FOR THE OIL AND GAS**
12 **INDUSTRY.**

13 The following provisions of the Energy Policy Act of
14 2005 (Public Law 109–58) are repealed:

15 (1) Section 343 (relating to marginal property
16 production incentives).

17 (2) Section 344 (relating to incentives for nat-
18 ural gas production from deep wells in the shallow
19 waters of the Gulf of Mexico).

20 (3) Section 345 (relating to royalty relief for
21 deep water production).

22 (4) Section 346 (relating to Alaska offshore
23 royalty suspension).

24 (5) Section 347 (relating to oil and gas leasing
25 in the National Petroleum Reserve in Alaska).

1 (6) Section 351 (relating to preservation of geo-
2 logical and geophysical data).

3 (7) Section 357 (relating to a comprehensive in-
4 ventory of OCS oil and natural gas resources).

5 (8) Section 362 (relating to management of
6 Federal oil and gas leasing programs).

7 (9) Section 965 (relating to oil and gas re-
8 search programs).

9 (10) Section 966 (relating to low-volume oil and
10 gas reservoir research program).

11 (11) Subtitle J of title IX (relating to ultra-
12 deepwater and unconventional natural gas and other
13 petroleum resources).

14 **SEC. 5. REQUIREMENT TO SUSPEND ROYALTY RELIEF.**

15 (a) REQUIREMENT TO SUSPEND.—The President
16 shall suspend the application of any provision of Federal
17 law under which any person is given relief from any re-
18 quirement to pay royalty for production oil or natural gas
19 from Federal lands (including submerge lands), for pro-
20 duction occurring in any period with respect to which—

21 (1) in the case of production of oil, the average
22 price of crude oil in the United States over the most
23 recent 4 consecutive weeks is greater than \$40 per
24 barrel, or such lesser amount as applies for such

1 purpose under the lease under which such produc-
2 tion occurs; and

3 (2) in the case of production of natural gas, the
4 average wellhead price of natural gas in the United
5 States over the most recent 4 consecutive weeks is
6 greater than \$5 per thousand cubic feet, or such
7 lesser amount as applies for such purpose under the
8 lease under which such production occurs.

9 (b) DETERMINATION OF MARKET PRICE.—The
10 President shall determine average prices for purposes of
11 subsection (a) based on the most recent data reported by
12 the Energy Information Administration of the Depart-
13 ment of Energy.

14 **SEC. 6. EXPENDITURE OF ADDITIONAL REVENUE.**

15 Amounts equivalent to the increased revenues re-
16 ceived in the Treasury as the result of the enactment of
17 this Act (reduced by decreases in such revenues as the
18 result of sections 7 and 8), up to a total of \$2,000,000,000
19 for each of fiscal years 2006 and 2007, shall be directly
20 available to the Secretary of Health and Human Services
21 for obligation and expenditure for allotment under section
22 2604(e) of the Low Income Home Energy Assistance Act
23 of 1981. In making allotments of funds made available
24 under this section, the Secretary shall give due regard to
25 the most recent estimates available from the Department

1 of Energy regarding anticipated energy prices during the
2 heating and cooling seasons for which funds are being pro-
3 vided, and to the probable effect of those prices on the
4 heating and cooling expenses of low-income households.

5 **SEC. 7. REFUNDABLE TAX CREDIT FOR ENERGY COST AS-**
6 **SISTANCE OF FARMERS AND RANCHERS.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to refundable credits) is amended by redес-
10 ignating section 36 as section 37 and by inserting after
11 section 35 the following new section:

12 **“SEC. 36. CREDIT FOR ENERGY COST ASSISTANCE FOR**
13 **FARMERS AND RANCHERS.**

14 “(a) GENERAL RULE.—In the case of an eligible tax-
15 payer, there shall be allowed as a credit against the tax
16 imposed by this subtitle for the taxable year an amount
17 equal to the lesser of—

18 “(1) 20 percent of the amount paid or incurred
19 for qualified energy costs, or

20 “(2) \$1,500.

21 “(b) ELIGIBLE TAXPAYER.—For purposes of this
22 section, the term ‘eligible taxpayer’ means any individual
23 engaged in a farming business (as defined in section
24 263A(e)(4)).

1 “(c) QUALIFIED ENERGY COSTS.—For purposes of
2 this section, the term ‘qualified energy costs’ means the
3 cost of any fuel, energy utility, natural gas, propane gas,
4 LP gas, fertilizer, and heating oil used in the farming
5 business of the taxpayer during the taxable year.

6 “(d) TERMINATION.—This section shall not apply to
7 qualified energy costs paid or incurred after December 31,
8 2005.”.

9 (b) NO DOUBLE BENEFIT.—Section 280C of the In-
10 ternal Revenue Code of 1986 is amended by adding at the
11 end the following new subsection:

12 “(e) ENERGY ASSISTANCE FOR FARMERS AND
13 RANCHERS.—No deduction shall be allowed for that por-
14 tion of the expenses otherwise allowable as a deduction
15 for the taxable year which is equal to the amount of the
16 credit determined under section 36(a).”.

17 (c) REFUNDABILITY.—Section 1324(b)(2) of title 31,
18 United States Code, is amended by striking “or” before
19 “enacted” and by inserting before the period at the end
20 “, or from section 36 of such Code”.

21 (d) CLERICAL AMENDMENTS.—The table of sections
22 for subpart C of part IV of subchapter A of chapter 1
23 of the Internal Revenue Code of 1986 is amended by strik-
24 ing the item relating to section 35 and by adding at the
25 end the following new items:

“Sec. 36. Credit for energy cost assistance for farmers and ranchers.
“Sec. 37. Overpayments of tax.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2004.

4 **SEC. 8. SMALL BUSINESS ENERGY EMERGENCY GRANT**
5 **PROGRAM.**

6 (a) SMALL BUSINESS ENERGY EMERGENCY
7 GRANTS.—The Small Business Act (15 U.S.C. 631 et
8 seq.) is amended—

9 (1) by redesignating section 37 as section 38;
10 and

11 (2) by inserting after section 36 the following
12 new section 37:

13 **“SEC. 37. ENERGY EMERGENCY GRANT PROGRAM.**

14 “(a) ESTABLISHMENT.—The Administrator shall es-
15 tablish and carry out an Energy Emergency Grant Pro-
16 gram through which the Administrator may make a grant
17 to a small business concern that the Administrator deter-
18 mines has suffered or is likely to suffer substantial eco-
19 nomic injury as a result of a significant increase in the
20 price of heating oil, natural gas, gasoline, transportation
21 fuel, propane, or kerosene.

22 “(b) AMOUNT OF GRANT.—

23 “(1) LIMITATION.—No grant under this section
24 may exceed \$1,500.

1 “(2) EXCEPTION.—The Administrator may
2 waive the limitation under paragraph (1) for a small
3 business concern if the Administrator determines
4 that the small business concern constitutes a major
5 source of employment in its surrounding area.

6 “(c) DEFINITIONS.—In this section:

7 “(1) The term ‘significant increase’ means—

8 “(A) with respect to the price of heating
9 oil, natural gas, gasoline, transportation fuel, or
10 propane, an increase of the current price index
11 over the base price index by not less than 30
12 percent; and

13 “(B) with respect to the price of kerosene,
14 any increase which the Administrator, in con-
15 sultation with the Secretary of Energy, deter-
16 mines to be significant.

17 “(2) The term ‘current price index’ means the
18 moving average of the closing unit price on the New
19 York Mercantile Exchange, for the 10 most recent
20 trading days, for contracts to purchase heating oil,
21 natural gas, gasoline, transportation fuel, or propane
22 during the subsequent calendar month, commonly
23 known as the ‘front month’.

24 “(3) The term ‘base price index’ means the
25 moving average of the closing unit price on the New

1 York Mercantile Exchange for heating oil, natural
2 gas, gasoline, transportation fuel, or propane for the
3 10 days, in each of the most recent 2 preceding
4 years, which correspond to the trading days de-
5 scribed in paragraph (2).”.

6 (b) EFFECTIVE DATE.—Section 36 of the Small
7 Business Act, as added by subsection (a), shall apply with
8 respect to economic injury suffered on or after the date
9 of the enactment of this Act.

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