

109TH CONGRESS  
2D SESSION

# H. R. 5285

To provide a highway fuel tax holiday funded by the repeal of certain production incentives, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2006

Ms. LORETTA SANCHEZ of California introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Resources and Science, 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

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## A BILL

To provide a highway fuel tax holiday funded by the repeal of certain production incentives, 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 “Gas Tax Equity Act  
5 of 2006”.

6 **SEC. 2. HIGHWAY FUEL TAX HOLIDAY.**

7 (a) TEMPORARY ELIMINATION OF HIGHWAY FUEL  
8 TAXES ON GASOLINE, DIESEL FUEL, AND KEROSENE.—

1           (1) IN GENERAL.—Section 4081 of the Internal  
2       Revenue Code of 1986 (relating to imposition of tax  
3       on gasoline, diesel fuel, and kerosene) is amended by  
4       adding at the end the following new subsection:

5       “(f) TEMPORARY REDUCTION IN TAXES ON GASO-  
6       LINE, DIESEL FUEL, AND KEROSENE.—

7           “(1) IN GENERAL.—During the applicable pe-  
8       riod, each rate of tax referred to in paragraph (2)  
9       shall be reduced to zero cents per gallon.

10          “(2) RATES OF TAX.—The rates of tax referred  
11       to in this paragraph are the rates of tax otherwise  
12       applicable under—

13               “(A) clauses (i) and (iii) of subsection  
14       (a)(2)(A) (relating to gasoline, diesel fuel, and  
15       kerosene), determined with regard to subsection  
16       (a)(2)(B) and without regard to subsection  
17       (a)(2)(C), and

18               “(B) paragraph (1) of section 4041(a) (re-  
19       lating to diesel fuel and kerosene) with respect  
20       to fuel sold for use or used in a diesel-powered  
21       highway vehicle.

22          “(3) APPLICABLE PERIOD.—For purposes of  
23       this subsection, the term ‘applicable period’ means  
24       the 60-day period beginning with the day after the  
25       date of the enactment of this subsection.

1           “(4) MAINTENANCE OF TRUST FUND DEPOS-  
2       ITS.—In determining the amounts to be appro-  
3       priated to the Highway Trust Fund under section  
4       9503 and to the Leaking Underground Storage  
5       Tank Trust Fund under 9508, an amount equal to  
6       the reduction in revenues to the Treasury by reason  
7       of this subsection shall be treated as taxes received  
8       in the Treasury under this section or section 4041.”.

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

12      (b) FLOOR STOCK REFUNDS.—

13          (1) IN GENERAL.—If—

14              (A) before the tax reduction date, tax has  
15              been imposed under section 4081 of the Inter-  
16              nal Revenue Code of 1986 on any liquid, and

17              (B) on such date such liquid is held by a  
18              dealer and has not been used and is intended  
19              for sale, there shall be credited or refunded  
20              (without interest) to the person who paid such  
21              tax (hereafter in this subsection referred to as  
22              the “taxpayer”) an amount equal to the excess  
23              of the tax paid by the taxpayer over the amount  
24              of such tax which would be imposed on such liq-

1           uid had the taxable event occurred on the tax  
2           reduction date.

3           (2) TIME FOR FILING CLAIMS.—No credit or re-  
4           fund shall be allowed or made under this subsection  
5           unless—

6                   (A) claim therefor is filed with the Sec-  
7           retary of the Treasury before the date which is  
8           6 months after the tax reduction date, and

9                   (B) in any case where liquid is held by a  
10          dealer (other than the taxpayer) on the tax re-  
11          duction date—

12                   (i) the dealer submits a request for re-  
13          fund or credit to the taxpayer before the  
14          date which is 3 months after the tax re-  
15          duction date, and

16                   (ii) the taxpayer has repaid or agreed  
17          to repay the amount so claimed to such  
18          dealer or has obtained the written consent  
19          of such dealer to the allowance of the cred-  
20          it or the making of the refund.

21          (3) DEFINITIONS.—For purposes of this sub-  
22          section—

23                   (A) the terms “dealer” and “held by a  
24          dealer” have the respective meanings given to  
25          such terms by section 6412 of such Code; ex-

1           cept that the term “dealer” includes a pro-  
2           ducer, and

3                   (B) the term “tax reduction date” means  
4           the day after the date of the enactment of this  
5           Act.

6           (4) CERTAIN RULES TO APPLY.—Rules similar  
7           to the rules of subsections (b) and (c) of section  
8           6412 of such Code shall apply for purposes of this  
9           subsection.

10          (c) FLOOR STOCKS TAX.—

11               (1) IMPOSITION OF TAX.—In the case of any  
12           liquid on which tax would have been imposed under  
13           section 4081 of the Internal Revenue Code of 1986  
14           during the applicable period but for the amendments  
15           made by subsection (a), and which is held on the  
16           floor stocks tax date by any person, there is hereby  
17           imposed a floor stocks tax in an amount equal to the  
18           tax which would be imposed on such liquid had the  
19           taxable event occurred on the floor stocks tax date.

20               (2) LIABILITY FOR TAX AND METHOD OF PAY-  
21           MENT.—

22                   (A) LIABILITY FOR TAX.—A person hold-  
23           ing a liquid on the floor stocks tax date to  
24           which the tax imposed by paragraph (1) applies  
25           shall be liable for such tax.

1 (B) METHOD OF PAYMENT.—The tax im-  
2 posed by paragraph (1) shall be paid in such  
3 manner as the Secretary shall prescribe.

4 (C) TIME FOR PAYMENT.—The tax im-  
5 posed by paragraph (1) shall be paid on or be-  
6 fore the date which is 6 months after the floor  
7 stocks tax date.

8 (3) DEFINITIONS.—For purposes of this sub-  
9 section—

10 (A) HELD BY A PERSON.—A liquid shall  
11 be considered as “held by a person” if title  
12 thereto has passed to such person (whether or  
13 not delivery to the person has been made).

14 (B) GASOLINE AND DIESEL FUEL.—The  
15 terms “gasoline” and “diesel fuel” have the re-  
16 spective meanings given such terms by section  
17 4083 of such Code.

18 (C) FLOOR STOCKS TAX DATE.—The term  
19 “floor stocks tax date” means the day after the  
20 date determined by the Secretary under section  
21 4081(f)(3) of such Code.

22 (D) APPLICABLE PERIOD.—The term “ap-  
23 plicable period” means the period described in  
24 section 4081(f)(3) of such Code.

1 (E) SECRETARY.—The term “Secretary”  
2 means the Secretary of the Treasury or the  
3 Secretary’s delegate.

4 (4) EXCEPTION FOR EXEMPT USES.—The tax  
5 imposed by paragraph (1) shall not apply to gaso-  
6 line, diesel fuel, or kerosene held by any person ex-  
7 clusively for any use to the extent a credit or refund  
8 of the tax imposed by section 4081 of such Code is  
9 allowable for such use.

10 (5) EXCEPTION FOR FUEL HELD IN VEHICLE  
11 TANK.—No tax shall be imposed by paragraph (1)  
12 on gasoline, diesel fuel, or kerosene held in the tank  
13 of a motor vehicle.

14 (6) EXCEPTION FOR CERTAIN AMOUNTS OF  
15 FUEL.—

16 (A) IN GENERAL.—No tax shall be im-  
17 posed by paragraph (1)—

18 (i) on gasoline (other than aviation  
19 gasoline) held on the floor stocks tax date  
20 by any person if the aggregate amount of  
21 gasoline held by such person on such date  
22 does not exceed 4,000 gallons, and

23 (ii) on diesel fuel or kerosene held on  
24 such date by any person if the aggregate  
25 amount of diesel fuel or kerosene held by

1           such person on such date does not exceed  
2           2,000 gallons.

3           The preceding sentence shall apply only if such  
4           person submits to the Secretary (at the time  
5           and in the manner required by the Secretary)  
6           such information as the Secretary shall require  
7           for purposes of this subparagraph.

8           (B) EXEMPT FUEL.—For purposes of sub-  
9           paragraph (A), there shall not be taken into ac-  
10          count fuel held by any person which is exempt  
11          from the tax imposed by paragraph (1) by rea-  
12          son of paragraph (4) or (5).

13          (C) CONTROLLED GROUPS.—For purposes  
14          of this paragraph—

15               (i) CORPORATIONS.—

16                       (I) IN GENERAL.—All persons  
17                       treated as a controlled group shall be  
18                       treated as 1 person.

19                       (II) CONTROLLED GROUP.—The  
20                       term “controlled group” has the  
21                       meaning given to such term by sub-  
22                       section (a) of section 1563 of such  
23                       Code; except that for such purposes  
24                       the phrase “more than 50 percent”  
25                       shall be substituted for the phrase “at



1 least 80 percent” each place it ap-  
2 pears in such subsection.

3 (ii) NONINCORPORATED PERSONS  
4 UNDER COMMON CONTROL.—Under regula-  
5 tions prescribed by the Secretary, prin-  
6 ciples similar to the principles of clause (i)  
7 shall apply to a group of persons under  
8 common control where 1 or more of such  
9 persons is not a corporation.

10 (7) OTHER LAW APPLICABLE.—All provisions of  
11 law, including penalties, applicable with respect to  
12 the taxes imposed by section 4081 of such Code  
13 shall, insofar as applicable and not inconsistent with  
14 the provisions of this paragraph, apply with respect  
15 to the floor stock taxes imposed by paragraph (1) to  
16 the same extent as if such taxes were imposed by  
17 such section 4081.

18 (d) BENEFITS OF TAX REDUCTION SHOULD BE  
19 PASSED ON TO CONSUMERS.—

20 (1) PASSTHROUGH TO CONSUMERS.—

21 (A) SENSE OF CONGRESS.—It is the sense  
22 of Congress that—

23 (i) consumers immediately receive the  
24 benefit of the reduction in taxes under this  
25 section, and

1           (ii) transportation motor fuels pro-  
2           ducers and other dealers take such actions  
3           as necessary to reduce transportation  
4           motor fuels prices to reflect such reduc-  
5           tion, including immediate credits to cus-  
6           tomer accounts representing tax refunds  
7           allowed as credits against excise tax de-  
8           posit payments under the floor stocks re-  
9           fund provisions of this section.

10       (B) STUDY.—

11           (i) IN GENERAL.—The Comptroller  
12           General of the United States shall conduct  
13           a study of the reduction of taxes under  
14           this section to determine whether there has  
15           been a passthrough of such reduction.

16           (ii) REPORT.—Not later than 30 days  
17           after the date of the enactment of this Act,  
18           the Comptroller General of the United  
19           States shall report to the Committee on  
20           Finance of the Senate and the Committee  
21           on Ways and Means of the House of Rep-  
22           resentatives the results of the study con-  
23           ducted under clause (i).

1 **SEC. 3. ELIMINATION OF CERTAIN PRODUCTION INCEN-**  
2 **TIVES.**

3 (a) IN GENERAL.—Sections 342, 344, 345, 346, 353,  
4 and 383 and subtitle J of title IX of the Energy Policy  
5 Act of 2005 and section 107(k) of the Naval Petroleum  
6 Reserves Production Act of 1976 (as added by section 347  
7 of the Energy Policy Act of 2005) are repealed.

8 (b) EFFECTIVE DATE.—The repeals made by sub-  
9 section (a) shall take effect on the date of the enactment  
10 of the Energy Policy Act of 2005.

11 **SEC. 4. REVALUATION OF LIFO INVENTORIES OF LARGE IN-**  
12 **TEGRATED OIL COMPANIES.**

13 (a) GENERAL RULE.—Notwithstanding any other  
14 provision of law, if a taxpayer is an applicable integrated  
15 oil company for its last taxable year ending in calendar  
16 year 2005, the taxpayer shall—

17 (1) increase, effective as of the close of such  
18 taxable year, the value of each historic LIFO layer  
19 of inventories of crude oil, natural gas, or any other  
20 petroleum product (within the meaning of section  
21 4611) by the layer adjustment amount, and

22 (2) decrease its cost of goods sold for such tax-  
23 able year by the aggregate amount of the increases  
24 under paragraph (1).

25 If the aggregate amount of the increases under paragraph  
26 (1) exceed the taxpayer's cost of goods sold for such tax-

1 able year, the taxpayer's gross income for such taxable  
2 year shall be increased by the amount of such excess.

3 (b) LAYER ADJUSTMENT AMOUNT.—For purposes of  
4 this section—

5 (1) IN GENERAL.—The term “layer adjustment  
6 amount” means, with respect to any historic LIFO  
7 layer, the product of—

8 (A) \$18.75, and

9 (B) the number of barrels of crude oil (or  
10 in the case of natural gas or other petroleum  
11 products, the number of barrel-of-oil equiva-  
12 lents) represented by the layer.

13 (2) BARREL-OF-OIL EQUIVALENT.—The term  
14 “barrel-of-oil equivalent” has the meaning given  
15 such term by section 29(d)(5) (as in effect before its  
16 redesignation by the Energy Tax Incentives Act of  
17 2005).

18 (c) APPLICATION OF REQUIREMENT.—

19 (1) NO CHANGE IN METHOD OF ACCOUNTING.—  
20 Any adjustment required by this section shall not be  
21 treated as a change in method of accounting.

22 (2) UNDERPAYMENTS OF ESTIMATED TAX.—No  
23 addition to the tax shall be made under section 6655  
24 of the Internal Revenue Code of 1986 (relating to  
25 failure by corporation to pay estimated tax) with re-

1       spect to any underpayment of an installment re-  
2       quired to be paid with respect to the taxable year  
3       described in subsection (a) to the extent such under-  
4       payment was created or increased by this section.

5       (d) APPLICABLE INTEGRATED OIL COMPANY.—For  
6       purposes of this section, the term “applicable integrated  
7       oil company” means an integrated oil company (as defined  
8       in section 291(b)(4) of the Internal Revenue Code of  
9       1986) which has an average daily worldwide production  
10      of crude oil of at least 500,000 barrels for the taxable  
11      year and which had gross receipts in excess of  
12      \$1,000,000,000 for its last taxable year ending during cal-  
13      endar year 2005. For purposes of this subsection all per-  
14      sons treated as a single employer under subsections (a)  
15      and (b) of section 52 of the Internal Revenue Code of  
16      1986 shall be treated as 1 person and, in the case of a  
17      short taxable year, the rule under section 448(c)(3)(B)  
18      shall apply.

19   **SEC. 5. ELIMINATION OF AMORTIZATION OF GEOLOGICAL**  
20                   **AND GEOPHYSICAL EXPENDITURES FOR**  
21                   **MAJOR INTEGRATED OIL COMPANIES.**

22       (a) IN GENERAL.—Section 167(h) of the Internal  
23      Revenue Code of 1986 is amended by adding at the end  
24      the following new paragraph:

1           “(5) NONAPPLICATION TO MAJOR INTEGRATED  
 2           OIL COMPANIES.—This subsection shall not apply  
 3           with respect to any expenses paid or incurred for  
 4           any taxable year by any integrated oil company (as  
 5           defined in section 291(b)(4)) which has an average  
 6           daily worldwide production of crude oil of at least  
 7           500,000 barrels for such taxable year.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
 9           this section shall take effect as if included in the amend-  
 10          ment made by section 1329(a) of the Energy Policy Act  
 11          of 2005.

12   **SEC. 6. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**  
 13                   **APPLICABLE TO LARGE INTEGRATED OIL**  
 14                   **COMPANIES WHICH ARE DUAL CAPACITY**  
 15                   **TAXPAYERS.**

16          (a) IN GENERAL.—Section 901 of the Internal Rev-  
 17          enue Code of 1986 (relating to credit for taxes of foreign  
 18          countries and of possessions of the United States) is  
 19          amended by redesignating subsection (m) as subsection  
 20          (n) and by inserting after subsection (l) the following new  
 21          subsection:

22          “(m) SPECIAL RULES RELATING TO LARGE INTE-  
 23          GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY  
 24          TAXPAYERS.—

1           “(1) GENERAL RULE.—Notwithstanding any  
2           other provision of this chapter, any amount paid or  
3           accrued by a dual capacity taxpayer which is a large  
4           integrated oil company to a foreign country or pos-  
5           session of the United States for any period shall not  
6           be considered a tax—

7                   “(A) if, for such period, the foreign coun-  
8                   try or possession does not impose a generally  
9                   applicable income tax, or

10                   “(B) to the extent such amount exceeds  
11                   the amount (determined in accordance with reg-  
12                   ulations) which—

13                           “(i) is paid by such dual capacity tax-  
14                           payer pursuant to the generally applicable  
15                           income tax imposed by the country or pos-  
16                           session, or

17                           “(ii) would be paid if the generally ap-  
18                           plicable income tax imposed by the country  
19                           or possession were applicable to such dual  
20                           capacity taxpayer.

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

1           “(2) DUAL CAPACITY TAXPAYER.—For pur-  
2           poses of this subsection, the term ‘dual capacity tax-  
3           payer’ means, with respect to any foreign country or  
4           possession of the United States, a person who—

5                   “(A) is subject to a levy of such country or  
6                   possession, and

7                   “(B) receives (or will receive) directly or  
8                   indirectly a specific economic benefit (as deter-  
9                   mined in accordance with regulations) from  
10                  such country or possession.

11           “(3) GENERALLY APPLICABLE INCOME TAX.—  
12           For purposes of this subsection—

13                   “(A) IN GENERAL.—The term ‘generally  
14                   applicable income tax’ means an income tax (or  
15                   a series of income taxes) which is generally im-  
16                   posed under the laws of a foreign country or  
17                   possession on income derived from the conduct  
18                   of a trade or business within such country or  
19                   possession.

20                   “(B) EXCEPTIONS.—Such term shall not  
21                   include a tax unless it has substantial applica-  
22                   tion, by its terms and in practice, to—

23                           “(i) persons who are not dual capacity  
24                           taxpayers, and



1 “(ii) persons who are citizens or resi-  
2 dents of the foreign country or possession.

3 “(4) LARGE INTEGRATED OIL COMPANY.—For  
4 purposes of this subsection, the term ‘large inte-  
5 grated oil company’ means, with respect to any tax-  
6 able year, an integrated oil company (as defined in  
7 section 291(b)(4)) which—

8 “(A) had gross receipts in excess of  
9 \$1,000,000,000 for such taxable year, and

10 “(B) has an average daily worldwide pro-  
11 duction of crude oil of at least 500,000 barrels  
12 for such taxable year.”

13 (b) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by  
15 this section shall apply to taxes paid or accrued in  
16 taxable years beginning after the date of the enact-  
17 ment of this Act.

18 (2) CONTRARY TREATY OBLIGATIONS  
19 UPHELD.—The amendments made by this section  
20 shall not apply to the extent contrary to any treaty  
21 obligation of the United States.

○