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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

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A BILL

To repeal provisions of the Energy Policy Act of 2005, 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 ''Energy Consumer Relief Act of 2005''.

SEC. 2. FINDINGS.

The Congress finds the following:

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

(2) Record highs in oil and natural gas prices have resulted in record profits for oil and natural gas producers and refiners. In October 2005, the five largest oil companies reported a total of $32.7 billion in the third quarter profits, a record increase of 52 percent over last year. Exxon Mobil recorded $9.9 billion, a 75 percent increase in profits; ChevronTexaco recorded $3.6 billion, a 13 percent increase in profits; Conoco Phillips recorded $3.8 billion, an 89 percent increase in profits; BP recorded $6.5 billion, a 34 percent increase in profits; and Royal Dutch Shell recorded $9.03 billion, a 68 percent increase in profits. Over the first three quarters of the year, the top five oil companies recorded a combined total of $81 billion in profits.

(3) Higher oil company profits have been accompanied by a dramatic increase in pay and compensation for the senior executives at major oil companies. The total 2004 direct compensation for the top five oil and gas company executives, as reported

in a Wall Street Journal survey, averaged $16.5 million, double the prior year.

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

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

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

(7) The Federal budget deficit this year was $319 billion, the third largest in history, and the national debt is currently above $8 trillion.

(8) In light of the size of the Federal budget deficit and the national debt, the record price of oil and natural gas, and the historic profits earned by oil and natural gas producers, there is no justification for granting such companies special tax breaks and exemptions from paying royalties for drilling for oil and natural gas on public lands, as was authorized in the Energy Policy Act of 2005.

(9) Home heating costs are expected to jump dramatically this winter, even after consumers have paid hundred of dollars more this year in gasoline costs. This is squeezing the pocketbooks of millions of hard-working families. Americans who heat their homes with natural gas could see their fuel costs increase as much as 50 percent in some parts of the country. On average, the more than half of all American households heating with natural gas are expected to spend 38 percent more this winter on fuel. Households heating with heating oil can expect to pay 21 percent more this winter. The National Energy Assistance Directors' Association reports that the average family using heating oil will pay nearly three times the amount families paid in 2001 to 2002.

SEC. 3. REPEAL OF CERTAIN 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 such Code (relating to qualified refinery property) is amended by striking "January 1, 2012" and inserting "the date of the enactment of the Energy Consumer Relief Act of 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.

(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 Energy Consumer Relief Act of 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.

(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 prop-

erty) is amended by inserting ''and which is placed in service before the date of the enactment of the Energy Consumer Relief Act of 2005'' 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).

(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.

SEC. 4. REPEAL OF CERTAIN OTHER PROVISIONS PROVIDING INCENTIVES FOR THE OIL AND GAS INDUSTRY.

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

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

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

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

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

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

(6) Section 351 (relating to preservation of geological and geophysical data).

(7) Section 357 (relating to a comprehensive inventory of OCS oil and natural gas resources).

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

(9) Section 965 (relating to oil and gas research programs).

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

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

SEC. 5. REQUIREMENT TO SUSPEND ROYALTY RELIEF.

(a) REQUIREMENT TO SUSPEND.—The President shall suspend the application of any provision of Federal law under which any person is given relief from any requirement to pay royalty for production oil or natural gas from Federal lands (including submerge lands), for production occurring in any period with respect to which—

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

purpose under the lease under which such production occurs; and

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

(b) DETERMINATION OF MARKET PRICE.—The President shall determine average prices for purposes of subsection (a) based on the most recent data reported by the Energy Information Administration of the Department of Energy.

SEC. 6. EXPENDITURE OF ADDITIONAL REVENUE.

Amounts equivalent to the increased revenues received in the Treasury as the result of the enactment of this Act (reduced by decreases in such revenues as the result of sections 7 and 8), up to a total of $2,000,000,000 for each of fiscal years 2006 and 2007, shall be directly available to the Secretary of Health and Human Services for obligation and expenditure for allotment under section 2604(e) of the Low Income Home Energy Assistance Act of 1981. In making allotments of funds made available under this section, the Secretary shall give due regard to the most recent estimates available from the Department of Energy regarding anticipated energy prices during the heating and cooling seasons for which funds are being provided, and to the probable effect of those prices on the heating and cooling expenses of low-income households.

SEC. 7. REFUNDABLE TAX CREDIT FOR ENERGY COST ASSISTANCE OF FARMERS AND RANCHERS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. CREDIT FOR ENERGY COST ASSISTANCE FOR FARMERS AND RANCHERS.

"(a) GENERAL RULE.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of—

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

"(2) $1,500.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any individual engaged in a farming business (as defined in section 263A(e)(4)).

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

"(d) TERMINATION.—This section shall not apply to qualified energy costs paid or incurred after December 31, 2005.".

(b) NO DOUBLE BENEFIT.—Section 280C of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) ENERGY ASSISTANCE FOR FARMERS AND RANCHERS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined under section 36(a).".

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

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

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

SEC. 8. SMALL BUSINESS ENERGY EMERGENCY GRANT PROGRAM.

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

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

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

"SEC. 37. ENERGY EMERGENCY GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Administrator shall establish and carry out an Energy Emergency Grant Program through which the Administrator may make a grant to a small business concern that the Administrator determines has suffered or is likely to suffer substantial economic injury as a result of a significant increase in the price of heating oil, natural gas, gasoline, transportation fuel, propane, or kerosene.

"(b) AMOUNT OF GRANT.—

"(1) LIMITATION.—No grant under this section may exceed $1,500.

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

"(c) DEFINITIONS.—In this section:

"(1) The term 'significant increase' means—

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

"(B) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

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

"(3) The term 'base price index' means the moving average of the closing unit price on the New

York Mercantile Exchange for heating oil, natural gas, gasoline, transportation fuel, or propane for the 10 days, in each of the most recent 2 preceding years, which correspond to the trading days described in paragraph (2).''.

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

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