

109TH CONGRESS
2^D SESSION

H. R. 5874

To direct the Secretary of the Interior to 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 submerged lands), for production occurring in any period in which the market price of production exceeds certain prices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2006

Mr. CARNAHAN 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

A BILL

To direct the Secretary of the Interior to 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 submerged lands), for production occurring in any period in which the market price of production exceeds certain prices, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Consumer Relief and
3 Investment in Our Future Act”.

4 **SEC. 2. REQUIREMENT TO SUSPEND ROYALTY RELIEF.**

5 (a) **REQUIREMENT TO SUSPEND.**—The Secretary of
6 the Interior shall suspend the application of any provision
7 of Federal law under which any person is given relief from
8 any requirement to pay royalty for production oil or nat-
9 ural gas from Federal lands (including submerged lands),
10 for production occurring in any period after the date of
11 the enactment of this Act with respect to which—

12 (1) in the case of production of oil, the average
13 price of crude oil in the United States over the most
14 recent 4 consecutive weeks is greater than \$34.71
15 per barrel; and

16 (2) in the case of production of natural gas, the
17 average wellhead price of natural gas in the United
18 States over the most recent 4 consecutive weeks is
19 greater than \$4.34 per thousand cubic feet.

20 (b) **DETERMINATION OF MARKET PRICE.**—The Sec-
21 retary shall determine average prices for purposes of sub-
22 section (a) based on the most recent data reported by the
23 Energy Information Administration of the Department of
24 Energy.

1 **SEC. 3. RENEGOTIATION OF EXISTING LEASES.**

2 (a) REQUIREMENT.—The Secretary of the Interior
3 shall seek to renegotiate each existing lease authorizing
4 production of oil or natural gas on Federal land (including
5 submerged land) that was issued by the Department of
6 the Interior before the date of the enactment of this Act
7 as necessary to modify the terms of such lease to ensure
8 that any suspension of a requirement to pay royalties
9 under such lease does not apply to production referred to
10 in section 2(a).

11 (b) FAILURE TO RENEGOTIATE AND MODIFY.—After
12 the end of the 1-year period beginning on the date of the
13 enactment of this Act, a person who is a lessee under an
14 existing lease referred to in subsection (a) shall not be eli-
15 gible to enter into any new lease that authorizes produc-
16 tion of oil or natural gas on Federal land (including sub-
17 merged land), and shall not be eligible to obtain by sale
18 or other transfer any lease issued before the end of such
19 period, unless such person renegotiates such existing lease
20 and enters into an agreement with the Secretary that
21 modifies the terms of the existing lease as provided in sub-
22 section (a).

23 **SEC. 4. USE OF ROYALTIES RECEIVED AS RESULT OF SUS-**
24 **PENSION OF ROYALTY RELIEF.**

25 (a) DEPOSIT OF ROYALTIES.—Amounts received by
26 the United States as royalty for production of oil or nat-

1 ural gas from Federal lands (including submerged lands)
2 shall be deposited into a separate account in the Treasury.

3 (b) AVAILABILITY OF DEPOSITED AMOUNTS.—

4 Amounts in the account referred to in subsection (a) shall
5 be available to the Secretary of Energy, without further
6 appropriation, to be divided equally among the following
7 programs:

8 (1) The biomass programs administered by the
9 Assistant Secretary of Energy for Energy Efficiency
10 and Renewable Energy.

11 (2) The FreedomCAR and Vehicle Technologies
12 Program administered by the Assistant Secretary of
13 Energy for Energy Efficiency and Renewable En-
14 ergy, 25 percent of which shall be for the Clean Cit-
15 ies Program.

16 (3) The Hydrogen, Fuel Cells, and Infrastruc-
17 ture Program administered by the Assistant Sec-
18 retary of Energy for Energy Efficiency and Renew-
19 able Energy.

20 **SEC. 5. ADVANCED TECHNOLOGY PROGRAM.**

21 There are authorized to be appropriated to the Sec-
22 retary of Commerce for the National Institute of Stand-
23 ards and Technology's Advanced Technology Program—

24 (1) \$464,000,000 for fiscal year 2007;

25 (2) \$823,000,000 for fiscal year 2008;

- 1 (3) \$1,092,000,000 for fiscal year 2009;
 2 (4) \$1,156,000,000 for fiscal year 2010;
 3 (5) \$1,151,000,000 for fiscal year 2011;
 4 (6) \$1,052,000,000 for fiscal year 2012;
 5 (7) \$1,177,000,000 for fiscal year 2013;
 6 (8) \$1,132,000,000 for fiscal year 2014; and
 7 (9) \$1,149,000,000 for fiscal year 2015.

8 **SEC. 6. WINDFALL PROFITS TAX.**

9 (a) IN GENERAL.—Subtitle E of the Internal Rev-
 10 enue Code of 1986 (relating to alcohol, tobacco, and cer-
 11 tain other excise taxes) is amended by adding at the end
 12 the following new chapter:

13 **“CHAPTER 56—WINDFALL PROFITS ON**
 14 **CRUDE OIL**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; removal price; base price; qualified investment.

“Sec. 5898. Special rules and definitions.

15 **“SEC. 5896. IMPOSITION OF TAX.**

16 “(a) IN GENERAL.—In addition to any other tax im-
 17 posed under this title, there is hereby imposed on any inte-
 18 grated oil company (as defined in section 291(b)(4)) an
 19 excise tax equal to the excess of—

20 “(1) the amount equal to 50 percent of the
 21 windfall profit from all barrels of taxable crude oil
 22 removed from the property during each taxable year,
 23 over

1 “(2) the amount of qualified investment by such
2 company during such taxable year.

3 “(b) FRACTIONAL PART OF BARREL.—In the case of
4 a fraction of a barrel, the tax imposed by subsection (a)
5 shall be the same fraction of the amount of such tax im-
6 posed on the whole barrel.

7 “(c) TAX PAID BY PRODUCER.—The tax imposed by
8 this section shall be paid by the producer of the taxable
9 crude oil.

10 **“SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; BASE**
11 **PRICE; QUALIFIED INVESTMENT.**

12 “(a) GENERAL RULE.—For purposes of this chapter,
13 the term ‘windfall profit’ means the excess of the removal
14 price of the barrel of taxable crude oil over the base price
15 of such barrel.

16 “(b) REMOVAL PRICE.—For purposes of this chap-
17 ter—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, the term ‘removal price’
20 means the amount for which the barrel of taxable
21 crude oil is sold.

22 “(2) SALES BETWEEN RELATED PERSONS.—In
23 the case of a sale between related persons, the re-
24 moval price shall not be less than the constructive

1 sales price for purposes of determining gross income
2 from the property under section 613.

3 “(3) OIL REMOVED FROM PROPERTY BEFORE
4 SALE.—If crude oil is removed from the property be-
5 fore it is sold, the removal price shall be the con-
6 structive sales price for purposes of determining
7 gross income from the property under section 613.

8 “(4) REFINING BEGUN ON PROPERTY.—If the
9 manufacture or conversion of crude oil into refined
10 products begins before such oil is removed from the
11 property—

12 “(A) such oil shall be treated as removed
13 on the day such manufacture or conversion be-
14 gins, and

15 “(B) the removal price shall be the con-
16 structive sales price for purposes of determining
17 gross income from the property under section
18 613.

19 “(5) PROPERTY.—The term ‘property’ has the
20 meaning given such term by section 614.

21 “(c) BASE PRICE DEFINED.—For purposes of this
22 chapter, the term ‘base price’ means \$40 for each barrel
23 of taxable crude oil.

24 “(d) QUALIFIED INVESTMENT.—For purposes of this
25 chapter, the term ‘qualified investment’ means any

1 amount paid or incurred with respect to any qualified fa-
2 cility described in paragraph (1), (2), (3), or (4) of section
3 45(d) (determined without regard to any placed in service
4 date).

5 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

6 “(a) WITHHOLDING AND DEPOSIT OF TAX.—The
7 Secretary shall provide such rules as are necessary for the
8 withholding and deposit of the tax imposed under section
9 5896 on any taxable crude oil.

10 “(b) RECORDS AND INFORMATION.—Each taxpayer
11 liable for tax under section 5896 shall keep such records,
12 make such returns, and furnish such information (to the
13 Secretary and to other persons having an interest in the
14 taxable crude oil) with respect to such oil as the Secretary
15 may by regulations prescribe.

16 “(c) RETURN OF WINDFALL PROFIT TAX.—The Sec-
17 retary shall provide for the filing and the time of such
18 filing of the return of the tax imposed under section 5896.

19 “(d) DEFINITIONS.—For purposes of this chapter—

20 “(1) PRODUCER.—The term ‘producer’ means
21 the holder of the economic interest with respect to
22 the crude oil.

23 “(2) CRUDE OIL.—

1 “(A) IN GENERAL.—The term ‘crude oil’
2 includes crude oil condensates and natural gas-
3 oline.

4 “(B) EXCLUSION OF NEWLY DISCOVERED
5 OIL.—Such term shall not include any oil pro-
6 duced from a well drilled after the date of the
7 enactment of the Consumer Relief and Invest-
8 ment in Our Future Act, except with respect to
9 any oil produced from a well drilled after such
10 date on any proven oil or gas property (within
11 the meaning of section 613A(c)(9)(A)).

12 “(3) BARREL.—The term ‘barrel’ means 42
13 United States gallons.

14 “(e) ADJUSTMENT OF REMOVAL PRICE.—In deter-
15 mining the removal price of oil from a property in the case
16 of any transaction, the Secretary may adjust the removal
17 price to reflect clearly the fair market value of oil removed.

18 “(f) REGULATIONS.—The Secretary shall prescribe
19 such regulations as may be necessary or appropriate to
20 carry out the purposes of this chapter.

21 “(g) TERMINATION.—This chapter shall not apply to
22 taxable crude oil removed after the date which is 1 year
23 after the date of the enactment of this section.”.

24 (b) TRANSFER OF WINDFALL PROFIT TAX RECEIPTS
25 TO HIGHWAY TRUST FUND.—Paragraph (1) of section

1 9503(b) of the Internal Revenue Code of 1986 is amended
2 by striking “and” at the end of subparagraph (D), by
3 striking the period at the end of subparagraph (E) and
4 inserting “, and”, and by inserting after subparagraph (E)
5 the following new subparagraph:

6 “(F) section 5896 (relating to windfall
7 profits tax on crude oil).”.

8 (c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—
9 The first sentence of section 164(a) of the Internal Rev-
10 enue Code of 1986 (relating to deduction for taxes) is
11 amended by inserting after paragraph (5) the following
12 new paragraph:

13 “(6) The windfall profit tax imposed by section
14 5896.”.

15 (d) CLERICAL AMENDMENT.—The table of chapters
16 for subtitle E of the Internal Revenue Code of 1986 is
17 amended by adding at the end the following new item:

 “CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL.”.

18 (e) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to crude oil removed after
21 the date of the enactment of this Act, in taxable
22 years ending after such date.

23 (2) TRANSITIONAL RULES.—For the period
24 ending on the date which is one year after the date
25 of the enactment of this Act, the Secretary of the

1 Treasury or the Secretary's delegate shall prescribe
2 rules relating to the administration of chapter 56 of
3 the Internal Revenue Code of 1986. To the extent
4 provided in such rules, such rules shall supplement
5 or supplant for such period the administrative provi-
6 sions contained in chapter 56 of such Code (or in so
7 much of subtitle F of such Code as relates to such
8 chapter 56).

9 **SEC. 7. REDUCTION OF FUEL TAXES ON HIGHWAY MOTOR**
10 **FUELS.**

11 (a) IN GENERAL.—Section 4081 of the Internal Rev-
12 enue Code of 1986 (relating to imposition of tax on motor
13 and aviation fuels) is amended by adding at the end the
14 following new subsection:

15 “(f) REDUCTION OF HIGHWAY MOTOR FUEL
16 TAXES.—

17 “(1) IN GENERAL.—During the reduction pe-
18 riod, the rate of tax imposed by section 4041 (other
19 than subsection (d) thereof) or 4081(a)(2)(A) on
20 highway motor fuel shall be reduced by 10 cents per
21 gallon.

22 “(2) DEFINITIONS AND SPECIAL RULE.—For
23 purposes of this subsection—

24 “(A) REDUCTION PERIOD.—The term ‘re-
25 duction period’ means the 1-year period begin-

1 ning on the date of enactment of the Consumer
2 Relief and Investment in Our Future Act.

3 “(B) HIGHWAY MOTOR FUEL.—The term
4 ‘highway motor fuel’ means any fuel subject to
5 tax under section 4041 or 4081 other than
6 aviation gasoline and aviation-grade kerosene.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall take effect on the date of the enact-
9 ment of this Act.

10 (c) MAINTENANCE OF TRUST FUNDS DEPOSITS;
11 AMOUNTS APPROPRIATED TO TRUST FUNDS TREATED AS
12 TAXES.—

13 (1) IN GENERAL.—There is hereby appro-
14 priated (out of any money in the Treasury not other-
15 wise appropriated) to the Highway Trust Fund an
16 amount equal to the excess (if any) of—

17 (A) the amount (but for this subsection) of
18 reduced revenues received in the Highway Trust
19 Fund as a result of a reduction in a rate of tax
20 by reason of section 4081(f)(1) of the Internal
21 Revenue Code of 1986 (as added by subsection
22 (a), over

23 (B) amounts appropriated to the Highway
24 Trust Fund by section 9503(b)(1)(F) of the In-

1 ternal Revenue Code of 1986 (relating to wind-
2 fall profits tax on crude oil).

3 (2) SPECIAL RULES.—Amounts appropriated by
4 paragraph (1) to the Highway Trust Fund—

5 (A) shall be transferred from the general
6 fund at such times and in such manner as to
7 replicate to the extent possible the transfers
8 which would have occurred had subsection (a)
9 not been enacted, and

10 (B) shall be treated for all purposes of
11 Federal law as taxes received under the appro-
12 priate section referred to in such section
13 4081(f)(1).

14 (d) FLOOR STOCK REFUNDS.—

15 (1) IN GENERAL.—If—

16 (A) before the tax rate reduction date, tax
17 has been imposed under section 4081 of the In-
18 ternal Revenue Code of 1986 on any highway
19 motor fuel, and

20 (B) on such date such fuel is held by a
21 dealer and has not been used and is intended
22 for sale,

23 there shall be credited or refunded (without interest)
24 to the person who paid such tax (hereafter in this
25 section referred to as the “taxpayer”) an amount

1 equal to the excess of the tax paid by the taxpayer
2 over the tax which would be imposed on such fuel
3 had the taxable event occurred on such date.

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

7 (A) claim therefor is filed with the Sec-
8 retary of the Treasury before the date which is
9 6 months after the tax rate reduction date
10 based on a request submitted to the taxpayer
11 before the date which is 3 months after the tax
12 rate reduction date by the dealer who held the
13 highway motor fuel on such date, and

14 (B) the taxpayer has repaid or agreed to
15 repay the amount so claimed to such dealer or
16 has obtained the written consent of such dealer
17 to the allowance of the credit or the making of
18 the refund.

19 (3) EXCEPTION FOR FUEL HELD IN RETAIL
20 STOCKS.—No credit or refund shall be allowed under
21 this section with respect to any highway motor fuel
22 in retail stocks held at the place where intended to
23 be sold at retail.

24 (4) DEFINITIONS.—For purposes of this sub-
25 section—

1 (A) TAX RATE REDUCTION DATE.—The
2 term “tax rate reduction date” means the first
3 day of the reduction period (as defined in sec-
4 tion 4081(f) of the Internal Revenue Code of
5 1986 (as added by subsection (a))).

6 (B) OTHER TERMS.—The terms “dealer”
7 and “held by a dealer” have the respective
8 meanings given to such terms by section 6412
9 of such Code.

10 (5) CERTAIN RULES TO APPLY.—Rules similar
11 to the rules of subsections (b) and (c) of section
12 6412 of such Code shall apply for purposes of this
13 subsection.

14 (e) FLOOR STOCKS TAX.—

15 (1) IMPOSITION OF TAX.—In the case of any
16 highway motor fuel which is held on the tax restora-
17 tion date by any person, there is hereby imposed a
18 floor stocks tax equal to the excess of the tax which
19 would be imposed on such fuel had the taxable event
20 occurred on such date over the tax (if any) pre-
21 viously paid (and not credited or refunded) on such
22 fuel.

23 (2) LIABILITY FOR TAX AND METHOD OF PAY-
24 MENT.—

1 (A) LIABILITY FOR TAX.—The person
2 holding highway motor fuel on the tax restora-
3 tion date to which the tax imposed by para-
4 graph (1) applies shall be liable for such tax.

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

8 (C) TIME FOR PAYMENT.—The tax im-
9 posed by paragraph (1) shall be paid on or be-
10 fore the 45th day after the tax restoration date.

11 (3) DEFINITIONS.—For purposes of this sub-
12 section—

13 (A) TAX RESTORATION DATE.—The term
14 “tax restoration date” means the first day after
15 the end of the reduction period (as defined in
16 section 4081(f) of the Internal Revenue Code of
17 1986).

18 (B) HIGHWAY MOTOR FUEL.—The term
19 “highway motor fuel” has the meaning given to
20 such term by section 4081(f) of such Code.

21 (C) HELD BY A PERSON.—A highway
22 motor fuel shall be considered as held by a per-
23 son if title thereto has passed to such person
24 (whether or not delivery to the person has been
25 made).

1 (D) 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 any
6 highway motor fuel held by any person exclusively
7 for any use to the extent a credit or refund of the
8 tax is allowable for such use.

9 (5) EXCEPTION FOR CERTAIN AMOUNTS OF
10 FUEL.—

11 (A) IN GENERAL.—No tax shall be im-
12 posed by paragraph (1) on any highway motor
13 fuel held on the tax restoration date by any per-
14 son if the aggregate amount of such highway
15 motor fuel held by such person on such date
16 does not exceed 2,000 gallons. The preceding
17 sentence shall apply only if such person submits
18 to the Secretary (at the time and in the manner
19 required by the Secretary) such information as
20 the Secretary shall require for purposes of this
21 paragraph.

22 (B) EXEMPT FUEL.—For purposes of sub-
23 paragraph (A), there shall not be taken into ac-
24 count any highway motor fuel held by any per-

1 son which is exempt from the tax imposed by
2 paragraph (1) by reason of paragraph (4).

3 (C) CONTROLLED GROUPS.—For purposes
4 of this subsection—

5 (i) CORPORATIONS.—

6 (I) IN GENERAL.—All persons
7 treated as a controlled group shall be
8 treated as 1 person.

9 (II) CONTROLLED GROUP.—The
10 term “controlled group” has the
11 meaning given to such term by sub-
12 section (a) of section 1563 of such
13 Code; except that for such purposes
14 the phrase “more than 50 percent”
15 shall be substituted for the phrase “at
16 least 80 percent” each place it ap-
17 pears in such subsection.

18 (ii) NONINCORPORATED PERSONS
19 UNDER COMMON CONTROL.—Under regula-
20 tions prescribed by the Secretary, prin-
21 ciples similar to the principles of clause (i)
22 shall apply to a group of persons under
23 common control if 1 or more of such per-
24 sons is not a corporation.

1 (6) OTHER LAWS APPLICABLE.—All provisions
2 of law, including penalties, applicable with respect to
3 the taxes imposed by section 4081 of such Code
4 shall, insofar as applicable and not inconsistent with
5 the provisions of this subsection, apply with respect
6 to the floor stock taxes imposed by paragraph (1) to
7 the same extent as if such taxes were imposed by
8 such sections.

9 **SEC. 8. REPEAL OF CERTAIN TAX PROVISIONS OF THE EN-**
10 **ERGY POLICY ACT OF 2005.**

11 (a) REPEAL.—The following provisions, and amend-
12 ments made by such provisions, of the Energy Policy Act
13 of 2005 are hereby repealed:

14 (1) Section 1306 (relating to credit for produc-
15 tion from advanced nuclear power facilities).

16 (2) Section 1307 (relating to credit for invest-
17 ment in clean coal facilities).

18 (3) Section 1308 (relating to electric trans-
19 mission property treated as 15-year property).

20 (4) Section 1309 (relating to expansion of am-
21 ortization for certain atmospheric pollution control
22 facilities in connection with plants first placed in
23 service after 1975).

24 (5) Section 1310 (relating to modifications to
25 special rules for nuclear decommissioning costs).

1 (6) Section 1321 (relating to extension of credit
2 for producing fuel from a non-conventional source
3 for facilities producing coke or coke gas).

4 (7) Section 1323 (relating to temporary expens-
5 ing for equipment used in refining of liquid fuels).

6 (8) Section 1325 (relating to natural gas dis-
7 tribution lines treated as 15-year property).

8 (9) Section 1326 (relating to natural gas gath-
9 ering lines treated as 7-year property).

10 (10) Section 1328 (relating to determination of
11 small refiner exception to oil depletion deduction).

12 (11) Section 1329 (relating to amortization of
13 geological and geophysical expenditures).

14 (b) ADMINISTRATION OF INTERNAL REVENUE CODE
15 OF 1986.—The Internal Revenue Code of 1986 shall be
16 applied and administered as if the provisions, and amend-
17 ments, specified in subsection (a) had never been enacted.

○