

112TH CONGRESS  
1ST SESSION

# H. R. 1959

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

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## 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

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## 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”.

1 **TITLE I—DENIAL OF CERTAIN**  
2 **TAX BENEFITS TO OIL AND**  
3 **GAS COMPANIES**

4 **SEC. 101. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code of  
7 1986 is amended by striking section 43 (and the table of  
8 sections of such subpart is amended by striking the item  
9 relating to such section).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Subsection (b) of section 38 of such Code  
12 is amended by striking paragraph (6) and redesign-  
13 ating paragraphs (7) through (36) as paragraphs  
14 (6) through (35), respectively.

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

17 “(7) INFLATION ADJUSTMENT.—

18 “(A) IN GENERAL.—In the case of any  
19 taxable year beginning in a calendar year after  
20 2009, there shall be substituted for each dollar  
21 amount contained in subsection (a) an amount  
22 equal to the product of—

23 “(i) such dollar amount, multiplied by

24 “(ii) the inflation adjustment factor  
25 for such calendar year.

1           “(B) INFLATION ADJUSTMENT FACTOR.—  
2           The term ‘inflation adjustment factor’ means,  
3           with respect to any calendar year, a fraction the  
4           numerator of which is the GNP implicit price  
5           deflator for the preceding calendar year and the  
6           denominator of which is the GNP implicit price  
7           deflator for 2008. For purposes of the pre-  
8           ceding sentence, the term ‘GNP implicit price  
9           deflator’ means the first revision of the implicit  
10          price deflator for the gross national product as  
11          computed and published by the Secretary of  
12          Commerce. Not later than April 1 of any cal-  
13          endar year, the Secretary shall publish the in-  
14          flation adjustment factor for the preceding cal-  
15          endar year.”.

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

20          (c) EFFECTIVE DATE.—

21                 (1) IN GENERAL.—Except as otherwise pro-  
22                 vided in this subsection, the amendments made by  
23                 this section shall apply to taxable years beginning  
24                 after December 31, 2011.

1           (2) CONTINUATION OF BASIS REDUCTIONS.—  
2           Paragraph (2) of section 43(d) of the Internal Rev-  
3           enue Code of 1986 (as in effect before its repeal by  
4           this section) shall continue to apply with respect to  
5           credits determined for taxable years beginning on or  
6           before December 31, 2011.

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

9           (a) IN GENERAL.—Subpart D of part IV of sub-  
10          chapter A of chapter 1 of the Internal Revenue Code of  
11          1986 is amended by striking section 45I (and the table  
12          of sections of such subpart is amended by striking the item  
13          relating to such section).

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

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

22   **SEC. 103. REPEAL OF EXPENSING OF INTANGIBLE DRILL-**  
23                                   **ING AND DEVELOPMENT COSTS.**

24          (a) IN GENERAL.—Section 263 of the Internal Rev-  
25          enue Code of 1986 is amended by striking subsection (c).

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2011.

4 **SEC. 104. REPEAL OF DEDUCTION FOR TERTIARY**  
5 **INJECTANTS.**

6 (a) IN GENERAL.—Part VI of subchapter B of chap-  
7 ter 1 of the Internal Revenue Code of 1986 is amended  
8 by striking section 193 (and the table of sections of such  
9 subpart is amended by striking the item relating to such  
10 section).

11 (b) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2011.

14 **SEC. 105. REPEAL OF EXCEPTION TO PASSIVE LOSS LIMITA-**  
15 **TIONS FOR WORKING INTERESTS IN OIL AND**  
16 **GAS PROPERTIES.**

17 (a) IN GENERAL.—Paragraph (3) of section 469(c)  
18 of the Internal Revenue Code of 1986 is amended by add-  
19 ing at the end the following new subparagraph:

20 “(C) TERMINATION.—Subparagraph (A)  
21 shall not apply with respect to any taxable year  
22 beginning after the date of the enactment of  
23 this Act.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2011.

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

6 (a) IN GENERAL.—Part I of subchapter I of chapter  
7 1 of the Internal Revenue Code of 1986 is amended by  
8 striking section 613A (and the table of sections of such  
9 part is amended by striking the item relating to such sec-  
10 tion).

11 (b) CONFORMING AMENDMENTS.—

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

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

16 “(1) IN GENERAL.—For purposes of this sec-  
17 tion”,

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

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

22 “(2) RELATED PERSON.—For purposes of this  
23 subsection, a person is a related person with respect  
24 to the taxpayer if a significant ownership interest in  
25 either the taxpayer or such person is held by the

1 other, or if a third person has a significant owner-  
2 ship interest in both the taxpayer and such person.  
3 For purposes of the preceding sentence, the term  
4 ‘significant ownership interest’ means—

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

8 “(B) with respect to a partnership, 5 per-  
9 cent or more interest in the profits or capital of  
10 such partnership, and

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

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

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

22 “(F) DEPLETION.—The allowance for de-  
23pletion with respect to any property placed in  
24service in a taxable year beginning after De-

1            cember 31, 1989, shall be cost depletion deter-  
2            mined under section 611.”.

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

5            (4) Paragraph (4) of section 291(b) of such  
6            Code is amended by adding at the end the following:  
7            “Any reference in the preceding sentence to section  
8            613A shall be treated as a reference to such section  
9            as in effect prior to the date of the enactment of the  
10           Pain at the Pump Act.”.

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

15           (6) Subsection (e) of section 613 of such Code  
16           is amended—

17                    (A) by striking “or section 613A” in para-  
18                    graph (2), and

19                    (B) by striking “any amount described in  
20                    section 613A(d)(5)” in paragraph (3) and in-  
21                    serting “any lease bonus, advance royalty, or  
22                    other amount payable without regard to produc-  
23                    tion from property”.

24            (7) Subsection (a) of section 705 of such Code  
25            is amended—



1 (A) by inserting “and” at the end of para-  
2 graph (1)(C),

3 (B) by striking “; and” at the end of para-  
4 graph (2)(B) and inserting a period, and

5 (C) by striking paragraph (3).

6 (8) Section 776 of such Code is amended by  
7 striking subsection (a) and by redesignating sub-  
8 section (b) as subsection (a).

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

13 (10) Subparagraph (C) of section 993(c)(2) of  
14 such Code is amended by striking “section 613 or  
15 613A” and inserting “section 613 (determined with-  
16 out regard to subsection (d) thereof)”.

17 (11) Subparagraph (D) of section 1202(e)(3) of  
18 such Code is amended by striking “section 613 or  
19 613A” and inserting “section 613 (determined with-  
20 out regard to subsection (d) thereof)”.

21 (12) Paragraph (2) of section 1367(a) of such  
22 Code is amended by inserting “and” at the end of  
23 subparagraph (C), by striking “, and” at the end of  
24 subparagraph (D) and inserting a period, and by  
25 striking subparagraph (E).

1           (13) Subsection (c) of section 1446 of such  
2           Code is amended by striking paragraph (2) and by  
3           redesignating paragraph (3) as paragraph (2).

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

7           **SEC. 107. DEDUCTION FOR INCOME ATTRIBUTABLE TO DO-**  
8                                   **MESTIC PRODUCTION ACTIVITIES NOT AL-**  
9                                   **LOWED WITH RESPECT TO OIL AND GAS AC-**  
10                                  **TIVITIES.**

11          (a) IN GENERAL.—Subparagraph (B) of section  
12          199(c)(4) of the Internal Revenue Code of 1986 is amend-  
13          ed by striking “and” at the end of clause (ii), by striking  
14          the period at the end of clause (iii) and inserting “, and”,  
15          and by inserting after clause (iii) the following new clause:

16                               “(iv) the production, refining, proc-  
17                               essing, transportation, or distribution of  
18                               oil, gas, or any primary product thereof.”.

19          (b) CONFORMING AMENDMENT.—Subsection (d) of  
20          section 199 of such Code is amended by striking para-  
21          graph (9) and by redesignating paragraph (10) as para-  
22          graph (9).

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

1 **SEC. 108. 7-YEAR AMORTIZATION FOR GEOLOGICAL AND**  
2 **GEOPHYSICAL EXPENDITURES.**

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

5 (1) by striking “24-month” in paragraphs (1)

6 and (4) and inserting “7-year”, and

7 (2) by striking paragraph (5).

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

11 **TITLE II—INVESTMENT IN**  
12 **CLEAN ENERGY PROGRAMS**

13 **SEC. 201. INVESTMENT IN CLEAN ENERGY PROGRAMS.**

14 It is the sense of Congress that the increase in rev-  
15 enue to the Federal Government resulting from the provi-  
16 sions of, and amendments made by, title I should be used  
17 to make additional expenditures in the following areas and  
18 programs:

19 (1) Alternative fuel technology programs.

20 (2) Advanced battery development programs.

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

23 (4) Research and development of clean energy  
24 technologies.

25 (5) Clean energy loan guarantee programs.

1           (6) Programs of the Office of Energy Efficiency  
2           and Renewable Energy of the Department of En-  
3           ergy.

4           (7) Weatherization Assistance Program.

5           (8) State Energy Program.

6           (9) Low Income Home Energy Assistance Pro-  
7           gram.

8           (10) Distributed generation and turbine re-  
9           search and development.

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