

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5462

To suspend the Federal highway fuels taxes, to authorize the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain of Alaska, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2006

Mrs. MUSGRAVE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Resources, 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 suspend the Federal highway fuels taxes, to authorize the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain of Alaska, 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. SUSPENSION OF HIGHWAY FUELS TAXES.**

4       (a) SUSPENSION OF HIGHWAY FUEL TAXES ON GAS-  
5       OLINE, DIESEL FUEL, AND KEROSENE.—

6               (1) IN GENERAL.—Section 4081 of the Internal  
7       Revenue Code of 1986 (relating to imposition of tax

1 on gasoline, diesel fuel, and kerosene) is amended by  
2 adding at the end the following new subsection:

3 “(f) SUSPENSION OF TAXES ON GASOLINE, DIESEL  
4 FUEL, AND KEROSENE.—

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

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

11 “(A) clauses (i) and (iii) of subsection  
12 (a)(2)(A) (relating to gasoline, diesel fuel, and  
13 kerosene), determined after application of sub-  
14 section (a)(2)(B) and without regard to sub-  
15 section (a)(2)(C), and

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

20 “(3) SUSPENSION PERIOD.—For purposes of  
21 this subsection, the term ‘suspension period’ means  
22 the 90-day period beginning on the day after the  
23 date of the enactment of this subsection.

24 “(4) MAINTENANCE OF TRUST FUND DEPOS-  
25 ITS.—In determining the amounts to be appro-

1 priated to the Highway Trust Fund under section  
2 9503 and to the Leaking Underground Storage  
3 Tank Trust Fund under section 9508, an amount  
4 equal to the reduction in revenues to the Treasury  
5 by reason of this subsection shall be treated as taxes  
6 received in the Treasury under this section or sec-  
7 tion 4041.”.

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

11 (b) FLOOR STOCK REFUNDS.—

12 (1) IN GENERAL.—If—

13 (A) before the tax suspension date, tax has  
14 been imposed under section 4081 of the Inter-  
15 nal Revenue Code of 1986 on any highway  
16 motor fuel, and

17 (B) on such date such fuel is held by a  
18 dealer and has not been used and is intended  
19 for sale,

20 there shall be credited or refunded (without interest)  
21 to the person who paid such tax (hereafter in this  
22 subsection referred to as the “taxpayer”) an amount  
23 equal to the excess of the tax paid by the taxpayer  
24 over the tax which would be imposed on such fuel  
25 had the taxable event occurred on such date.

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

4           (A) claim therefor is filed with the Sec-  
5 retary of the Treasury before the date which is  
6 6 months after the tax suspension date based  
7 on a request submitted to the taxpayer before  
8 the date which is 3 months after the tax sus-  
9 pension date by the dealer who held the high-  
10 way motor fuel on such date, and

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

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

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

23           (A) TAX SUSPENSION DATE.—The term  
24 “tax suspension date” means the first day of  
25 the suspension period in effect under section

1           4081(f) of the Internal Revenue Code of 1986  
2           (as added by subsection (a) of this section).

3           (B) HIGHWAY MOTOR FUEL.—The term  
4           “highway motor fuel” has the meaning given  
5           such term for purposes of subsection (c).

6           (C) 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          (c) 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 suspension period (as defined in section  
16 4081(f) of the Internal Revenue Code of 1986).

17           (B) HIGHWAY MOTOR FUEL.—The term  
18 “highway motor fuel” means any liquid on  
19 which tax would have been imposed under sec-  
20 tion 4081 of the Internal Revenue Code of 1986  
21 during the suspension period in effect under  
22 section 4081(f) of such Code but for the  
23 amendments made by subsection (a).

24           (C) HELD BY A PERSON.—A highway  
25 motor fuel shall be considered as held by a per-

1 son if title thereto has passed to such person  
2 (whether or not delivery to the person has been  
3 made).

4 (D) SECRETARY.—The term “Secretary”  
5 means the Secretary of the Treasury or the  
6 Secretary’s delegate.

7 (4) EXCEPTION FOR EXEMPT USES.—The tax  
8 imposed by paragraph (1) shall not apply to any  
9 highway motor fuel held by any person exclusively  
10 for any use to the extent a credit or refund of the  
11 tax is allowable for such use.

12 (5) EXCEPTION FOR CERTAIN AMOUNTS OF  
13 FUEL.—

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

1 (B) EXEMPT FUEL.—For purposes of sub-  
2 paragraph (A), there shall not be taken into ac-  
3 count any highway motor fuel held by any per-  
4 son which is exempt from the tax imposed by  
5 paragraph (1) by reason of paragraph (4).

6 (C) CONTROLLED GROUPS.—For purposes  
7 of this subsection—

8 (i) CORPORATIONS.—

9 (I) IN GENERAL.—All persons  
10 treated as a controlled group shall be  
11 treated as 1 person.

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

21 (ii) NONINCORPORATED PERSONS  
22 UNDER COMMON CONTROL.—Under regula-  
23 tions prescribed by the Secretary, prin-  
24 ciples similar to the principles of subpara-  
25 graph (A) shall apply to a group of per-

1           sons under common control if 1 or more of  
2           such persons is not a corporation.

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

11 **SEC. 2. OIL AND GAS LEASING PROGRAM.**

12          (a) DEFINITIONS.—In this section:

13           (1) COASTAL PLAIN.—The term “Coastal  
14           Plain” means the area identified as the Coastal  
15           Plain on the map prepared by the United States Ge-  
16           ological Survey, entitled “Arctic National Wildlife  
17           Refuge 1002 Coastal Plain Area”, dated September  
18           2005, and on file with the United States Geological  
19           Survey.

20           (2) SECRETARY.—The term “Secretary” means  
21           the Secretary of the Interior, acting through the Bu-  
22           reau of Land Management.

23          (b) PROGRAM.—

24           (1) IN GENERAL.—Congress—

1 (A) authorizes the leasing, development,  
2 production, and transportation of oil and gas in  
3 and from the Coastal Plain; and

4 (B) directs the Secretary to take such ac-  
5 tions as are necessary to—

6 (i) establish and implement an envi-  
7 ronmentally sound competitive oil and gas  
8 leasing program to carry out the activities  
9 authorized under subparagraph (A); and

10 (ii) conduct 2 lease sales before Octo-  
11 ber 1, 2010.

12 (2) ADMINISTRATION.—The Secretary shall ad-  
13 minister this section through regulations, lease  
14 terms, conditions, restrictions, prohibitions, stipula-  
15 tions, and other provisions that ensure the oil and  
16 gas exploration, development, production, and trans-  
17 portation activities on the Coastal Plain are carried  
18 out in a manner that will ensure the receipt of fair  
19 market value by the public for the mineral resources  
20 to be leased.

21 (c) 2 LEASE SALES BEFORE FISCAL YEAR 2011.—

22 (1) IN GENERAL.—In order to enable the Sec-  
23 retary to hold 2 lease sales before October 1, 2010,  
24 this subsection shall apply with respect to the oil

1 and gas leasing program established by the Sec-  
2 retary pursuant to this section.

3 (2) PURPOSES.—For purposes of the National  
4 Wildlife Refuge System Administration Act of 1966  
5 (16 U.S.C. 668dd et seq.) and amendments made by  
6 that Act, the oil and gas leasing program and activi-  
7 ties authorized by this section in the Coastal Plain  
8 are deemed to be compatible with the purposes for  
9 which the Arctic National Wildlife Refuge was estab-  
10 lished, and no further findings or decisions are re-  
11 quired to implement this determination of compat-  
12 ibility.

13 (3) PRELEASE ACTIVITIES.—The Final Legisla-  
14 tive Environmental Impact Statement on the Coastal  
15 Plain dated April 1987 and prepared pursuant to  
16 section 1002 of the Alaska National Interest Lands  
17 Conservation Act (16 U.S.C. 3142) and section  
18 102(2)(C) of the National Environmental Policy Act  
19 of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy  
20 the requirements under the National Environmental  
21 Policy Act of 1969 (42 U.S.C. 4321 et seq.) that  
22 apply with respect to prelease activities, including  
23 actions authorized to be taken by the Secretary to  
24 develop and promulgate regulations for the establish-

1       ment of the leasing program authorized by this sec-  
2       tion before the conduct of the first lease sale.

3               (4) PREFERRED ACTION.—

4               (A) NONLEASING ALTERNATIVES.—With  
5       respect to any environmental impact statement  
6       prepared by the Secretary under the National  
7       Environmental Policy Act of 1969 (42 U.S.C.  
8       4321 et seq.) with respect to any lease sale con-  
9       ducted under the leasing program authorized by  
10      this section, the Secretary is not required to  
11      identify nonleasing alternative courses of action  
12      or to analyze the environmental effects of those  
13      courses of action.

14              (B) LEASING ALTERNATIVES.—The Sec-  
15      retary shall only identify a preferred action for  
16      leasing and a single leasing alternative, and  
17      analyze the environmental effects and potential  
18      mitigation measures for the preferred action  
19      and leasing alternative.

20              (C) DEADLINE.—The identification and re-  
21      lated analyses required by subparagraph (B)  
22      shall be completed within 18 months after the  
23      date of enactment of this Act.

24              (D) PUBLIC COMMENTS.—The Secretary  
25      shall only consider public comments that are

1 filed within 30 days after publication of an en-  
2 vironmental analysis.

3 (E) COMPLIANCE.—Compliance with this  
4 paragraph satisfies all requirements of section  
5 102(2)(C) of the National Environmental Policy  
6 Act of 1969 (42 U.S.C. 4332(2)(C)) for the  
7 analysis and consideration of the environmental  
8 effects of proposed leasing under this section.

9 (5) EXPEDITED JUDICIAL REVIEW.—

10 (A) VENUE; DEADLINE.—Any complaint  
11 seeking judicial review of this section or any ac-  
12 tion of the Secretary under this section shall be  
13 filed in the United States Court of Appeals for  
14 the District of Columbia—

15 (i) within the 90-day period beginning  
16 on the date of the action being challenged;  
17 or

18 (ii) in the case of a complaint based  
19 solely on grounds arising after that period,  
20 within 90 days after the complainant knew  
21 or reasonably should have known of the  
22 grounds for the complaint.

23 (B) SCOPE.—Judicial review of a decision  
24 of the Secretary to conduct a lease sale under

1           this section (including the environmental anal-  
2           ysis of the decision) shall be—

- 3                   (i) limited to whether the Secretary  
4                   has complied with this section; and  
5                   (ii) based on the administrative record  
6                   of that decision.

7           (d) RIGHTS-OF-WAY.—For purposes of section  
8 1102(4)(A) of the Alaska National Interest Lands Con-  
9 servation Act (16 U.S.C. 3162(4)(A)), any rights-of-way  
10 or easements across the Coastal Plain for the exploration,  
11 development, production, or transportation of oil and gas  
12 shall be considered to be established incident to the man-  
13 agement of the Coastal Plain under this section.

14           (e) MAXIMUM SURFACE ACREAGE.—In administering  
15 this section, the Secretary shall ensure that the maximum  
16 quantity of surface acreage covered by production and  
17 support facilities (including airstrips and any area covered  
18 by gravel berms or piers for support of pipelines) does not  
19 exceed 2,000 acres on the Coastal Plain.

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