118TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 118–

NATURAL GAS TAX REPEAL ACT

MARCH --, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and Commerce, submitted the following

REPORT

together with

______ VIEWS

[To accompany H.R. 1141]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1141) to repeal the natural gas tax, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

H.R. 1141, NATURAL GAS TAX REPEAL ACT

COVER PAGE/AMENDMENT

[Attachment—Insert Cover Page/Amendment]

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PURPOSE AND SUMMARY

H.R. 1141 was introduced by Rep. August Pfluger on February 21, 2023. The purpose of H.R. 1141 is to repeal Section 136 of the Clean Air Act, the Natural Gas Tax, and rescind the unobligated balance of any amounts available under Section 136.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1141 repealed the natural gas tax contained in Section 136 of the Clean Air Act (CAA). The natural gas tax was established through amendments to the CAA included in the Inflation Reduction Act (IRA). The IRA was signed into law on August 16, 2022. Specifically, Section 136 of the CAA authorizes the Environmental Protection Agency (EPA) to impose or collect a "charge on methane emissions" which operates effectively as a tax. Additionally, the IRA authorized and appropriated over $1.5 billion under Section 136 of the CAA.

This new natural gas tax undercuts the ability of American energy producers by imposing financial and filing burdens on independent oil and gas producers, jeopardizing their operations. According to the bill's author, Congressman August Pfluger (TX-11), independent oil and gas producers produce 83 percent of America's oil and supply 90 percent of our natural gas. There was no congressional hearings, expert testimony, or economic analysis prior to passing the IRA and implementing the natural gas tax. Rough estimations projected the fee would result in an annual cost between \$39 and \$65 billion, and as much as \$337 million in fees per facility. However, the natural gas tax would only reduce GHG emissions by 2.6 percent. Between 2005 and 2019, CO2 emissions from the U.S. power sector declined by almost 30 percent, with the generation of power from natural gas accounting for more than half of that decline. According to the EPA, emissions declined 31 million metric tons from 1992 to 2017 in CO2, and over the same time period natural gas production also rose 51 percent. Taxing these independent producers would make operating more expensive, undercutting their ability to produce and contribute to emission reductions.

These producers recognize the importance of managing air emissions of methane and other volatile organic compounds. They are highly motivated to capture methane as it is a valuable energy product, and the American oil and gas industry is taking action to better detect, monitor, and measure methane leaks. They already participate in voluntary programs to identify and implement cost effective management technologies and work diligently to comply with state and federal regulations. The oil and gas industry in the United States has already drastically cut emissions over the past decade. Production emissions have fallen by 70 percent since 2011.[1] Further, the tax is unnecessary and duplicative as the EPA and many states already directly regulate methane emissions. Roughly 40 percent of power generation in the United States comes from natural gas, taxes that hamstring the ability of producers to operate could significantly increase energy prices and create vulnerability issues.

The natural gas tax proposes to collect emission data, which historically has been reported under Subpart W of the Clean Air Act. Under the current law, the EPA will use this emission data to assess a tax for emissions exceeding 25,000 tons of CO2 equivalent. The EPA has proposed a supplemental rule to regulate methane emissions; the public comment period for this rule closed on

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[1] https://www.api.org/news-policy-and-issues/blog/2021/07/12/eight-points-natural-gas-reducing-emissions-and-environment

February 13, 2023.[2] This proposed supplemental rule does not include a tax, however a violation of the supplemental regulations would carry the penalties and fines set forth in the CAA. The Committee finds the natural gas tax implemented through the IRA goes beyond the scope of the CAA as well as the jurisdiction and original mandate of the EPA by turning the Agency into a tax collection agency.

COMMITTEE ACTION

On February 7, 2023, the Subcommittees on Energy, Climate, and Grid Security and Environment, Manufacturing, and Critical Materials held a joint hearing entitled, "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains," on 17 pieces of legislation, including H.R. 1141. The Subcommittees received testimony from:

- The Honorable Mark Menezes, Former United States Deputy Secretary of Energy, Department of Energy;
- The Honorable Bernard McNamee, Former Commissioner, Federal Energy Regulatory Commission;
- Jeffrey Eshelman, II, President and Chief Executive Officer, Independent Petroleum Association of America;
- Katie Sweeney, Executive Vice President and Chief Operating Officer, National Mining Association;
- Raul Garcia, Legislative Director for Healthy Communities, Earthjustice; and
- Tyson Slocum, Director of the Energy Program, Public Citizen.

On February 28, 2023, the Subcommittee on Environment, Manufacturing, and Critical Materials met in open markup session and forwarded H.R. 1141, without amendment, to the full Committee by a recorded vote of 13 yeas and 7 nays. On March 9, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 1141, without amendment, favorably reported to the House by a recorded vote of 26 yeas and 21 nays.

COMMITTEE VOTES

[2] https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/epa-issues-supplemental-proposal-reduce

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

[Attachments—Insert Votes]

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R 1141 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to increase American energy production and restore energy leadership by repealing Section 136 of the Clean Air Act, the Natural Gas Tax, and rescind the unobligated balance of any amounts available under Section 136.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 1141 is known to be duplicative of another Federal program, including

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE #34

BILL: H.R. 1141, Natural Gas Tax Repeal Act

AMENDMENT: An amendment offered by Rep. Castor, No. 1.

DISPOSITION: **NOT AGREED TO,** by a roll call vote of 21 yeas and 27 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers		X		Rep. Pallone	X		
Rep. Burgess		X		Rep. Eshoo	X		
Rep. Latta		X		Rep. DeGette	X		
Rep. Guthrie		X		Rep. Schakowsky	X		
Rep. Griffith		X		Rep. Matsui	X		
Rep. Bilirakis		X		Rep. Castor	X		
Rep. Johnson		X		Rep. Sarbanes	X		
Rep. Bucshon		X		Rep. Tonko	X		
Rep. Hudson				Rep. Clarke	X		
Rep. Walberg		X		Rep. Cárdenas	X		
Rep. Carter		X		Rep. Ruiz	X		
Rep. Duncan		X		Rep. Peters	X		
Rep. Palmer		X		Rep. Dingell	X		
Rep. Dunn		X		Rep. Veasey	X		
Rep. Curtis		X		Rep. Kuster	X		
Rep. Lesko		X		Rep. Kelly	X		
Rep. Pence		X		Rep. Barragán			
Rep. Crenshaw		X		Rep. Blunt Rochester	X		
Rep. Joyce		X		Rep. Soto	X		
Rep. Armstrong		X		Rep. Craig	X		
Rep. Weber		X		Rep. Schrier			
Rep. Allen		X		Rep. Trahan	X		
Rep. Balderson		X		Rep. Fletcher	X		
Rep. Fulcher		X					
Rep. Pfluger		X					
Rep. Harshbarger		X					
Rep. Miller-Meeks							
Rep. Cammack		X					
Rep. Obernolte		X					

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COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE #35

BILL: H.R. 1141, Natural Gas Tax Repeal Act

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 1141 favorably reported to the House, without amendment.

DISPOSITION: **AGREED TO,** by a roll call vote of 26 yeas and 21 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky		X	
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson	X			Rep. Sarbanes		X	
Rep. Bucshon	X			Rep. Tonko		X	
Rep. Hudson				Rep. Clarke		X	
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters		X	
Rep. Palmer	X			Rep. Dingell		X	
Rep. Dunn	X			Rep. Veasey		X	
Rep. Curtis	X			Rep. Kuster		X	
Rep. Lesko	X			Rep. Kelly		X	
Rep. Pence	X			Rep. Barragán			
Rep. Crenshaw	X			Rep. Blunt Rochester		X	
Rep. Joyce	X			Rep. Soto		X	
Rep. Armstrong				Rep. Craig		X	
Rep. Weber	X			Rep. Schrier			
Rep. Allen	X			Rep. Trahan		X	
Rep. Balderson	X			Rep. Fletcher		X	
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks							
Rep. Cammack	X						
Rep. Obernolte	X						

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any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII,

(1) the following hearings were used to develop or consider H.R. 1141:

On January 31, 2023, the Committee on Energy and Commerce held an oversight hearing entitled, "American Energy Expansion: Strengthening Economic, Environmental, and National Security." The Committee received testimony from:

- The Honorable Paul Dabbar, Former Under Secretary of Energy, Department of Energy;
- Robert McNalley, President, Rapidan Energy Group, LLC;
- Donna Jackson, Director of Membership Development – National Center for Public Policy Research, Project 21; and
- Ana Unruh Cohen, Former Majority Staff Director, U.S. House Select Committee on the Climate Crisis.

On February 16, 2023, the Subcommittee on Energy, Climate, and Grid Security held a field hearing in Midland, Texas, entitled, "American Energy Expansion: Improving Local Economies and Communities' Way of Life." The Committee received testimony from:

- The Honorable Lori Blong, Mayor of Midland, Texas, and President of Octane Energy;
- Adrian Carrasco, Chairman Midland Hispanic Chamber of Commerce, and President of Premier Energy Services;
- Steven Pruett, President and CEO, Elevation Resources, and Chairman of the Board for Independent Petroleum Association of America; and
- Dr. Michael Zavada, Professor of Biology and Geosciences, and Chair, Department of Geosciences at The University of Texas – Permian Basin.

(2) The following related hearing was held:

On February 7, 2023, the Subcommittees on Energy, Climate, and Grid Security and Environment, Manufacturing, and Critical Materials held a joint hearing entitled, "Unleashing American

Energy, Lowering Energy Costs, and Strengthening Supply Chains," on 17 pieces of legislation, including H.R. 1141. The Subcommittees received testimony from:

- The Honorable Mark Menezes, Former United States Deputy Secretary of Energy, Department of Energy;
- The Honorable Bernard McNamee, Former Commissioner, Federal Energy Regulatory Commission;
- Jeffrey Eshelman, II, President and Chief Executive Officer, Independent Petroleum Association of America;
- Katie Sweeney, Executive Vice President and Chief Operating Officer, National Mining Association;
- Raul Garcia, Legislative Director for Healthy Communities, Earthjustice; and
- Tyson Slocum, Director of the Energy Program, Public Citizen.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1141 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title

Section 1 provides the short title of "Natural Gas Tax Repeal Act".

Section 2. Repeal

This section repeals section 136 of the Clean Air Act (42 USC 7436). This section was established through the Inflation Reduction Act and authorizes the EPA to impose or collect a "charge on methane emissions," also referred to as a tax on natural gas.

Section 3. Repeal

Section 3 rescinds the unobligated balance of any amounts made available under Sec. 136. The IRA authorized and appropriated over $1.5 billion under Sec. 136 of the CAA.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

With respect to the requirement of clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, this section was not made available to the Committee in time for the filing of this report.

MINORITY VIEWS

[Attachment--Views]

Committee on Energy and Commerce

MINORITY VIEWS
H.R. 1141, the Natural Gas Tax Repeal Act

We oppose H.R. 1141, legislation to repeal Section 136 of the Clean Air Act (CAA), relating to the Methane Emissions Reduction Program (MERP). H.R. 1141 repeals and rescinds any unobligated funds for MERP, which was enacted as part of the Inflation Reduction Act (IRA). The program curbs methane leaks and excess pollution from the oil and gas industry, protects the health of our communities, and creates good-paying jobs in the process. Repealing this program, as proposed by H.R. 1141, is nothing more than the majority prioritizing polluter profits, over the health and future of the American people.

BACKGROUND

The Methane Emissions Reduction Program is an important part of our effort to combat the climate crisis as methane pollution is accelerating the pace of climate change and harming the health of our families and communities. Methane is a potent greenhouse gas (GHG) that accelerates climate change and is about 84 times more powerful than carbon dioxide when measured over a 20-year period.[1] The oil and gas source category is the largest industrial emitter of methane in the United States, consists of hundreds of thousands of sources, and emits roughly a third of our methane emissions each year. Methane also contributes to the formation of smog and is released alongside toxic air pollution during oil and gas production that can worsen respiratory illnesses.[2] Without strong controls paired with incentives, methane pollution will continue to cause significant harm to public health, threaten the stability of our economy, and compromise the well-being of future generations and our planet.

To that end, the IRA included the MERP to control excess methane pollution from the oil and gas industry.[3] The program builds on EPA's existing Greenhouse Gas Reporting Program. It recognizes the cleanest performers, holds individual companies responsible for their own leaks and wasted methane pollution, drives innovation in the sector, creates good-paying jobs, and supports projects to protect American communities from the effects of the climate crisis.

The Republican claims that MERP is a natural gas or methane tax are completely false. The program includes a suite of incentives to drive down excess methane pollution and remediate the effects of pollution that does occur. First, the program immediately provides more than $1.55 billion to assist industry with reducing current and legacy methane emissions, including $700 million in incentives for small producers. Second, EPA establishes methane

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[1] U.S. Environmental Protection Agency, *Understanding Global Warming Potentials* (epa.gov/ghgemissions/understanding-global-warming-potentials) (accessed Mar. 21, 2023); *See* Table 8.7 of Intergovernmental Panel on Climate Change, *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (2013).
[2] Environmental Defense Fund, *Federal Methane Map, Oil and Gas Population: United States* (www.edf.org/federalmethanemap) (accessed Mar. 21, 2023); Clean Air Task Force, *Gasping for Breath: An Analysis of the Health Effects from Ozone Pollution from the Oil and Gas Industry* (Aug. 2016).
[3] Pub. L. No. 117-169, § 60113 (2022).

waste emissions thresholds for petroleum and natural gas facilities, and then applies a charge for waste emissions exceeding such thresholds. Unlike a tax on methane or natural gas, the charge only applies to wasted methane above these thresholds.

If companies fulfill their public climate commitments, they will not have to pay any charge at all. The charge only applies to methane emissions above the thresholds. The thresholds are based on the oil and gas industry's own climate commitments and methane reduction targets. These targets are achievable, and in many cases are already being met by industry leaders. They are set at a level that incentivizes better performance from the rest of the oil and gas industry.

SUMMARY OF H.R. 1141

Section 2 of H.R. 1141 repeals Section 136 of the CAA, relating to MERP, and Section 3 of the bill rescinds all unobligated funds.

Proponents of H.R. 1141 refuse to characterize MERP as anything but a tax on polluters, which has apparently left the Majority blind to the reality that the program raises revenue. According to the Congressional Budget Office (CBO), MERP is expected to generate \$6.35 billion in revenue from Fiscal Years 2022-2031, and even more beyond the ten-year window.[4] Enacting this legislation would undermine the Majority's supposed goal of balanced budgets and is contrary to their ethos of deficit reduction. During Committee consideration of H.R. 1141, Democratic Members offered an amendment to illustrate this fundamental problem with the bill. All Republican members voted against an amendment ensuring the Act cannot go into effect until CBO certifies that it will not add to the Federal deficit.

Furthermore, MERP is fully paid for through the charge on wasted methane pollution and ensures that consumers no longer pay for wasted energy or the harm its emissions can cause. The charge begins at \$900 per ton for wasted emissions in 2024 and ramps up to \$1,500 per ton by 2026. The charge corrects a market failure that currently makes it cheaper for owners and operators to waste methane than to install or upgrade equipment to prevent leaks and flaring. Leaked or intentionally wasted natural gas never makes its way to customers, but they are nevertheless stuck with the bill. H.R. 1141 would ensure polluters continue to exploit this market failure, and customers continue to pay for it.

H.R. 1141 would also forego the accelerated energy innovation and job growth created by MERP. By incentivizing companies to address wasted methane, MERP will spur technological innovation and broader adoption – particularly in the methane mitigation industry, which provides services and equipment to detect, fix, and prevent leaks. The program also spurs job growth by driving companies to perform frequent leak detection and repair, providing a source of sustainable, skilled, and well-paying union jobs for workers laid off during the pandemic. Repealing MERP would block these critical opportunities for new job creation and innovation, in service of allowing polluters to spew methane with reckless abandon.[5]

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[4] Congressional Budget Office, *Estimated Budgetary Effects of H.R. 5376, the Inflation Reduction Act of 2022* (Aug. 5, 2022) (www.cbo.gov/publication/58366).
[5] *The GOP's Failed Obamacare Repeal Effort Holds Lessons for the Climate Law*, Washington Post (Feb. 9. 2023)

CONCLUSION

H.R. 1141 is a political vendetta against the historic climate achievements of the IRA. MERP curbs methane leaks and excess pollution from the oil and gas industry, protects the health of our communities and creates good-paying jobs in the process. The Majority's rushed attempt to rescind MERP would prioritize polluter profits over a clean and sustainable future for all Americans.

For the reasons stated above, we dissent from the views contained in the Committee's report.

Frank Pallone, Jr.

Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce