95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1324

ENERGY TAX ACT OF 1978

OCTOBER 11, 1978.—Ordered to be printed

Mr. LONG, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 5263]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Energy Tax Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF CONTENTS.—

TITLE I—RESIDENTIAL ENERGY CREDIT

SEC. 101. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

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

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(6) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (5) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYOVER TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURES.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) CERTAIN LABOR COSTS INCLUDED.—The term 'renewable energy source expenditure' includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a primary function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weatherstripping of an exterior door or window,

"(vii) a meter which displays the cost of energy usage, or

"(viii) an item of the kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling, transmits or uses—

"(i) solar energy, energy derived from geothermal deposits (as defined in section 613(e)(3)), or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) wind energy for nonbusiness residential purposes,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) *REGULATIONS.*—

"(A) *CRITERIA; CERTIFICATION PROCEDURES.*—*The Secretary shall by regulations*—

"(i) *establish the criteria which are to be used in* (I) *prescribing performance and quality standards under paragraphs* (3), (4), *and* (5), *or* (II) *specifying any item under paragraph* (4)(A)(viii) *or any form of renewable energy under paragraph* (5)(A)(i), *and*

"(ii) *establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this section, as insulation, an energy-conserving component, or renewable energy source property.*

"(B) *CONSULTATION.*—*Performance and quality standards regulations and other regulations shall be prescribed by the Secretary under paragraphs* (3), (4), *and* (5) *and under this paragraph only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal officers.*

"(7) *WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.*—

"(A) *IN GENERAL.*—*Except as provided in subparagraph* (B), *an expenditure with respect to an item shall be treated as made when original installation of the item is completed.*

"(B) *RENEWABLE ENERGY SOURCE EXPENDITURES.*—*In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.*

"(C) *AMOUNT.*—*The amount of any expenditure shall be the cost thereof.*

"(D) *ALLOCATION IN CERTAIN CASES.*—*If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this subparagraph, use for a swimming pool shall be treated as use which is not for residential purposes.*

"(8) *PRINCIPAL RESIDENCE.*—*The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that*—

"(A) *no ownership requirement shall be imposed, and*

"(B) *the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.*

"(d) *SPECIAL RULES.*—*For purposes of this section*—

"(1) *DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.*—*In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals*—

"(A) *the amount of the credit allowable under subsection* (a) *by reason of energy conservation expenditures or by*

reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) there shall be allowable with respect to such expenditures to each of such individuals a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) 1977 EXPENDITURES ALLOWED FOR 1978.—

"(A) NO CREDIT FOR TAXABLE YEARS BEGINNING BEFORE 1978.—No credit shall be allowed under this section for any taxable year beginning before January 1, 1978.

"(B) 1977 EXPENDITURES ALLOWED FOR 1978.—In the case of the taxpayer's first taxable year beginning after December 31, 1977, this section shall be applied by taking into account the period beginning April 20, 1977, and ending on the last day of such first taxable year.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

TITLE II—TRANSPORTATION

PART I—GAS GUZZLER TAX

SEC. 201. GAS GUZZLER TAX.

(a) GENERAL RULE.—Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SEC. 4064. GAS GUZZLER TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following tables:

"(1) In the case of a 1980 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	***The tax is:***
At least 15	*0*
At least 14 but less than 15	*$200*
At least 13 but less than 14	*300*
Less than 13	*550*

"(2) In the case of a 1981 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	***The tax is:***
At least 17	*0*
At least 16 but less than 17	*$200*
At least 15 but less than 16	*350*
At least 14 but less than 15	*450*
At least 13 but less than 14	*550*
Less than 13	*650*

"(3) In the case of a 1982 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	***The tax is:***
At least 18.5	*0*
At least 17.5 but less than 18.5	*$200*
At least 16.5 but less than 17.5	*350*
At least 15.5 but less than 16.5	*450*
At least 14.5 but less than 15.5	*600*
At least 13.5 but less than 14.5	*750*
At least 12.5 but less than 13.5	*950*
Less than 12.5	*1,200*

"(4) In the case of a 1983 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	***The tax is:***
At least 19	*0*
At least 18 but less than 19	*$350*
At least 17 but less than 18	*500*

S. Rept. 95-1324 --- 2

"If the fuel economy of the model type in which the automobile falls is	*The tax is:*
At least 16 but less than 17	*$650*
At least 15 but less than 16	*800*
At least 14 but less than 15	*1,000*
At least 13 but less than 14	*1,250*
Less than 13	*1,550*

"(5) In the case of a 1984 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	*The tax is:*
At least 19.5	*0*
At least 18.5 but less than 19.5	*$450*
At least 17.5 but less than 18.5	*600*
At least 16.5 but less than 17.5	*750*
At least 15.5 but less than 16.5	*950*
At least 14.5 but less than 15.5	*1,150*
At least 13.5 but less than 14.5	*1,450*
At least 12.5 but less than 13.5	*1,750*
Less than 12.5	*2,150*

"(6) In the case of a 1985 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	*The tax is:*
At least 21	*0*
At least 20 but less than 21	*$500*
At least 19 but less than 20	*600*
At least 18 but less than 19	*800*
At least 17 but less than 18	*1,000*
At least 16 but less than 17	*1,200*
At least 15 but less than 16	*1,500*
At least 14 but less than 15	*1,800*
At least 13 but less than 14	*2,200*
Less than 13	*2,650*

"(7) In the case of a 1986 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	*The tax is:*
At least 22.5	*0*
At least 21.5 but less than 22.5	*$500*
At least 20.5 but less than 21.5	*650*
At least 19.5 but less than 20.5	*850*
At least 18.5 but less than 19.5	*1,050*
At least 17.5 but less than 18.5	*1,300*
At least 16.5 but less than 17.5	*1,500*
At least 15.5 but less than 16.5	*1,850*
At least 14.5 but less than 15.5	*2,250*
At least 13.5 but less than 14.5	*2,700*
At least 12.5 but less than 13.5	*3,200*
Less than 12.5	*3,850*

"(b) DEFINITIONS.—For purposes of this section—

"(1) AUTOMOBILE.—

"(A) IN GENERAL.—The term 'automobile' means any 4-wheeled vehicle propelled by fuel—

"(i) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(ii) which is rated at 6,000 pounds gross vehicle weight or less.

"(B) EXCEPTION FOR CERTAIN VEHICLES.—The term 'automobile' does not include any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on the date of the enactment of this section.

"(C) EXCEPTION FOR EMERGENCY VEHICLES.—The term 'automobile' does not include any vehicle sold for use and used—

"(i) as an ambulance or combination ambulance-hearse,

"(ii) by the United States or by a State or local government for police or other law enforcement purposes, or

"(iii) for other emergency uses prescribed by the Secretary by regulations.

"(2) FUEL ECONOMY.—The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

"(3) MODEL TYPE.—The term 'model type' means a particular class of automobile as determined by regulation by the EPA Administrator.

"(4) MODEL YEAR.—The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(5) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(6) EPA ADMINISTRATOR.—The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(7) FUEL.—The term 'fuel' means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(c) DETERMINATION OF FUEL ECONOMY.—For purposes of this section—

"(1) IN GENERAL.—Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted

in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy to the Secretary.

"(2) *SPECIAL RULE FOR FUELS OTHER THAN GASOLINE.—The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.*

"(3) *TIME BY WHICH REGULATIONS MUST BE ISSUED.—Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months before the model year to which such procedures apply.*

"(d) *SPECIAL RULES FOR SMALL MANUFACTURERS.—*

"(1) *IN GENERAL.—If, on the application of a small manufacturer, the Secretary determines that it is not feasible for such manufacturer to meet the tax-free fuel economy level for the model year with respect to all automobiles produced by such manufacturer or with respect to a model type produced by such manufacturer, the Secretary may by regulations prescribe an alternate rate schedule for such model year for all automobiles produced by such manufacturer or for such model type, as the case may be. The alternate rate schedule shall be based on the maximum feasible fuel economy level which such manufacturer can meet for such model year with respect to all automobiles or with respect to such model type, as the case may be.*

"(2) *APPLICATION TO INCLUDE NECESSARY INFORMATION.—An application under this subsection for any model year shall contain such information as the Secretary may by regulations prescribe.*

"(3) *DETERMINATIONS TO BE MADE ONLY AFTER CONSULTATION.—Determinations under paragraph (1) shall be made by the Secretary only after consultation with the Secretary of Energy, the Secretary of Transportation, and other appropriate Federal officers.*

"(4) *SMALL MANUFACTURER DEFINED.—*

"(A) *IN GENERAL.—For purposes of this subsection, the term 'small manufacturer' means any manufacturer—*

"(i) *who manufactured (whether or not in the United States) fewer than 10,000 automobiles in the second model year preceding the model year for which the determination under paragraph (1) is being made, and*

"(ii) *who can reasonably be expected to manufacture (whether or not in the United States) fewer than 10,000 automobiles in the model year for which the determination under paragraph (1) is being made.*

"(B) *SPECIAL RULES.—For purposes of subparagraph (A)—*

"(i) *MANUFACTURER OF AUTOMOBILES PRODUCED ABROAD DETERMINED WITHOUT REGARD TO IMPORTATION.—The meaning of the term 'manufacturer' shall be determined without regard to subsection (b)(5).*

"(ii) *CONTROLLED GROUPS.—Persons who are members of the same controlled group of corporations shall be treated as one manufacturer. For purposes of the preceding sentence, the term 'controlled group of corpora-*

tions' has the meaning given to such term by section 1563(a); except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)."

(b) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—If—

"(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and

"(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence."

(c) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) TAX-FREE SALES.—Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence:

"Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064."

(2) UNITED STATES AND POSSESSIONS.—Section 4293 (relating to exemption for United States and possessions) is amended by striking out "tax imposed by section 4121" and inserting in lieu thereof "taxes imposed by sections 4064 and 4121".

(3) DENIAL OF REFUNDS FOR CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding at the end thereof the following new sentence:

"Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064."

(d) PAYMENT OF TAX IN CASE OF LEASED AUTOMOBILES.—Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) LEASES OF AUTOMOBILES SUBJECT TO GAS GUZZLER TAX.—

(1) IN GENERAL.—In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

"(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

"(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

"(2) PAYMENT OF TAX.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

"(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(B) TOTAL GAS GUZZLER TAX.—The term 'total gas guzzler tax' means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease."

(e) AUTHORITY TO EXTEND REGISTRATION SYSTEM TO EXEMPTION OF EMERGENCY VEHICLES.—Subsection (d) of section 4222 (relating to registration in the case of certain other exemptions) is amended by inserting "4064(b)(1)(C)," after "4063(b),".

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. Gas guzzler tax."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to 1980 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1954).

PART II—MOTOR FUELS

SEC. 221. EXEMPTION FROM MOTOR FUELS EXCISE TAXES FOR CERTAIN ALCOHOL FUELS.

(a) GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

"(c) GASOLINE MIXED WITH ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax

was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after December 31, 1978, and before October 1, 1984.

(b) ALCOHOL MIXED WITH SPECIAL FUEL.—

(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after December 31, 1978, and before October 1, 1984.

(c) REPORTS.—

(1) ANNUAL REPORT.—On April 1 of each year, beginning with April 1, 1980, and ending on April 1, 1984, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954, and

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

(2) REPORT.—The report submitted to the Congress on April 1, 1984, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

(d) EXPEDITION OF CERTAIN ETHANOL PRODUCTION APPLICATIONS.—The Secretary of the Treasury shall expedite, to the maximum extent possible, action on the application of any person with respect to the production of ethanol for use in producing gasoline described in section 4081(c) (or in producing liquid fuel described in section 4041(k)) of the Internal Revenue Code of 1954. Within 6 months after the date of the enactment of this Act, the Secretary shall furnish to the Com-

mittee on Finance, United States Senate, and to the Committee on Ways and Means, United States House of Representatives, recommendations for legislation necessary to provide for changes in the provisions of chapter 51 of the Internal Revenue Code of 1954 to provide a simple, expeditious procedure for processing such applications and to simplify the regulation of such persons for purposes of such chapter consistent with adequate safeguards against the use of such applications to avoid or evade compliance with the provisions of such chapter relating to distilled spirits procured, dealt in, or used for other purposes.

SEC. 222. DENIAL OF CREDIT OR REFUND FOR NONBUSINESS NON-HIGHWAY USE OF GASOLINE, SPECIAL MOTOR FUELS, AND LUBRICATING OIL.

(a) IN GENERAL.—

(1) GASOLINE.—

(A) So much of the first sentence of section 6421(a) (relating to nonhighway uses) as precedes "the Secretary" is amended to read as follows: "Except as provided in subsection (i), if gasoline is used in a qualified business use,".

(B) Subsection (d) of section 6421 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFIED BUSINESS USE.—

"(A) IN GENERAL.—The term 'qualified business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(B) EXCEPTION FOR USE IN MOTORBOATS.—The term 'qualified business use' does not include any use in a motorboat.

"(C) Commercial fishing vessels.—For provisions exempting from tax gasoline, special motor fuels, and lubricating oil used for commercial fishing vessels, see—

"(i) subsections (a)(3) and (d)(3) of section 4221 (relating to certain tax-free sales),

"(ii) section 6416(b)(2)(B) (relating to refund or credit in case of certain uses), and

"(iii) section 4041(g)(1) (relating to exemptions from tax on special fuels)."

(2) SPECIAL MOTOR FUELS.—Subsection (b) of section 4041 (relating to special motor fuels) is amended by striking out the second and third sentences and inserting in lieu thereof the following:

"In the case of a liquid taxable under this subsection sold for use, or used, in a qualified business use, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used otherwise than in a qualified business use, a tax of 2 cents a gallon shall be imposed under paragraph

(2). *For purposes of this subsection, the term 'qualified business use' has the meaning given to such term by section 6421(d)(3).*"

(3) LUBRICATING OIL.—*Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out "is used otherwise than in a highway motor vehicle" and inserting in lieu thereof "is used in a qualified business use (within the meaning of section 6421(d)(3))".*

(b) EFFECTIVE DATE.—*The amendments made by subsection (a) shall apply with respect to uses after December 31, 1978.*

PART III—PROVISIONS RELATED TO BUSES

SEC. 231. REMOVAL OF EXCISE TAX ON BUSES.

(a) GENERAL RULE.—*Paragraph (6) of section 4063(a) (relating to exemption for local transit buses) is amended to read as follows:*

"(6) BUSES.—*The tax imposed under section 4061(a) shall not apply in the case of any automobile bus chassis or automobile bus body.*"

(b) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—*Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—*

(A) *claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and*

(B) *on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.*

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—*No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury under this subsection.*

(3) OTHER LAWS APPLICABLE.—*All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.*

(c) *REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.*—

(1) *IN GENERAL.*—*Except as otherwise provided in paragraph (2), where on or after April 20, 1977, and on or before the date of the enactment of this Act, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.*

(2) *LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.*—*No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—*

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury under this subsection;

(B) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) *OTHER LAWS APPLICABLE.*—*All provisions of laws, including penalties, applicable with respect to the taxes imposed by section 4061(a) of such Code shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply with respect to the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.*

(d) *CERTAIN USES BY MANUFACTURER, ETC.*—*Any tax paid by reason of section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) on any tax-repealed article shall be deemed an overpayment of such tax if the tax was imposed on such article by reason of such section 4218(a) on or after April 20, 1977.*

(e) *DEFINITIONS.*—*For purposes of this section—*

(1) *The term "dealer" includes a wholesaler, jobber, distributor, or retailer.*

(2) *An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to such article or possession thereof has not at any time been transferred to any person other than a dealer.*

(3) *The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) of such Code (as in effect on the day before the date of the enactment of this Act) and which*

is exempted from such tax by paragraph (6) of section 4063(a) of such Code (as amended by subsection (a) of this section).

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading for paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended by striking out "AND BUSES".

(2) Subsection (d) of section 4222 (relating to registration in case of certain other exemptions) is amended by striking out "4063(a) (6) or (7)" and inserting in lieu thereof "4063(a)(7)".

(g) EFFECTIVE DATE.—

(1) The amendments made by subsections (a) and (f) shall apply with respect to articles sold after the date of the enactment of this Act.

(2) For purposes of paragraph (1), an article shall not be considered sold on or before the date of the enactment of this Act unless possession or right to possession passes to the purchaser on or before such date.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments,

entered into on or before the date of the enactment of this Act, payments made after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before the date of the enactment of this Act.

SEC. 232. REMOVAL OF EXCISE TAX ON BUS PARTS.

(a) EXEMPT SALES.—Subsection (e) of section 4221 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus."

(b) REFUND FOR CERTAIN SALES OF BUS PARTS.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows:

"(I) in the case of any article taxable under section 4061 (b), sold for use by the purchaser on or in connection with an automobile bus;".

(c) *EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.*

SEC. 233. REMOVAL OF EXCISE TAX ON FUEL, OIL, AND TIRES USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES.

(a) REPAYMENT OF TAX ON GASOLINE AND OTHER MOTOR FUELS USED BY INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) GASOLINE.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(2) OTHER FUELS.—Subsection (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), if any fuel on the sale of which tax was imposed by subsection (a) or (b) of section 4041 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (d) of section 6421 is amended—

(i) by striking out paragraph (2), and

(ii) by redesignating paragraph (3) (as added by section 222(a)(1)(B)) as paragraph (2).

(B) The last sentence of section 4041(b) (as added by section 222(a)(2)) is amended by striking out "6421(d)(3)" and inserting in lieu thereof "6421(d)(2)".

(C) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Tax Act of 1978)" after "section 6421(b)(2)".

(b) REPAYMENT OF TAX ON LUBRICATING OIL USED IN INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) IN GENERAL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended to read as follows:

"(a) PAYMENTS.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used—

"(1) in a qualified business use (as defined in section 6421(d)(2)), or

"(2) in a qualified bus (as defined in section 4221(d)(7)),

the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The section heading for section 6424 is amended by striking out "**NOT USED IN HIGHWAY MOTOR VEHICLES**" and inserting in lieu thereof "**USED FOR CERTAIN NONTAXABLE PURPOSES**".

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes".

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes".

(D) Sections 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes".

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes".

(c) TIRES, TUBES, AND TREAD RUBBER.—

(1) IN GENERAL.—Paragraph (5) of section 4221(c) (relating to school buses) is amended to read as follows:

"(5) TIRES, TUBES, AND TREAD RUBBER USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and

"(B) the tax imposed by paragraph (4) of section 4071 (a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus."

(2) QUALIFIED BUS DEFINED.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) QUALIFIED BUS.—

"(A) IN GENERAL.—The term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) INTERCITY OR LOCAL BUS.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the seating capacity of such bus is at least 20 adults (not including the driver).

"(C) SCHOOL BUS.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

(3) TECHNICAL AMENDMENT.—Paragraph (2) of section 6416(b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

PART IV—INCENTIVES FOR VAN POOLING

SEC. 241. FULL INVESTMENT CREDIT FOR CERTAIN COMMUTER VEHICLES.

(a) IN GENERAL.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR COMMUTER HIGHWAY VEHICLES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a commuter highway vehicle the useful life of which is 3 years or more, the applicable percentage for purposes of paragraph (1) shall be 100 percent.

"(B) DEFINITION OF COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (A), the term 'commuter highway vehicle' means a highway vehicle—

"(i) the seating capacity of which is at least 8 adults (not including the driver),

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver),

"(iii) which is acquired by the taxpayer on or after the date of the enactment of the Energy Tax Act of 1978, and placed in service by the taxpayer before January 1, 1986, and

"(iv) with respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service."

(b) AMENDMENTS OF THE RECAPTURE RULES.—

(1) Subsection (a) of section 47 (relating to recapture in case of certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR COMMUTER HIGHWAY VEHICLES.—

"(A) USEFUL LIFE.—For purposes of this subsection, 3 years shall be treated as the useful life which was taken into account in computing the credit under section 38 with respect to any commuter highway vehicle (as defined in section 46 (c)(6)(B)).

"(B) CHANGE IN USE.—If less than 80 percent of the mileage use of any commuter highway vehicle by the taxpayer during that portion of any taxable year which is within the first 36 months of the operation of such vehicle by the taxpayer meets the requirements of section 46(c)(6)(B), then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from treating such vehicle, for purposes of determining qualified investment, as not being a commuter highway vehicle. If the application of this

subparagraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1).".

(2) Paragraph (5) of section 47(a) (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) or (4)".

(3) Subparagraph (B) of section 47(a)(6) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

SEC. 242. EXCLUSION FROM GROSS INCOME OF VALUE OF QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and by inserting after section 123 the following new section:

"SEC. 124. QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

"(a) GENERAL RULE.—Gross income of an employee does not include the value of qualified transportation provided by the employer between the employee's residence and place of employment.

"(b) QUALIFIED TRANSPORTATION.—For purposes of this section, the term 'qualified transportation' means transportation in a commuter highway vehicle (as defined in section 46(c)(6)(B) but without regard to clause (iii) or (iv) thereof).

"(c) ADDITIONAL REQUIREMENTS.—Subsection (a) does not apply to the value of transportation provided by an employer unless—

"(1) such transportation is provided under a separate written plan of the employer which does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees, and

"(2) the plan provides that the value of such transportation is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(d) DEFINITIONS.—For purposes of this section—

"(1) PROVIDED BY THE EMPLOYER.—Transportation shall be considered to be provided by an employer if the transportation is furnished in a commuter highway vehicle (described in subsection (b)) operated by or for the employer.

"(2) EMPLOYEE.—The term 'employee' does not include an individual who is an employee (within the meaning of section 401(c)(1)).

"(e) EFFECTIVE DATE.—Subsection (a) applies with respect to qualified transportation provided in taxable years beginning after December 31, 1978, and before January 1, 1986".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Qualified transportation provided by employer.
"Sec. 125. Cross references to other Acts."

(c) TRANSITION RULE.—The plan requirements of section 124(c) of the Internal Revenue Code of 1954 shall be considered to be met with respect to transportation provided before July 1, 1979, if there is a plan meeting such requirements of the employer in effect on that date.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

SEC. 301. CHANGES IN BUSINESS INVESTMENT CREDIT.

(a) AMOUNT OF CREDIT; ALLOWANCE OF ENERGY PERCENTAGE.—

(1) IN GENERAL.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended to read as follows:

"(2) AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The amount of the credit determined under this paragraph for the taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(i) the regular percentage,

"(ii) in the case of energy property, the energy percentage, and

"(iii) the ESOP percentage.

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is—N

"(i) 10 percent with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, or

"(ii) 7 percent with respect to the period beginning on January 1, 1981.

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph, the energy percentage is—

"(i) 10 percent with respect to the period beginning on October 1, 1978, and ending on December 31, 1982, or

"(ii) zero with respect to any other period.

"(D) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—For purposes of this paragraph, the regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property.

"(E) ESOP PERCENTAGE.—For purposes of this paragraph, the ESOP percentage is—

"(i) with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, 1 percent, and

"(ii) with respect to the period beginning on January 1, 1977, and ending on December 31, 1980, an additional percentage (not in excess of ½ of 1 percent) which

S. Rept. 95-1324 --- 4

results in an amount equal to the amount determined under section 301(e) of the Tax Reduction Act of 1975. This subparagraph shall apply to a corporation only if it meets the requirements of section 301(d) of the Tax Reduction Act of 1975 and only if it elects (at such time, in such form, and in such manner as the Secretary prescribes) to have this subparagraph apply."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended to read as follows:

"(A) For the period beginning on January 1, 1981, in the case of any property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1). The preceding sentence shall not apply for purposes of applying the energy percentage."

(B) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Tax Reform Act of 1976" and inserting in lieu thereof ", the Tax Reform Act of 1976, and the Energy Tax Act of 1978".

(b) DEFINITONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (l) as subsection (n) and by inserting after subsection (k) the following new subsections:

"(l) ENERGY PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—For the period beginning on October 1, 1978, and ending on December 31, 1982—

"(A) any energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to any energy property.

"(2) ENERGY PROPERTY DEFINED.—The term 'energy property' means property—

"(A) which is—

"(i) alternative energy property,

"(ii) solar or wind energy property,

"(iii) specially defined energy property,

"(iv) recycling equipment,

"(v) shale oil equipment, or

"(vi) equipment for producing natural gas from geopressured brine,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after September 30, 1978, or

"(ii) which is acquired after September 30, 1978, if the original use of such property commences with the taxpayer and commences after such date, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined as of the time such property is placed in service) of 3 years or more.

"(3) ALTERNATIVE ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'alternative energy property' means—

"(i) a boiler the primary fuel for which will be an alternate substance,

"(ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

"(iii) equipment for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel (other than coke or coke gas),

"(iv) equipment designed to modify existing equipment which uses oil or natural gas as a fuel or as feedstock so that such equipment will use either a substance other than oil and natural gas, or oil mixed with a substance other than oil and natural gas (where such other substance will provide not less than 25 percent of the fuel or feedstock),

"(v) equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products (other than coke or coke gas),

"(vi) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in clause (i), (ii), (iii), (iv), or (v),

"(vii) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternate substance for use in equipment described in clause (i), (ii), (iii), (iv), (v), or (vi), and

"(viii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(3)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

"(B) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms 'alternative energy property', 'solar or wind energy property', and 'recycling equipment' do not include property which is public utility property (within the meaning of section 46(f)(5)).

"(C) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(D) SPECIAL RULE FOR CERTAIN POLLUTION CONTROL EQUIPMENT.—The term 'pollution control equipment' does not include any equipment which—

"(i) is installed on or in connection with property which, as of October 1, 1978, was using coal (including lignite), and

"(ii) was required to be installed by Federal, State, or local regulations in effect on such date.

"(4) SOLAR OR WIND ENERGY PROPERTY.—The term 'solar or wind energy property' means any equipment which uses solar or wind energy—

"(A) to generate electricity, or

"(B) to heat or cool (or provide hot water for use in) a structure.

"(5) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(A) a recuperator,

"(B) a heat wheel,

"(C) a regenerator,

"(D) a heat exchanger,

"(E) a waste heat boiler,

"(F) a heat pipe,

"(G) an automatic energy control system,

"(H) a turbulator,

"(I) a preheater,

"(J) a combustible gas recovery system,

"(K) an economizer, or

"(L) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(6) RECYCLING EQUIPMENT.—

"(A) IN GENERAL.—The term 'recycling equipment' means any equipment which is used exclusively—

"(i) to sort and prepare solid waste for recycling, or

"(ii) in the recycling of solid waste.

"(B) CERTAIN EQUIPMENT NOT INCLUDED.—The term 'recycling equipment' does not include—

"(i) any equipment used in a process after the first marketable product is produced, or

"(ii) in the case of recycling iron or steel, any equipment used to reduce the waste to a molten state and in any process thereafter.

"(C) 10 PERCENT VIRGIN MATERIAL ALLOWED.—Any equipment used in the recycling of material which includes some virgin materials shall not be treated as failing to meet the exclusive use requirements of subparagraph (A) if the amount of such virgin materials is 10 percent or less.

"(D) CERTAIN EQUIPMENT INCLUDED.—The term 'recycling equipment' includes any equipment which is used in the conversion of solid waste into a fuel or into useful energy such as steam, electricity, or hot water.

"(7) SHALE OIL EQUIPMENT.—The term 'shale oil equipment' means equipment for producing ox extracting oil from oil-bearing shale rock but does not include equipment for hydrogenation, refining, or other process subsequent to retorting.

"(8) EQUIPMENT FOR PRODUCING NATURAL GAS FROM GEOPRESSURED BRINE.—*The term 'equipment for producing natural gas from geopressured brine' means equipment which is used exclusively to extract natural gas described in section 613A(b)(3)(C)(i).*

"(9) EQUIPMENT MUST MEET CERTAIN STANDARDS TO QUALIFY.—*Equipment qualifies under paragraph (3), (4), (5), (6), (7), or (8) only if it meets the performance and quality standards (if any) which—*

"(A) *have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and*

"(B) *are in effect at the time of the acquisition of the property.*

"(10) EXISTING.—*For purposes of this subsection, the term 'existing' means—*

"(A) *when used in connection with a facility, 50 percent or more of the basis of such facility is attributable to construction, reconstruction, or erection before October 1, 1978, or*

"(B) *when used in connection with an industrial or commercial process, such process was carried on in the facility as of October 1, 1978.*

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—*In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the energy percentage shall be 5 percent.*

"(12) INDUSTRIAL INCLUDES AGRICULTURAL.—*The term 'industrial' includes agricultural.*

"(m) APPLICATION OF CERTAIN TRANSITIONAL RULES.—*Where the application of any provision of subsection (l) of this section or subsection (a)(2) or (c)(3) of section 46 is expressed in terms of a period, such provision shall apply only to—*

"(1) *property to which section 46(d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after the first day of such period, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection during such period,*

"(2) *property to which section 46(d) does not apply, acquired by the taxpayer during such period and placed in service by the taxpayer during such period, and*

"(3) *property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46) with respect to qualified progress expenditures made during such period.*"

(c) SPECIAL RULES FOR APPLYING LIMITATION BASED ON TAX LIABILITY.—

(1) *Subsection (a) of section 46 is amended by adding at the end thereof the following new paragraph:*

"(10) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage,

"(ii) second with respect to so much of the credit allowed by section 38 as is attributatble to the application of the energy percentage to energy property (other than solar or wind energy property), and

"(iii) then with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to solar or wind energy property.

"(B) RULES OF APPLICATION FOR ENERGY PROPERTY OTHER THAN SOLAR OR WIND ENERGY PROPERTY.—In applying this subsection and subsection (b) for taxable years ending after September 30, 1978, with respect to so much of the credit allowed by section 38 as is described in subparagraph (A)(ii)—

"(i) paragraph (3)(C) shall be applied by substituting '100 percent' for '50 percent',

"(ii) paragraphs (7), (8), and (9) shall not apply, and

"(iii) the liability for tax shall be the amount determined under paragraph (4) reduced by so much of the credit allowed by section 38 as is described in subparagraph (A)(i).

"(C) REFUNDABLE CREDIT FOR SOLAR OR WIND ENERGY PROPERTY.—In the case of so much of the credit allowed by section 38 as is described in subparagraph (A)(iii)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63, such credit shall be treated as if it were allowed by section 39 and not by section 38."

(2) Section 6401 (relating to amounts treated as overpayments) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For rule allowing refund for excess investment credit attributable to solar or wind energy property, see section 46(a)(10)(C)."

(d) DENIAL OF INVESTMENT TAX CREDIT FOR CERTAIN PROPERTY.—

(1) AIR CONDITIONING, SPACE HEATERS, ETC.—Subparagraph (A) of section 48(a)(1) (defining section 38 property) is amended to read as follows:

"(A) tangible personal property (other than an air conditioning or heating unit), or".

(2) BOILERS FUELED BY OIL OR GAS.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) BOILERS FUELED BY OIL OR GAS.—

"(A) IN GENERAL.—The term 'section 38 property' does not include any boiler primarily fueled by petroleum or petro-

leum products (including natural gas) unless the use of coal is precluded by Federal air pollution regulations (or by State air pollution regulations in effect on October 1, 1978) or unless the use of such boiler will be an exempt use within the meaning of subparagraph (B).

"(B) EXEMPT USE DEFINED.—For purposes of subparagraph (A), the term 'exempt use' means—

"(i) use in an apartment, hotel, motel, or other residential facility,

"(ii) use in a vehicle, aircraft, or vessel, or in transportation by pipeline,

"(iii) use on a farm for farming purposes (within the meaning of section 6420(c)),

"(iv) use in—

"(I) a shopping center,

"(II) an office building,

"(III) a wholesale or retail establishment,

"(IV) any other facility which is not an integral part of manufacturing, processing, or mining, or

"(V) any facility for the production of electric power having a heat rate of less than 9,500 Btu's per kilowatt hour and which is capable of converting to synthetic fuels (as certified by the Secretary),

"(v) use in the exploration for, or the development, extraction, transmission, or storage of, crude oil, natural gas, or natural gas liquids, and

"(vi) use in Hawaii.

Except as provided in clauses (iv) (V) and (vi) of the preceding sentence, the term 'exempt use' does not include use of a boiler which is public utility property (within the meaning of section 46(f)(51))."

(3) DENIAL OF RAPID DEPRECIATION FOR BOILERS FUELED BY OIL OR GAS.—Section 167 (relating to depreciation) is amended by redesignating subsection (p) as subsection (r) and by inserting after subsection (o) the following new subsection:

"(p) STRAIGHT LINE METHOD FOR BOILERS FUELED BY OIL OR GAS.—In the case of any boiler which, by reason of section 48(a)(10), is not section 38 property—

"(1) subsections (b), (j), and (l) shall not apply, and

"(2) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method using a useful life equal to the class life prescribed by the Secretary under subsection (m) which is applicable to such property (determined without regard to the last sentence of subsection (m)(1))."

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to property which is placed in service after September 30, 1978.

(B) BINDING CONTRACTS.—The amendments made by this subsection shall not apply to property which is constructed, reconstructed, erected, or acquired pursuant to a contract

which, on October 1, 1978, and at all times thereafter, was binding on the taxpayer.

(e) DEPRECIATION ALLOWANCE IN CASE OF RETIREMENT OR REPLACEMENT OF CERTAIN OIL AND GAS BOILERS, ETC.—

(1) IN GENERAL.—Section 167 is amended by inserting after subsection (p) the following new subsection:

"(q) RETIREMENT OR REPLACEMENT OF CERTAIN BOILERS, ETC., FUELED BY OIL OR GAS.—

"(1) IN GENERAL.—If—

"(A) a boiler or other combustor was in use on October 1, 1978, and as of such date the principal fuel for such combustor was petroleum or petroleum products (including natural gas), and

"(B) the taxpayer establishes to the satisfaction of the Secretary that such combustor will be retired or replaced on or before the date specified by the taxpayer,

then for the period beginning with the taxable year in which subparagraph (B) is satisfied, the term 'reasonable allowance' as used in subsection (a) includes an allowance under the straight line method using a useful life equal to the period ending with the date established under subparagraph (B).

"(2) INTEREST.—If the retirement or replacement of any combustor does not occur on or before the date referred to in paragraph (1)(B)—

"(A) this subsection shall cease to apply with respect to such combustor as of such date, and

"(B) interest at the rate determined under section 6621 on the amount of the tax benefit arising from the application of this subsection with respect to such combustor shall be due and payable for the period during which such tax benefit was available to the taxpayer and ending on the date referred to in paragraph (1)(B)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978".

SEC. 402. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS.

(a) IN GENERAL.—Subsection (c) of section 263 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended—

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit (as defined in section 613(e)(3)) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL WELLS.—".

(b) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL WELLS.—

(1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3))."

(c) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL WELLS.—

(1) Paragraphs (1) and (2) of section 1254(a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, or geothermal property".

(2) *Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:*

"(3) OIL, GAS, OR GEOTHERMAL PROPERTY.—*The term 'oil, gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.*"

(3) *The section heading of section 1254 is amended by striking out* "OIL OR GAS" *and inserting in lieu thereof* "OIL, GAS, OR GEOTHERMAL".

(4) *The table of sections for part IV of subchapter P of chapter 1 is amended by striking out* "oil or gas" *in the item relating to section 1254 and inserting in lieu thereof* "oil, gas, or geothermal".

(5) *Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out* "oil and gas property" *and inserting in lieu thereof* "oil, gas, or geothermal property".

(d) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS.—

(1) *Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out* "or" *at the end of subparagraph (C), by adding* ", or" *at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:*

"(E) *exploring for, or exploiting, geothermal deposits (as defined in section 613(e)(3))*".

(2) *Paragraph (2) of section 465(c) is amended by striking out* "or" *at the end of subparagraph (C), by adding* "or" *at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:*

"(E) *geothermal property (as determined under section 614),*".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—*The amendments made by this section shall apply with respect to wells commenced on or after October 1, 1978, in taxable years ending on or after such date.*

(2) ELECTION.—*The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.*

SEC. 403. DEPLETION FOR GEOTHERMAL DEPOSITS AND NATURAL GAS FROM GEOPRESSURED BRINE.

(a) GEOTHERMAL DEPOSITS.—

(1) IN GENERAL.—*Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:*

"(e) PERCENTAGE DEPLETION FOR GEOTHERMAL DEPOSITS.—

"(1) IN GENERAL.—In the case of geothermal deposits located in the United States or in a possession of the United States, for purposes of subsection (a)—

"(A) such deposits shall be treated as listed in subsection (b), and

"(B) the applicable percentage (determined under the table contained in paragraph (2)) shall be deemed to be the percentage specified in subsection (b).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"In the case of taxable years beginning in calendar year—	The applicable percentage is—
1978, 1979, or 1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

"(3) GEOTHERMAL DEPOSIT DEFINED.—For purposes of paragraph (1), the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of this section or section 613A, and this section shall not apply to a geothermal deposit which is located outside the United States or its possessions."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geothermal deposit" after "oil or gas well".

(B) Paragraph (1) of section 613A(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

(C) Subsection (b) of section 614 (relating to special rules as to operating mineral interest in oil and gas wells) is amended—

(i) by inserting "OR GEOTHERMAL DEPOSITS" after "GAS WELLS" in the subsection heading, and

(ii) by inserting "or geothermal deposits" after "gas wells" in so much of the text as precedes paragraph (1) thereof.

(D) Subsection (c) of section 614 is amended by striking out "oil and gas wells" each place it appears and inserting in lieu thereof "oil and gas wells and geothermal deposits".

(b) NATURAL GAS FROM GEOPRESSURED BRINE.—

(1) IN GENERAL.—Subsection (b) of section 613A (relating to exemption for certain domestic gas wells) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) NATURAL GAS FROM GEOPRESSURED BRINE.—The allowance for depletion under section 611 shall be computed in accordance

with section 613 with respect to any qualified natural gas from geopressured brine, and 10 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of such section."

(2) QUALIFIED NATURAL GAS FROM GEOPRESSURED BRINE.—Paragraph (3) of section 613A(b) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

"(C) QUALIFIED NATURAL GAS FROM GEOPRESSURED BRINE.—The term 'qualified natural gas from geopressured brine' means any natural gas—

"(i) which is determined in accordance with section 503 of the Natural Gas Policy Act of 1978 to be produced from geopressured brine, and

"(ii) which is produced from any well the drilling of which began after September 30, 1978, and before January 1, 1984."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1978, and shall apply to taxable years ending on or after such date.

(d) COORDINATION WITH OTHER PROVISIONS.—Any allowance for depletion allowed by reason of the amendments made by subsection (b) shall not be treated as a credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax which is specifically allowable with respect to any high-cost natural gas (or category thereof) for purposes of section 107(d) of the Natural Gas Policy Act of 1978.

SEC. 404. REREFINED LUBRICATING OIL.

(a) IN GENERAL.—Section 4093 (relating to exemption of sales to producers) is amended to read as follows:

"SEC. 4093. EXEMPTIONS.

"(a) SALES TO MANUFACTURERS OR PRODUCERS FOR RESALE.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him.

"(b) USE IN PRODUCING REREFINED OIL.—

"(1) SALES TO REREFINERS.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil sold for use in mixing with used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under this paragraph shall be treated as the producer of such lubricating oil.

"(2) USE IN PRODUCING REREFINED OIL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil used in producing rerefined oil to the extent that the amount of such lubricating oil does not exceed 55 percent of such rerefined oil.

"(3) REREFINED OIL DEFINED.—For purposes of this subsection, the term 'rerefined oil' means oil 25 percent or more of which is used or waste lubricating oil which has been cleaned, renovated, or rerefined."

(b) CONFORMING AMENDMENT.—Section 4092(a) is amended by striking out "4093" and inserting in lieu thereof "4093(a)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32 is amended by striking out the item relating to section 4093 and inserting in lieu thereof the following:

"Sec. 4093. Exemptions."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABRAHAM RIBICOFF,
MIKE GRAVEL,
LLOYD BENTSEN,
WILLIAM D. HATHAWAY,
SPARK M. MATSUNAGA,
DANIEL MOYNIHAN,
CARL T. CURTIS,
ROBERT DOLE,
BOB PACKWOOD,
PAUL LAXALT,
Managers on the part of the Senate.

AL ULLMAN,
THOMAS L. ASHLEY,
HARLEY O. STAGGERS,
DICK BOLLING,
THOMAS S. FOLEY,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
JOE D. WAGGONNER,
CHARLES B. RANGEL,
JOHN D. DINGELL,
PAUL G. ROGERS,
BOB ECKHARDT,
PHIL SHARP,
TOBY MOFFETT,
CHARLES WILSON,
HENRY S. REUSS,
WILLIAM A. STEIGER,
JOHN ANDERSON,
GARRY BROWN,
Managers on the part of the House.

TABLE OF CONTENTS FOR STATEMENT OF MANAGERS

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a technical nature) agreed upon by the managers and recommended in the accompanying conference report.

General Explanation

House bill

The House bill suspends the duty on certain bicycle parts until June 30, 1980.

Senate amendment

The Senate amendment strikes out all of the House bill after the enacting clause and inserts two titles. Title I contains certain tax and other provisions related to energy and is in reality the Senate position on the matters decided in this conference. In order to bring the House energy tax provisions into conference, the Senate added a title II which is the text of title II of H.R. 8444 (the National Energy Act) as passed by the House.

Conference agreement

The conference agreement does not include any provision relating to the duty on bicycle parts. In order to explain the action agreed upon by the conference, in the remainder of this statement, title I of the Senate amendment will be referred to as the "Senate amendment" and title II of the Senate amendment (embodying the text of title II of H.R. 8444 as passed by the House) will be referred to as the "House bill."

A. RESIDENTIAL ENERGY CREDITS

1. Residential Insulation and Other Energy-Conserving Component Credit

House bill

Under present law, no special tax credit or deduction is allowed for the installation of insulation or other energy-conserving components in or on a taxpayer's residence.

The House bill provides a nonrefundable income tax credit for insulation and other energy-conserving component expenditures for installations in or on the principal residence of the taxpayer. The credit is 20 percent of the first $2,000 of qualifying expenditures, for a maximum credit of $400. The credit would be applied against the taxpayer's liability, and no carryover is provided to the extent the credit exceeds the amount of tax liability.

The credit would be available only with respect to principal residences the construction of which was substantially completed before April 20, 1977. Owners and renters would be eligible for the credit; moreover, an individual who owns stock in a cooperative housing association or who is a member of a condominium management association would be eligible for the credit.

The credit would apply to qualifying insulation and other energy-conserving components. Insulation is defined as any item specifically and primarily designed to reduce, when installed in or on a dwelling or water heater, the heat loss or gain of the dwelling or water heater.

The term "other energy-conserving component" means any item (other than insulation) which is:

(1) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(2) a device for modifying flue openings designed to increase the efficiency of operation of the heating system;

(3) an electrical or mechanical furnace ignition system which replaces a gas pilot light;

(4) a storm or thermal window or door for the exterior of the dwelling;

(5) a clock thermostat;

(6) caulking or weatherstripping of an exterior door or window; or

(7) an item of a kind which the Secretary of the Treasury specifies by regulations as increasing the energy efficiency of the dwelling.

The House bill applies to taxable years ending on or after April 20, 1977, for expenditures made on or after that date and before January 1, 1985.

Senate amendment

The Senate amendment is generally the same as the House bill except in the following material respects: (1) the credit would be refundable; (2) the termination date of the credit would be one year

later than the House bill (December 31, 1985); (3) individuals whose residences are the subjects of weatherization grants under the nontax energy provisions would not be entitled to the credit, (4) the amount of any loan made under the nontax energy provisions would be reduced by the amount of the credit allowed; and (5) additional energy-conserving components qualifying for the credit would include replacement furnaces, automatic energy-saving thermostats (as well as the clock thermostats included in the House bill), heat pumps, energy usage display meters, replacement fluorescent light systems, evaporative cooling devices, hydrogen-fueled residential equipment, and wood or peat-fueled residential equipment.

Conference agreement

The conference agreement follows the House bill with the following changes. First, the credit is to be 15 percent of the first $2,000 of qualifying expenditures, for a maximum credit of $300. Second, the credit is to be available for expenditures made on or after April 20, 1977, and before January 1, 1986. Third, a credit carryover is provided to the extent that the credit exceeds the taxpayer's tax liability; the carryover is to extend for two years beyond the termination date of the credit, i.e., through taxable years ending before January 1, 1988. Fourth, a credit relating to qualifying expenditures made during 1977 is to be claimed (along with any credit relating to 1978 qualifying expenditures) only on the taxpayer's 1978 tax return and, subject to the carryover provision, only against the taxpayer's 1978 tax liability. Fifth, the credit would be available for automatic energy-saving thermostats (as well as clock thermostats) and energy usage display meters. Sixth, the credit is applicable to replacement burners on either oil-fired furnaces or boilers.

2. Residential Renewable Energy Source Equipment Credit

House bill

Under present law, no special tax credit or deduction is allowed for solar, wind, or geothermal energy equipment installed in connection with a residence.

The House bill provides a nonrefundable income tax credit for qualifying solar and wind energy equipment expenditures for installations in connection with the principal residence of the taxpayer. The credit would be 30 percent of the first $1,500 of qualifying expenditures and 20 percent of the next $8,500 of qualifying expenditures, for a maximum credit of $2,150. The credit would be applied against the taxpayer's tax liability, and no carryover would be provided to the extent it exceeds the amount of tax liability.

The credit would be available with respect to existing, newly constructed and reconstructed principal residences. Owners and renters would be eligible for the credit; moreover, an individual who owns stock in a cooperative housing association or who is a member of a condominium management association would be eligible for the credit.

The House bill applies to taxable years ending on or after April 20, 1977, for expenditures made on or after that date and before January 1, 1985.

Senate amendment

The Senate amendment is generally the same as the House bill except in the following material respects: (1) the credit would be refundable; (2) the credit would be 30 percent of the first $2,000 and 20 percent for the next $8,000 of qualifying expenditures, for a maximum credit of $2,200; (3) the termination date of the credit would be one year later than the House bill (December 31, 1985); (4) the amount of any loan made under the nontax energy provisions would be reduced by the amount of the credit allowed; (5) the credit would apply to "passive" as well as "active" solar systems;[1] (6) the credit would apply to leased (as well as purchased) solar energy equipment; (7) the credif would apply to equipment using solar energy in the production ot electricity; (8) the credit wou d apply to equipment using wind energy for transportation (as well as residential) purposes; (9) the credit would apply to equipment using geothermal energy; (10) the Secretary of Treasury, under regulations, may add to the list of qualifying property equipment items which rely on "renewable energy resources;" and (11) in determining whether an item is eligible for the credit, onsite inspections which are not already authorized in the assessment and collection of income taxes would be prohibited unless the resident claiming the credit consents to the inspection.

Conference agreement

The conference agreement follows the Senate amendment, deleting, however, items (1), (4), (6), (7), (8) and (11) listed above under the Senate amendment section. In addition, certain other changes are made. First, the credit is to be nonrefundable, and, instead, a credit carryover is provided to the extent that the credit exceeds the taxpayer's tax liability; the carryover is to extend for two years beyond the termination date of the credit, i.e., through taxable years ending before January 1, 1988. Second, a credit relating to qualifying expenditures made during 1977 is to be claimed (along with any credit relating to 1978 qualifying expenditures) only on the taxpayer's 1978 tax return and, subject to the carryover provision, only against the taxpayer's 1978 tax liability.

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[1] An "active solar system" is based on the use of mechanically forced energy transfer, such as the use of fans to circulate solar generated energy. "Passive solar systems" are based on the use of conductive, convective, or radiant energy transfer, such as the use of portions of a residential structure which serve as solar furnaces so as to add heat to the residence. However, expenditures for labor, materials and components which will serve a significant structural function in the dwelling (e.g., extra-thick walls) would not be eligible for the credit.

B. TRANSPORTATION TAX PROVISIONS

3. Gas Guzzler Tax and Use of Proceeds

House bill

A gas guzzler tax would be imposed on a manufacturer on the sale or initial lease of automobiles whose fuel economy fails to meet certain fuel efficiency standards. The fuel efficiency standards below which an automobile will be taxed would generally start from 3 to 5.5 miles (depending on the year involved) below the fleetwide average standards of the Energy Production and Conservation Act ("EPCA").

The tax would apply to 1979 and later model year automobiles weighing 6,000 pounds or less. The tax would not apply to trucks with a cargo capacity of 1,000 pounds or more or to vehicles which are equipped with 4-wheel drive and other significant features designed to equip them for off-highway operation.

Tax rates range from $339 to $553 in 1979, $245 to $1,216 in 1981, $345 to $2,134 in 1983, $371 to $2,638 in 1984, and $397 to $3,856 in 1985 and later years.

The exemption from the manufacturers excise taxes generally provided for State and local governments and nonprofit educational institutions would not be available in the case of the gas guzzler tax. Also, the Secretary of the Treasury would not have the authority to waive the gas guzzler tax in the case of sales or leases to the United States.

Purchasers of vehicles subject to the tax would have to reduce the basis of the vehicles by the amount of the tax.

Proceeds of the gas guzzler tax would be placed in a trust fund to be used for the purpose of reducing the national debt.

Senate amendment

No provision.

Conference agreement

The conference agreement generally follows the House bill with several modifications.

First, under the conference agreement, no tax is imposed on 1979 model year automobiles. Second, the mileage standards, and generally the tax rates, applicable to each model year from 1979 through 1985 are deferred one year under the conference agreement. Thus, the mileage standards which the House bill would apply to model year 1979 are applied to model year 1980; the standards that the House bill would apply to model year 1980 are applied to model year 1981, etc. Beginning with model year 1983, the fuel efficiency standards below which a passenger automobile will be subject to tax are reduced one mile per gallon. Under the conference agreement, the fuel efficiency standards below which a passenger automobile will be subject to tax will generally start from 4 to 6.5 miles per gallon (depending on the year involved) below the fleetwide average standards of EPCA.

The rates of tax are rounded to the nearest $50, and the lowest two rates of tax for the 1980 model year and the lowest rate of tax for the 1981 and 1982 model years are reduced. Thus, the tax rates for model year 1980 passenger automobiles would range from $200 (for a passenger automobile with a mileage rating of at least 14, but less than 15, miles per gallon) to $550 (for a passenger automobile with a mileage rating of less than 13 miles per gallon). For the 1986 model year and later model years, the tax rates would range from $500 (for a passenger automobile with a mileage rating of at least 22.5, but less than 23.5, miles per gallon) to $3,850 (for a passenger automobile with a mileage rating of less than 12.5 miles per gallon).

The conference agreement also narrows the group of vehicles which are subject to the tax. As under the House bill, the automobiles to which this tax applies generally include any 4-wheeled vehicle propelled by fuel (1) which is manufactured primarily for use on public streets, roads and highways (except any vehicle operated exclusively on a rail or rails), and (2) which is rated at no more than 6,000 pounds gross vehicle weight.

However, the conference agreement excludes from the application of the tax any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on the date of the enactment of this provision.[1] Thus, even if these rules are later changed, a vehicle which is described as a nonpassenger automobile under the rules currently in effect would not be subject to the gas guzzler tax. Also, as in the House bill, vehicles which are equipped with 4-wheel drive and other significant features designed to equip them for off-highway operation would not be subject to the gas guzzler tax.

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[1] These rules provide as follows:

§ 523.5 Nonpassenger automobile.

(a) A nonpassenger automobile is an automobile either designed for off-highway operation, as described in paragraph (b) of this section, or designed to perform at least one of the following functions:

(1) Transport more than 10 persons;
(2) Provide temporary living quarters;
(3) Transport property on an open bed;
(4) Provide greater cargo-carrying than passenger-carrying volume; or
(5) Permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

(b) An automobile capable of off-highway operation is an automobile—

(1) (i) That has 4-wheel drive; or
(ii) Is rated at more than 6,000 pounds gross vehicle weight; and

(2) That has at least four of the following characteristics (see Figure 1) calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—

(i) Approach angle of not less than 28 degrees.
(ii) Breakover angle of not less than 14 degrees.
(iii) Departure angle of not less than 20 degrees.
(iv) Running clearance of not less than 8 inches.
(v) Front and rear axle clearances of not less than 7 inches each.

(49 C.F.R. § 523.5.)

Another modification exempts emergency vehicles from the gas guzzler tax. This exemption covers any vehicles sold for use and used (1) as an ambulance or combination ambulance-hearse, (2) by the United States or by a State or local government for police or other law enforcement purposes, or (3) for other emergency uses prescribed by the Treasury Department by regulations. The first category of this exception, which applies to ambulances and combination ambulance-hearses regardless of ownership, does not include vehicles used solely as hearses (since they do not require acceleration for emergency use). The second category exempts vehicles used by the United States or by a State or local government for police or other law enforcement purposes. It does not include vehicles used by private law enforcement organizations. The third category, which exempts vehicles used for other emergency uses prescribed by Treasury Department regulations, is intended to give the Treasury Department the discretion to add vehicles used for emergency purposes. This could include, for example, vehicles used by the chief of a fire department if substantially all of the use of the vehicle is for fire department purposes. In promulgating regulations under this provision, the Treasury Department is intended to have the discretion to make distinctions based on ownership of the vehicle and the amount of use for emergency purposes, as well as on the nature of the purposes.

Another modification of the House bill provides special rules for small manufacturers. These rules, which are generally patterned on the special rules for small manufacturers in EPCA, provide that a small manufacturer (that is, a manufacturer of less than 10,000 automobiles per year) may apply to the Secretary of the Treasury for special treatment with respect to all of the automobiles manufactured by the manufacturer during a model year (or with respect to a model type). The term "manufacturer" for this purpose does not include an importer; however, a manufacturer who manufactures some or all vehicles abroad is eligible to apply for this treatment.

If the Secretary determines that it is not feasible for the manufacturer to meet the tax-free fuel economy level for the model year with respect to all of its automobiles, or a particular model type, the Secretary can provide by regulation an alternate rate schedule for such model year automobiles or model type. The alternate rate schedule, which is to be determined by the Secretary only after consultation with the Secretary of Energy, the Secretary of Transportation, and other appropriate Federal officers, is to be based on the maximum fuel economy level which the manufacturer can meet for the model year for all the manufacturers automobiles or a particular model type, as the case may be. In determining an alternate rate schedule, the Secretary may vary the rates of tax, the mileage standards, or both.

The conference agreement omits the House bill provision which would require placement of the gas guzzler tax proceeds in a trust fund to be used for the purpose of reducing the national debt.

4. Repeal of Personal Deduction for State and Local Taxes on Gasoline

House bill

The House bill repeals the deduction for State and local taxes imposed with respect to gasoline, diesel fuel, and other motor fuels which

are purchased by a taxpayer for nonbusiness use after December 31, 1977.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include this provision.

5. Extension of Current Rate of Federal Taxes on Gasoline and Other Motor Fuels

House bill

Under present law, a retailers excise tax of 4 cents a gallon is imposed on diesel and other special motor fuels sold for use (or used) in a highway vehicle. Also, a manufacturers excise tax of 4 cents a gallon is imposed on gasoline sold by the producer or importer. These taxes are scheduled to be reduced to 1½ cents a gallon on October 1, 1979 (as the Highway Trust Fund—to which the revenues now go—is scheduled to expire as of September 30, 1979).

The bill extends the current 4-cents-a-gallon excise taxes on gasoline, diesel fuel, and other motor fuel (which are scheduled to drop to 1½ cents per gallon on October 1, 1979) for 6 years—that is until September 30, 1985.

Senate amendment

The Senate amendment contains a provision which is the same as this provision in the House bill.

Conference agreement

The conference agreement does not include these provisions of both the House bill and the Senate amendment because the excise taxes on gasoline and other motor fuels would be extended by other legislation (H.R. 11733) which has been approved by both the House and the Senate. This other legislation also deals with extension of the Highway Trust Fund and of the current rates of other highway-related excise taxes.

6. Exemption From Motor Fuels Excise Taxes for Certain Alcohol Fuels

House bill

No provision.

Senate amendment

Gasohol (i.e., fuel which is a blend of gasoline, or other motor fuel, and alcohol) that is at least 10 percent alcohol (including ethanol, methanol or other alcohol) made from agricultural or forestry products would be exempted from the Federal excise taxes on motor fuels on or after January 1, 1978, and before October 1, 1985.

Gasohol that is at least 10 percent alcohol made from other products (such as urban wastes), but not from petroleum, natural gas, or coal, is also exempted from the Federal excise taxes on fuels for this period. The Secretary of Energy is directed to make annual reports to Congress from 1979 through 1985 on the use of alcohol in fuels.

Also, the Secretary is directed to expedite the applications for permits to distill ethanol for use in the production of gasohol and to report

to the Senate Finance Committee and the House Ways and Means Committee on a simplified manner of regulating the distilling operations of gasohol producers who distill ethanol.

Conference agreement

The conference agreement generally follows the Senate bill; however, under the conference agreement, the exemption would apply only to sales of fuel after December 31, 1978, and before October 1, 1984,[1] and the Secretary of Energy is directed to make annual reports on the use of alcohol in fuels only from 1980 through 1984.

7. Exemption From Agricultural Set Aside Requirements for Acreage Used for Commodities for Production of Alcohol Fuels

House bill

No provision.

Senate amendment

The amendment authorizes the Secretary of Agriculture to use any set-aside acreage (that is, acreage that would otherwise be withheld from production) for the production of any agricultural or forestry product that is to be used or sold for primary use in the manufacture of alcohol fuels.

Conference agreement

The conference agreement does not include this provision of the Senate amendment. However, it is the intent of the conferees that, in determining the need for acreage set-aside programs for particular commodities and the extent of the acreage set-aside programs (under sections 105A and 107A of the Agricultural Act of 1949, as added by sections 402 and 502 of the Food and Agriculture Act of 1977), the Secretary of Agriculture take into account the demand for these commodities by producers of alcohol fuels (including fuels which consist of gasoline-alcohol blends) and other fuels.

Reducing the amount of acreage set aside for purposes of the set-aside program by the amount of acreage needed to provide commodities for use in alcohol fuels and other fuels will have the same general effect as allowing set-aside acreage to be used to provide raw materials for alcohol fuels—it will allow the use of "surplus" agricultural land to produce fuel crops. In addition, this approach will alleviate the need to trace production from set-aside acreage to use in alcohol fuels.

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[1] The conference agreement follows the Senate bill in providing that, if a mixture of gasoline and alcohol has been sold tax-free by the producer under the provisions added by this section and if a person later separates the gasoline from the mixture of gasoline and alcohol, such person shall be treated as the producer of the gasoline. Generally, such treatment means that a tax would be imposed on the sale or use by the producer of such separated gasoline. Similarly, if a mixture of special motor fuel and alcohol has bene sold tax-free (under new sec. 4041(k) and a person later separates the special motor fuel from the mixture of special motor fuel and alcohol, the separation will be treated as a sale of the special motor fuel which will be subject to the normal rules relating to the imposition of tax on such motor fuels (sec. 4041(b)). These provisions will apply to any separation of the gasoline (or special motor fuel from the mixture of gasoline (or other motor fuel) and alcohol regardless of the manner in which the separation is accomplished.

Since the conferees understand that the Secretary of Agriculture is required to take into account all sources of demand for agricultural commodities in determining the need for, and the extent of, set-aside programs for agricultural commodities, no statutory changes appear necessary to achieve the result intended by the conferees.

8. Removal of Refund or Credit for Excise Taxes on Motor Fuels and Lubricating Oil for Nonbusiness, Offhighway Uses

House bill

As of October 1, 1977, the current law 2-cent reduction (or credit or refund) of the Federal excise taxes on gasoline or special motor fuels used for nonhighway purposes would not be available if the gasoline or special motor fuel is used in a motorboat.

Senate amendment

As of January 1, 1978, the Senate amendment repeals the 2-cents-a-gallon reduction (through refund, credit, or exemption) of the excise taxes on gasoline and special motor fuels, and the refund (or credit) of the 6-cents-a-gallon tax on lubricating oil, with respect to gasoline, special fuels, and lubricating oil used (1) for nonbusiness, off-highway purposes (such as lawnmowers, snowmobiles, etc.) and (2) in motorboats (whether or not such use is business use).

However, the 2-cents-a-gallon reduction in the tax on gasoline is to continue to apply to gasoline used in a commercial fishing vessel for business use.

Conference agreement

The conference agreement generally follows the Senate amendment, but the provisions apply only to fuels used after December 31, 1978.

However, the provision relating to the availability of the 2-cents-a-gallon refund of the gasoline tax for commercial fishing vessels is replaced by appropriate cross references to other provisions of present law which make it clear that articles sold as supplies for vessels employed in the fisheries or whaling business are not subject to the excise taxes on fuels or lubricating oil (sec. 4041(g)(1) and sec. 4221 (a)(3) and (d)(3)). Where the sale of these items is made other than by the manufacturer, producer, or importer, the Code provides for a refund (or credit) of the tax when the item is sold for use or used as supplies for such vessels (sec. 6416(a) and (b)(2)(B)). The Internal Revenue Service has ruled that fishing vessels are employed in the fisheries or whaling business when used (1) exclusively for the purpose of catching shrimp and other types of aquatic life for sale commercially as bait or (2) on specific trips exclusively for catching fish all of which are to be sold commercially (Rev. Rul. 65–134, 1965–1 C.B. 492). These cross references make it clear that no change is intended with respect to these exemptions for commercial fishing vessels.

9. Repeal of Excise Tax on Buses

House bill

The House bill would repeal the 10-percent manufacturers excise tax imposed on the sale of buses having a gross vehicle weight of more than 10,000 pounds effective for sales on or after April 20, 1977.

Senate amendment

The Senate amendment contains a provision which is identical to this provision in the House bill.

Conference agreement

The conference agreement follows this provision of the House bill and the Senate amendment.

10. Repeal of Excise Tax on Bus Parts

House bill

The House bill would repeal the 8-percent manufacturers excise tax on bus parts and accessories for sales on or after the first day of the first calendar month beginning more than 10 days after the date of enactment.

Senate amendment

The Senate amendment contains a provision which is the same as this provision in the House bill.

Conference agreement

The conference agreement follows this provision of the House bill and the Senate amendment.

11. Removal of Excise Tax on Certain Items Used on or in Connection With Intercity, Local, or School Buses

House bill

Presently, privately owned and operated buses are subject to the manufacturers excise taxes on tires, tubes, tread rubber, gasoline, and lubricating oil, as well as the retailers excise taxes on diesel fuel and other special motor fuels. Complete exemption is provided from these excise taxes for State and local governments and for tax-exempt educational organizations. A partial exemption (2-cents-a-gallon refund or credit) is available from the tax on gasoline and other motor fuels for use by a privately owned local transit system for the portion of its total fare revenue represented by "commuter fare revenue."

The House bill removes the excise taxes on highway tires, inner tubes, tread rubber, gasoline, other motor fuels, and lubricating oil for private intercity, local and school bus operations, effective on the first day of the first calendar month which begins more than 10 days after the date of enactment.

Senate amendment

The Senate amendment contains provisions which are the same as the provisions of the House bill.

Conference agreement

The conference agreement follows the provisions of the House bill and the Senate amendment.

12. Tax Credit for Certain Commuter Vehicles

House bill

No provision.

Senate amendment

Under the Senate amendment, if an employer purchases a new van with a useful life of at least 3 years, seating nine or more persons (including the driver), and substantially all the use of the van is for transporting employees to and from work, the employer is entitled to the full 10-percent investment credit and the additional 10-percent business energy investment credit. These credits are available for vehicles purchased after April 19, 1977 and before January 1, 1986 and placed in service by the taxpayer before January 1, 1986.

Conference agreement

The conference agreement generally follows the Senate bill in allowing the full 10-percent investment tax credit for certain vehicles used in van pooling, but it does not allow the additional 10-percent business energy credit for any of these vehicles. The full credit would apply only to vehicles acquired by the taxpayer after the date of enactment and placed in service prior to January 1, 1986.

Several changes are made in the definition of eligible vehicles. The eligible vehicles are redesignated as "commuter highway vehicles," the passenger seating capacity of which is at least 8 adults (not including the driver) and at least 80 percent of the mileage use of which is for vanpooling. Generally, use for vanpooling means use for the purpose of transporting the taxpayer's employees between their residences and their places of employment on trips during which the number of employees transported for this purpose is at least one-half of the adult seating capacity of the vehicle (not including the driver). The mileage use which qualifies as vanpooling use includes not only mileage travelled on trips which transport the required number of employees, but also use which is incident to such trips (such as "deadheading").

This revised definition is intended (*inter alia*) to make it clear that a bus, as well as a van, may qualify for the full investment credit under this provision.

In determining whether employees are transported from their homes to their places of employment, it is not necessary that the employees be picked up at, and transported to, their homes. It is sufficient to meet this requirement if the employees are transported to and from some central pickup point (or points) or intermediate location between the employees' residences and places of employment.

Under the normal investment credit rules, as applied to this provision, the credit will be recaptured if the commuter highway vehicle is disposed of within 3 years after it is placed in service. The conference agreement adds a recapture rule which provides, in effect, that recapture will occur if the full investment credit is claimed under this provision with respect to a vehicle, and within the first 36 months of the operation of the vehicle, the vehicle ceases to be a commuter highway vehicle. In applying the 80 percent of mileage use test to determine whether a vehicle ceases to be a commuter highway vehicle, the test shall be applied on the basis of the entire portion of the 36 month period which falls within the taxable year. If recapture results from a change in use from vanpooling to other business use, the amount of credit which will be recaptured will be two-thirds of the investment credit claimed (assuming the vehicle has a useful life of 3 or 4 years).

If recapture results from a change from a vanpooling use to a personal use, the entire amount of the investment credit will be recaptured.

13. Exclusion From Income of Certain Employer-Furnished Transportation

House bill

No provision.

Senate amendment

In the case of a taxpayer who is an employee, gross income would not include the value in excess of the employee's cost of transportation to or from work furnished by an employer if such transportation is in a communter van.

This provision applies to transportation furnished after January 1, 1977, and before January 1, 1986. (No inference is intended concerning the taxability of transportation furnished during other periods.)

Conference agreement

The conference agreement generally follows the Senate amendment. However, certain changes are made concerning the transportation to which this provision applies.

In general, to qualify (1) the transportation must be furnished under a plan established in writing by the employer which meets the anti-discrimination requirements generally applicable to tax-exempt pension plans (sec. 401(a)(4)), and (2) the transportation must be by a commuter highway vehicle (which could qualify for the special investment credit if an election were made and the vehicle were acquired during the period for which the full investment tax credit is available).

Furthermore, the exclusion does not apply unless the plan under which the transportation is furnished provides that the value of any transportation is furnished in addition to, and not in lieu of, any compensation otherwise payable to the employee and provides such means of verification as the Secretary of the Treasury prescribes by regulation. Also, the provision does not apply to self-employed individuals (such as partner or proprietors) or former employees even though such individuals or former employees are treated as employees for certain other purposes under section 401(c)(1).

The plan under which transportation must be furnished must be reduced to writing prior to the furnishing of transportation under the plan, except that transportation under the plan will be considered qualified for the exclusion if it is reduced to writing no later than July 1, 1979. Thus, the plan will relate back to transportation furnished for the first half of 1979 if the plan is reduced to writing on or before July 1, 1979. There is no requirement that the plan be submitted to the Internal Revenue Service for prior or subsequent approval.

For years beginning prior to the issuance of final regulations, the employer will have been considered to have met the requirement that the plan provides means of verification as the Secretary prescribes by regulation if the plan provides for means of verification which are reasonable under the circumstances.

The managers wish to make it clear that no inference is intended as to whether gross income includes the value of transportation to and from

work in other situations, such as where the transportation is furnished by a car or limousine. Also, no inference is intended as to the inclusion in income of other types of "fringe benefits."

14. Tax Credit for Electric or Hydrogen Motor Vehicles

House bill

A nonrefundable tax credit (i.e., the credit cannot exceed the taxpayer's tax liability) would be provided for the first $300 of the purchase price of a new 4-wheeled electric motor vehicle (manufactured primarily for use on public roads) purchased by an individual for personal use on or after April 20, 1977, and before January 1, 1983. This credit applies only to new vehicles, not to used vehicles or vehicles converted to electricity.

Senate amendment

Under the Senate amendment, the credit is generally the same as the House bill except that it applies to vehicles purchased on or after April 20, 1977, and before January 1, 1986. However, the credit applies to electric motor vehicles even if they do not have 4 wheels (although they must be manufactured primarily for use on the public roads).

In addition, under the Senate amendment, this credit applies to new motor vehicles powered by hydrogen fuel systems and to the cost of converting gasoline powered vehicles to the use of hydrogen.

Conference agreement

The conference agreement does note the provisions of the House bill and the Senate amendment.

15. Alcohol Fuels Research and Demonstration Project

House bill

No provision.

Senate amendment

The Secretary of Energy is required to select a Federal agency to operate 1 000 of its passenger vehicles on alcohol fuel as a test or demonstration project; 900 of the passenger vehicles would be run on alcohol blended with gasoline, and 100 would operate on straight alcohol. This project is to be operated for a period of up to 3 years, and reports (including economic, technological, and environmental information) are to be made by the Secretary of Energy to Congress for each fiscal year through the fiscal year ending September 30, 1981.

For the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, there are authorized to be appropriated sums not to exceed $3 million in the aggregate for the 3 years as may be needed to carry out this project.

Conference agreement

The conference agreement does not include this provision.

C. CRUDE OIL EQUALIZATION TAX AND REBATES; ENERGY TRUST FUND

16. Crude Oil Equalization Tax

House bill

An excise tax would be imposed on the first purchase (generally by the refiner) of price controlled, domestically produced crude oil. The tax would increase the cost of all crude oil to the world price by 1980. The termination date of the tax would be September 30, 1981.

The tax would be imposed in three stages. In 1978, a tax would be imposed on lower tier oil (old oil under current regulations) equal to one-half of the gap between the ceiling prices of lower tier and upper tier oil for each classification of crude oil. In 1979, the tax would be raised to equal the entire gap. In 1980 and for the duration of the tax, the tax would equal the difference between the wellhead prices of uncontrolled and controlled crude oil of the same classification. As a result, the price of controlled oil plus the tax would be raised to the world price of oil in 1980.

Exemptions from the tax are provided for crude oil used as feedstock to produce natural gas liquids and for crude oil and its products used to extract natural gas or crude oil. Presidential authority is granted to suspend increases in the tax subject to veto by either House.

The crude oil tax is applicable to first purchases of crude oil after December 31, 1977, and before October 1, 1981.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include this provision.

17. Natural Gas Liquids Equalization Tax

House bill

The tax would be imposed in three stages based upon the difference (the price gap) between the controlled price of the liquid and the wholesale price for No. 2 distillate fuel oil in the region, adjusted for differences in Btu content. The tax would equal one-third of the price gap in 1978, two-thirds of the gap in 1979, and equal to the entire gap in 1980 and later years.

The tax would be imposed on the use or sale for use, and the retailer (or user) would be liable for payment of the tax. Exemptions from the tax would be provided for natural gas liquids used in a residence, hospital, church, or school and for agricultural uses.

The natural gas liquids tax is applicable to sales to end users of natural gas liquids after December 31, 1977, and before October 1, 1981.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include this provision.

18. Heating Oil Refund and Other Home Heating Tax Credits

House bill

The House bill provides a refund of the crude oil equalization tax to the retailer of heating oil for oil used in a residence, hospital, church, or school if the retailer passes on the refund to the user. The heating oil refund is effective for sales after December 31, 1977, and before October 1, 1981.

Senate amendment

The Senate amendment provides a refundable income tax credit equal to 25 percent of the initial $600 of expenditures on home heating oil and propane, phased out as adjusted gross income rises from $15,000 to $30,000. The amendment also provides a refundable tax credit up to $150 for the increase in home electric heating and cooling costs from one year to the next to the extent they result from increased prices for imported residual fuel oil, phased out as adjusted gross income rises from $15,000 to $30,000.

The heating oil credit is effective for taxable years beginning after December 31, 1977, and ending before January 1, 1983. The electric heating and cooling credit is effective for taxable years ending after December 31, 1977.

Conference agreement

The conference agreement does not include either the House or Senate provision.

19. Equalization Tax Rebates

House bill

The House bill rebates net proceeds from the crude oil equalization taxes for 1978 only. The rebate is a fixed amount per taxpayer, with a double rebate for single heads of households. (It is estimated to be $22 per taxpayer.) The rebate, generally, would be provided as a nonrefundable tax credit for all taxpayers. Those persons who do not receive a credit for income tax purposes would receive a direct payment as part of their regular social security, SSI, railroad retirement or AFDC payments. Persons not receiving their rebate under these methods could file a claim with the Treasury (called the "roundup payment").

Senate amendment

The Senate amendment provides generally that no new tax should be imposed under the bill unless the bill also provides adequate tax incentives for increased production and conservation of energy and for conversion to alternate sources of energy, and also contains tax mechanisms for mitigating undesirable consequences arising out of the energy crisis.

Conference agreement

The conference agreement does not include any rebate provision.

20. Energy Cost Credit for the Elderly

House bill

No provision.

Senate amendment

The Senate amendment provides a refundable tax credit of $75 for any taxpayer who maintains a household which includes someone age 65 or over, phased out between adjusted gross incomes of $7,500 and $12,500. The elderly credit would be effective for taxable years beginning after December 31, 1977, and ending before January 1, 1986.

Conference agreement

The conference agreement does not include this provision.

21. Small Refiners Study

House bill

The House bill provides that the Treasury Department will make a study of the effect of the imposition of the crude oil equalization tax and the entitlements program on small refiners. The results of the study are to be given to Congress within 90 days of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include this provision.

22. Oil Pricing Amendments for Stripper Wells

House bill

No provision.

Senate amendment

Under present law oil from stripper wells is exempt from price controls. Stripper wells are those from properties on which the average daily production per well is less than 10 barrels. The definition of stripper oil is amended to include water and other injection wells in computing the average daily production per well.

Conference agreement

The conference agreement does not include this provision.

23. Energy Production, Conservation, and Conversion Trust Fund

House bill

No provision.

Senate amendment

The Senate amendment establishes an Energy Production, Conservation, and Conversion Trust Fund. It appropriates to the Trust Fund a portion of the net revenues not refunded to consumers and not otherwise rebated, from any new taxes (not including extended existing taxes) added by the bill as enacted. The Trust Fund consists

of two separately managed and administered accounts: (1) the Energy Financing Program Account, to encourage conservation of energy, conversion to energy sources other than oil and gas and domestic production of energy (other than conventional production of oil and natural gas), and (2) the Energy-Efficient Transportation Account, to encourage energy-efficient forms of transportation. Any expenditures from either Trust Fund account would require authorization and appropriation acts.

Conference agreement

The conference agreement does not include this provision.

24. Payments to States

House bill

No provision.

Senate amendment

If there is a crude oil equalization tax, the Senate amendment authorizes an appropriation of up to $400 million in each of the fiscal years 1978, 1979, 1980 and 1981 for payments to States for repair of Federal-aid highways.

Conference agreement

The conference agreement does not include this provision.

D. TAX ON BUSINESS USE OF OIL AND NATURAL GAS; CREDITS AGAINST THE TAX

25. Excise Tax on Business Use of Oil and Gas and Credits Against Oil and Gas Use Tax

House bill

A tax would be imposed on the use of oil and natural gas as fuel in a trade or business. Three levels of tax would be imposed: Tier 1 would generally apply to process uses, Tier 2 would apply to boilers, turbines, and other internal combustion engines, and Tier 3 would apply to electric utilities, industrial cogenerators, and industrial producers of electricity using boilers with a total rating of at least 100 megawatts per plant.

The tax on Tier 1 oil would start at $.30 per barrel in 1979 and would rise gradually to $1.00 per barrel for use in 1981 and thereafter. The tax on Tier 2 oil would start at $.30 per barrel and would rise gradually to $3.00 per barrel for use in 1985 and thereafter. Tier 3 oil would be exempt through 1982 and would be taxed at $1.50 per barrel in 1983 and thereafter. Beginning in 1981, the tax rates would be adjusted annually for inflation that occurs after 1979.

With respect to the industrial use of natural gas in Tier 1 and Tier 2 categories, the tax would be determined on a variable tax basis by subtracting a cost differential, which would be reduced annually from $1.35 to $.30 for Tier 1 and from $1.05 to zero for Tier 2 by 1985, from the user acquisition price per million Btu of gas from the natural gas target price per million Btu for the region in which the gas is used. The basis for determining the natural gas target price is the average regional price of all No. 2 grade distillate oil sold during the preceding calendar year in the region, adjusted for differences in energy (Btu) content between such oil and natural gas.

Tier 3 gas would be exempt through 1982 and would be taxed at $.55 per million Btu in 1983. The rate would rise gradually to $.75 for use in 1985 and thereafter. The tax would not exceed the amount necessary to make the firm's cost of gas (including the tax) equal to the cost of residual oil (including the tax) in the region where the gas is used.

The following uses of oil and gas would be exempt from the tax:

(1) Industrial process use would be exempt from the tax when the use of fuels other than oil or natural gas would materially and adversely affect the manufacturing process or the quality of the manufactured goods, or when the use of such alternate fuels would not be economically and environmentally feasible.

(2) An exemption from the tax would be provided to nonindustrial uses of oil and natural gas in residential facilities, in transportation (including pipelines), on a farm for farming purposes, in nonmanufacturing commercial buildings, and in the exploration, development and production of crude oil and natural gas.

(3) Oil and natural gas would be exempt from taxation if used in a facility that was in existence or under construction on April 20, 1977, and which is precluded from using coal by State air pollution regulations in effect on that date or by Federal air pollution regulations. State regulations in effect after that date would also be grounds for exemption if such regulations were necessary to meet a requirement of Federal law. A regulation of a local agency having jurisdiction over a facility under an approved State Implementation Plan also would be the basis for an exemption.

In addition to oil or natural gas employed in exempt uses, firms would also be able to exempt from taxation the Btu content of 50,000 barrels of oil per year (i.e., 300 billion Btu). In cases of a regional competitive disadvantage, the Secretary of the Treasury may provide additional exempt amounts for individual plants, and he is required to publish the identification of taxpayers and plants which receive additions to their exempt amounts.

The Secretary of the Treasury would establish a procedure for reclassifying uses to a category which is taxed at a lower rate or which is exempt from tax. Reclassification would depend on the extent to which reduction in oil and natural gas use could be achieved as a result of the tax.

The President could suspend the tax for a period up to one year, if he believes it would have an adverse economic effect. A suspension plan would have to be submitted to Congress, and it would be subject to a veto by either House before the end of 15 days.

A taxpayer could elect a credit against the use tax of $1 for each dollar of qualified investment, up to 100 percent of the taxpayer's oil and natural gas use taxes, made after April 20, 1977. If the amount of investment is in excess of the amount of use taxes for the year, a carryforward is permitted against use taxes in future years and a carryforward to 1981 is provided for use taxes incurred in 1979 and 1980.

Utilities would be allowed to carry forward qualifying investment expenditures for offset against use tax liabilities that would be incurred beginning in 1983. Utilities would be allowed a credit to the extent that old oil and gas boilers are replaced or phased down for peakload or standby use (1500 hours or less a calendar year).

Where a phased-down old boiler is used between 1500 and 2000 hours in a calendar year, a penalty equal to the use tax would be imposed. Taxes paid in such cases would not be available for offset by qualified investment expenditures. Where old boilers would be used more than 2000 hours in a calendar year, there would be a recapture of credits against tax.

The taxpayer who elected to apply the credit against the user tax would receive the regular investment tax credit on his qualified energy investment expenditures only to the extent that a credit against the use tax was not claimed for the same investment outlay.

The credit would not be available after 1990, except for qualified property on which construction had begun.

Qualified energy investment which could be a credit against the use tax includes the cost of alternative energy property (as defined below in the section on Business Credits) placed in service during the year or, if the taxpayer elects, the progress expenditures made for that property during the year.

Senate amendment

The Senate amendment provides for an excise tax on business use of oil and natural gas in existing coal-capable facilities and in new electric powerplants and major fuel burning installations. The tax would apply only to units capable of consuming at least 100 million Btu/hour or a combination of units at the same site capable of consuming at least 250 million Btu/hour.

The tax rate for oil used in new industrial and utility facilities would be $6.00 per barrel beginning in 1979. For existing installations, the tax would start at $.60 per barrel in 1979 and would rise gradually to $6.00 per barrel for use in 1985 and thereafter. The tax rates would be adjusted for inflation in the same manner as in the House bill.

The tax on industrial and utility use of gas would be the same as the Tier 2 tax in the House bill, except that the target price includes the oil users tax and the target price for gas is the full Btu equivalent for a comparable facility using oil (instead of a phase-in).

In addition to the exempt uses provided in the House bill, the Senate amendment exempts all process uses and the environmental exemption applies to all facilities and takes all State regulations into account. The Senate amendment also provides that any combustor qualifying for an exception or exemption from the requirement of using coal under any law or regulation is exempt from the tax.

The amendment also provides that the Secretary shall grant temporary exceptions for up to five years where alternate fuel transportation, pollution control equipment, or other necessary equipment is not available. In addition, the Secretary is to suspend the tax if he determines that the taxpayer is proceeding as expeditiously as possible to convert from the use of oil or gas.

Use in Hawaii is exempt under the Senate amendment.

The credit against the oil and gas user tax is generally the same as the House bill except that the credit is allowed only for the conversion of existing coal-capable facilities. In addition, the firm is eligible both for the investment credit and the user tax credit, and there are no special rules governing the eligibility of utilities for the credit.

The property which qualifies for the credit is generally the same as the House bill except that it includes equipment to convert an alternate substance to synthetic liquid fuel, but does not include nuclear, geothermal and hydroelectric equipment and does not include equipment for modifying existing boilers so that an alternate substance is at least 25 percent of the fuel.

Conference agreement

The conference agreement does not include this provision.

E. BUSINESS ENERGY TAX CREDITS

26. Additional investment tax credit for alternative energy property

House bill

The bill provides for an additional 10-percent investment credit which is not available to taxpayers who claim credit against the user tax. The credit is limited to 100 percent of tax liability, and this additional credit rate is 5 percent for property financed with tax-exempt industrial development bonds. Utilities will receive the credit for new boilers only to the extent that an existing oil- or gas-fired boiler is phased down to less than 1,500 hours of use per year. The credit is available only to persons engaged in a trade or business, and the credit is recaptured according to the rules for the regular investment credit.

Qualifying property includes equipment which uses a fuel or feedstock other than oil or gas or their products, i.e., an alternate substance. Equipment must be new and must be used in connection with a building or structure located in the United States and is eligible even if considered a structural component or used in connection with lodging facilities.

Alternative energy property includes:

(1) Boilers;

(2) Burners for combustors other than boilers;

(3) Nuclear and hydroelectric power equipment, not including turbines or generators;

(4)(a) Geothermal power equipment, not including turbines or generators;

(b) Geothermal equipment to provide heating, cooling and electricity used in connection with an existing building and an existing commercial or industrial process;

(5) Equipment for producing synthetic gas;

(6)(a) Equipment for modifying existing equipment so that an alternate substance is at least 25 percent of the fuel or feedstock;

(b) Equipment for modifying an existing boiler in an existing electric generating facility so that an alternate substance is at least 25 percent of the fuel; the rate of credit depends on fuel savings percentage;

(7) Pollution control equipment required by Federal, State, and local regulations to be installed in connection with equipment in categories (1), (2), (5), and (6);

(8) Equipment used to handle, store, and prepare an alternate substance, at the point of use as a fuel or feedstock, for use in equipment in categories (1), (2), (3), (4)(a), (5), (6) and (7); facilities to manufacture coke are excluded;

(9) Equipment which uses solar and wind energy to provide heat, cooling or electricity in connection with an existing building and existing industrial or commercial process, and

(10) Plans and designs for equipment in the above categories.

The credit is available for investments after April 19, 1977, and before January 1, 1983.

Senate amendment

The Senate amendment follows the House bill with several modifications. The Senate amendment provides a refundable, additional 15-percent investment tax credit. The credit rate is 7.5 percent for property financed with tax-exempt industrial development bonds. Bioconversion property financed with industrial developments bonds, however, would receive the 15 percent credit. Utilities would receive credit for new boilers only to the extent that an existing oil-or gas-fired boiler is phased down to less than 2,000 hours of use per year. The credit is available to persons engaged in a trade or business, to educational, religious, charitable and scientific organizations (tax-exempt under Code sec. 501(c)(3)), to electric utility cooperatives (tax-exempt under Code sec. 501(c)(12)), and to State and local governments. The credit is recaptured if property is disposed or if converted to nonqualifying use before one-half its useful life has elapsed. Investment qualifying for the credit is reduced to the extent that equipment is financed with Federal grants.

Alternative energy property is generally the same as the equipment included in the House bill, except that the equipment must meet performance standards prescribed by the Secretary. The Senate also added the following equipment to the list of eligible property:

(1) Dams, turbines and generators used in hydroelectric power facilities;

(2) Geothermal equipment to produce, distribute, or use geothermal energy but only, in the case of electrical generation, equipment up to the electrical transmission stage; there is no existing building or industrial process requirement;

(3) Equipment for producing a synthetic gaseous, liquid or solid fuel, for producing chemicals from coal or lignite, and for producing coke or coke gas;

(4) Handling equipment but not equipment used in conjunction with hydroelectric or geothermal equipment; handling equipment at facilities that process coal into coke or its byproducts would be eligible;

(5) Solar and wind energy equipment installed in connection with a new structure;

(6) Equipment to convert ocean thermal energy or tidal power into useful forms of energy, and

(7) Equipment used in construction of, and in research and development on, electric highway motor vehicles.

These provisions would be effective for investments after April 19, 1977, and before January 1, 1986.

Conference agreement

The conference agreement follows the House bill with the following modifications.

The eligible equipment inncludes the Senate provision of equipment for producing synthetic liquid, gaseous or solid fuel, but not coke or coke gas, and equipment which uses coal (including lignite) as a feed-

stock for the manufacture of chemicals or other products, except coke or coke gas. Geothermal equipment is defined as in the Senate bill.

Hydroelectric and nuclear equipment, structures and dams are excluded.

Solar and wind energy equipment are included, as defined in the Senate amendment, and are eligible for a refundable credit. The definition of solar equipment does not include so-called "passive solar" equipment.

The additional investment credit for alternative energy property is not available to the tax-exempt organizations that were included in the Senate amendment: State and local governments and organizations exempt under sections 501(c)(3) and (12). In addition, the credit is not available to public utility property, as defined in section 46(f)(5): property used predominantly in the trade or business of the furnishing or sale of:

(i) electrical energy, water, or sewage disposal services,

(ii) gas through a local distribution system,

(iii) telephone service, telegraph service by means of domestic telegraph operations or other communication services, or

(iv) steam through a local distribution system or the transportation of gas or steam by pipeline.

The additional credits, except those for solar and wind energy equipment, are not refundable, but may be used to offset 100 percent of tax liability. The rules for applying the limitations based on tax liability to the use of the investment credit in combination with the energy credits provided in the conference agreement will operate under the following stacking order. A taxpayer first will apply the credits attributable to section 38 property (not including the energy credits provided in this agreement) against tax liability to the extent allowed under current law. The first-in-first-out rule of section 46(a) will continue to apply with respect to the stacking of credits within the limitation. Next, a taxpayer will apply the credits attributable to the application of the energy percentage to energy property to the remaining tax liability, up to 100 percent of that tax liability. Finally, if the energy credits exceed tax liability and any of the excess is attributable to solar and wind energy credit, these latter amounts will be treated as an overpayment of tax i.e., as if the amounts were allowed by section 39.

The credits are available for eligible property acquired and placed in service after September 30, 1978, and before January 2, 1983, to the extent of basis attributable to this period.

27. Specially Defined Energy Property Tax Credit

House bill

An additional 10-percent investment credit is provided for this category of energy property. The credit is limited to 50 percent of tax liability. Qualifying property is required to be new depreciable property, with a useful life of at least 3 years, used in connection with a structure located in the United States. All categories of qualifying property must satisfy performance and quality standards prescribed by the Secretary. The recapture rules under the regular investment credit

also apply to this credit. The credit is reduced to 5 percent for property financed by industrial development bonds.

Eligible property includes: (1) a recuperator, (2) a heat wheel, (3) a regenerator, (4) a heat exchanger, (5) a waste heat boiler, (6) a heat pipe, (7) an automatic energy control system, (8) a turbulator, (9) a preheater, (10) a combustible gas recovery system, (11) an economizer, or (12) any other property of a kind specified by the Secretary by regulations, the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

The additional credit applies to investments in qualifying property after April 19, 1977, and before January 1, 1983.

Senate amendment

The Senate made available the same 10-percent credit as the House bill, but amended the House bill in several other respects.

The credit is refundable, under the same terms applicable to alternative energy property (No. 27 above).

The list of eligible property was expanded to include industrial heat pumps; energy efficient replacement electric motors; fuel cells, gas turbines and external combustion engines with demonstrated fuel efficiency; fluorescent replacement lighting systems; and silicone controlled rectifier units.

In addition, the Secretary's administrative authority has been extended to equipment that reduces the amount of heat wasted, and equipment in this category of energy property may be installed in connection with utility and agricultural facilities.

This credit applies to investments in qualifying property after April 19, 1977, and before January 1, 1986.

Conference agreement

The conference agreement generally follows the House bill, but the credit may be applied against 100 percent of tax liability as in the Senate amendment. The Secretary is authorized to specify other similar items of energy conservation equipment eligible for this credit, including modifications which are made to existing industrial processes, the principal purpose of which is the reduction in the amount of energy consumed or heat wasted. The conferees expect the Secretary to consult with Department of Energy and the Bureau of Standards in determining additional items to be eligible as specially defined energy property. The credit will be available for qualifying property placed in service after September 30, 1978, and before January 1, 1983, and for qualified expenditures incurred during this period.

28. Energy Property Tax Credit

House bill

The additional nonrefundable 10-percent investment credit is available for two additional types of energy property:

(1) Cogeneration property for the production of steam, heat or other forms of useful energy and also electric energy; and

(2) Recycling equipment which is used exclusively in the recycling of solid waste or to sort and prepare solid waste for recycling.

This credit is limited to 50 percent of tax liability and the additional credit is reduced to 5 percent if the property is financed in whole or in part with industrial development bonds.

The credit applies to qualifying property placed in service after April 19, 1977, and before January 1, 1983.

Senate amendment

Under the Senate amendment, the credit is an additional 10 percent, applicable up to 100 percent of tax liability. Eligible property includes:

(1) Cogeneration property defined as in the House bill plus cogeneration for agricultural purposes, and water purification and desalination.

(2) Recycling equipment defined as in the House bill, but the exclusive use requirement is modified to permit use of up to 10 percent virgin materials; in addition, eligible equipment includes recycling equipment to the point where a marketable product has been produced, e.g., newsprint, paperboard, metal ingots, or textile fibers.

(3) Shale oil equipment which is used to mine, extract or produce oil from oil-bearing shale rock;

(4) Transportation equipment which includes commuter vans and equipment designed to reduce energy consumption when added to existing motor vehicles and commercial carriers;

(5) Equipment used to produce natural gas from geopressured brine;

(6) On-site electrical heat processing equipment which is replacement equipment and which uses electricity produced with an alternate substance; and

(7) Electric motor vehicles, primarily for use on public streets, roads and highways, when purchased for use in a trade or business.

The credit applies to eligible equipment placed in service after April 19, 1977, and before January 1, 1986.

Conference agreement

The conference agreement provides that the additional 10 percent credit will be available to be applied against 100 percent of tax liability. Eligible property includes (1) recycling equipment defined as in the Senate bill, except that in the iron and steel industry, the credit is limited to equipment used before the solid waste is reduced to a molten state, (2) shale oil equipment, as in the Senate amendment, and (3) equipment to produce natural gas from geopressured brine, as in the Senate amendment. For the latter equipment, the rules of the Federal Energy Regulatory Commission will be applied to determine which well qualifies as a well producing natural gas from geopressured brine under the terms of the definition in the Natural Gas Pricing Act, but the Secretary of the Treasury will determine whether the equipment used in connection with that well is eligible for the credit.

The additional credit will be available for eligible equipment acquired or placed in service after September 30, 1978, and before January 1, 1983, and for qualified expenditures in this period.

29. Investment Tax Credit for Business Insulation

House bill

The House bill makes all types of business insulation eligible for the existing investment credit where added to existing buildings. This includes structural insulation, insulation glass, storm doors, weather-

stripping and similar items which satisfy performance and quality standards prescribed by the Secretary.

This credit applies to qualifying property placed in service after April 19, 1977, and before January 1, 1983.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement does not include this provision.

30. Denial of Investment Tax Credit and Accelerated Depreciation for Certain Property

House bill

Oil and natural gas fueled boilers and other combustors would generally be ineligible for the investment tax credit and accelerated methods of depreciation, unless either the use of coal was precluded by air pollution regulations or the taxpayer's use of oil or gas was exempt under the use tax provisions of the bill. Portable air conditioners and space heaters would also be ineligible to receive the investment credit.

This provision applies to property placed in service after June 20, 1977, except for property under a binding contract on that date.

Senate amendment

No provision.

Conference agreement

The conference agreement generally follows the House provision, modified to apply only to portable air conditioners, portable space heaters and boilers fueled by oil or gas. Other combustors fueled by oil or natural gas will not be subject to the investment tax credit and accelerated depreciation denial rules under the conference agreement. In addition, the conference agreement includes the range of exempt uses under the House bill, which generally exempt from the provision those uses which are not part of manufacturing, production or mining. For example, an oil or gas fueled steam and electrical generation facility will be considered an exempt use where the products (such as steam or electricity) of the facility are provided for use by a group of exempt activities (such as a group of offices or hospitals) and the furnishing of electricity is not subject to rate regulation. In addition, the exempt uses are extended to include combined cycle electric plants.

The provision applies to property placed in service after September 30, 1978, except for property for which a binding contract was in effect on that date.

31. Depreciation Allowance for Early Retirement or Replacement of Oil or Gas Boilers

House bill

Special treatment is provided for depreciation of a natural gas or oil-fueled boiler or other combustor which is retired or replaced before the end of its originally determined useful life. The taxpayers will be authorized to redetermine the useful life of an oil or natural gas-fueled combustor and use this shortened useful life to depreciate the

remaining basis in the property (net of any salvage value). If this treatment is elected, the taxpayer may use only the straight-line method for depreciation of the remaining basis. In order to qualify for this treatment, the taxpayer must establish to the satisfaction of the Secretary that there is a reasonable foundation for the conclusion that the combustor will in fact be retired or replaced at the end of the shortened useful life. The taxpayer will be eligible to use this treatment beginning with the taxable year in which the Secretary approves the application of the taxpayer to redetermine the useful life of the combustor under this provision. Recapture of excess depreciation deductions (with interest) is required where the retirement or replacement does not subsequently occur as scheduled.

This provision applies to tax years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. TAX INCENTIVES FOR ALTERNATIVE ENERGY SOURCES

32. Exemption for Interest on IDBs for Coal Gasification and Liquefaction

House bill

No provision.

Senate amendment

Under present law, interest on State or local obligations generally is exempt from Federal tax, except when the obligations are industrial development bonds (i.e., the proceeds are to be used by a non-exempt person). IDBs issued for certain specified purposes are exempt, but coal gasification and liquefaction are not one of the exempt purposes.

Present law provides an exemption for bonds for facilities for the local furnishing of electric energy or gas, but not if the facilities are part of a system furnishing electricity or gas to more than two contiguous counties (or their political equivalents).

The Senate amendment provides that industrial development bonds for the furnishing of coal gasification and liquefaction facilities would be exempt from Federal tax. The exemption would be allowed even if the products of the facilities are furnished to more than two contiguous counties. The provision applies with respect to obligations issued after December 31, 1977.

Conference agreement

The conference agreement does not include this provision.

33. Exemption for Interest on IDBs for Bioconversion Facilities for the Conversion of Wastes into Energy or Fuels

House bill

No provision.

Senate amendment

Under present law, interest on State or local obligations generally is exempt from Federal tax, except when the obligations are industrial development bonds (i.e., the proceeds are to be used by a non-exempt person). IDBs issued for certain specified purposes are exempt, but the conversion of waste into energy generally is not one of the exempt purposes.

In the case of IDBs for sewage or solid waste disposal facilities, an exemption is provided by present law but only if at least 65 percent of the material processed is completely worthless.

Present law also provides an exemption for the local furnishing of electric energy or gas, but not if the facilities are part of a system furnishing electricity or gas to more than two contiguous counties (or their political equivalents).

The Senate amendment provides that interest on industrial development bonds for bioconversion facilities for the donversion of municipal and agricultural wastes and other organic matter into energy or into synthetic gaseous, liquid, or solid fuels would be exempt from Federal tax. The exemption would be allowed even if less than 65 percent of the materials processed are completely worthless, and even if the products of the facilities are furnished to more than two contiguous counties. The provision applies with respect to obligations issued after December 31, 1977.

Conference agreement

The conference agreement does not include this provision.

34. Exemption for Interest on IDBs for Facilities for Local Furnishing of Electricity or Gas

House bill

No provision.

Senate amendment

Under present law, interest on State or local obligations generally is exempt from Federal tax, except when the obligations are industrial development bonds (i.e., the proceeds are to be used by a non-exempt person). IDBs issued for certain specified purposes are exempt.

Present law provides an exemption for bonds for the local furnishing of electric energy or gas, but not if the facilities are part of a system furnishing electricity or gas to more than two contiguous counties (or their political equivalents).

The Senate amendment extends the exemption from Federal tax on interest from industrial development bonds for facilities for the furnishing of electricity or gas to bonds issued by an authorized State agency for facilities to produce electric energy that is consumed in more than two contiguous counties within one State. The provision applies with respect to obligations issued after December 31, 1977.

Conference agreement

The conference agreement does not include this provision.

35. Geothermal Provisions—Depletion for Geothermal Deposits

House bill

Under present law, geothermal resources are ineligible for percentage depletion deductions. However, the Ninth Circuit Court of Appeals has ruled that certain geothermal steam deposits are gas wells and are eligible for percentage depletion as natural gas. The various restrictions on percentage depletion for oil and gas enacted in the Tax Reduction Act of 1975 do not apply to the gas produced from the deposits involved in these court decisions.

The House bill provides a 10-percent deduction for depletion for all resources from geothermal deposits, including natural gas produced from geopressured brine. Under the House bill the amount of percentage depletion deductions allowable with respect to any geothermal property may not exceed the taxpayer's adjusted cost basis in the property.

Senate amendment

The Senate amendment provides percentage depletion for geothermal resources located in the United States or its possessions. It contains a separate rule, described below, for gas produced from geopressured brine.

For geothermal resources, the percentage of gross income from each property which can be deducted as percentage depletion is 22 percent for production in calendar years 1978 through 1980, 20 percent for 1981, 18 percent for 1982, 16 percent for 1983, and 15 percent for all years thereafter. Percentage depletion for geothermal resources is not subject to the various limitations and restrictions relating specifically to oil and gas which were enacted in the Tax Reduction Act of 1975. The limitations enacted in 1975 are those which deny percentage depletion to integrated oil companies, limit percentage depletion for any taxpayer to 65 percent of taxable income, and limit percentage depletion to the equivalent of a certain average daily production of oil and gas. However, present law restrictions which apply to percentage depletion for all minerals also apply to percentage depletion for geothermal resources under the Senate amendment. Thus, the Senate amendment provides that depletion in excess of basis is an item of tax preference under the minimum tax, and that percentage depletion on any property is to be limited to 50 percent of the taxable income from that property (computed without regard to the deduction for depletion). Under the Senate amendment there is no basis limitation on the amount of allowable depletion deductions.

Conference agreement

The conference agreement follows the Senate amendment. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

36. Geothermal Provisions—Depletion for Geopressured Natural Gas

House bill

Under present law, natural gas is eligible for percentage depletion at a 22-percent rate. The rate is scheduled to phase down to 15 percent by 1984. Integrated oil and gas producers generally may not claim percentage depletion except for gas sold under pre-1975 fixed price contracts in which the price cannot be adjusted upward to reflect the limitations on percentage depletion enacted in the Tax Reduction Act of 1975. In addition, the amount of oil or gas eligible for percentage depletion for any producer or royalty holder is limited to the equivalent of 1,400 barrels per day in 1978 (scheduled to phase down to 1,000 barrels per day in 1980 and subsequent years). Percentage depletion on oil and gas is limited to 65 percent of taxable income computed without regard to the deduction for depletion. In addition, for any property the allowable percentage depletion deduction is limited to 50 percent of the taxable income from that property computed without regard to the deduction for depletion.

The House bill contains no provision specifically relating to natural gas produced from geopressured brine. Under the House bill, geopressured brine is treated as a geothermal resource.

Senate amendment

The Senate amendment provides a 10-percent deduction for percentage depletion for natural gas produced from geopressured brine in the United States or its possessions. The percentage depletion is not limited to the taxpayer's adjusted basis in the property, nor is it subject to the various restrictions which apply to percentage depletion for oil and gas—the limitation on depletion deductions for integrated oil and gas companies, the per barrel limitation, or the 65 percent of taxable income limitation. However, the allowable deduction is subject to the restrictions on percentage depletion generally. The allowable deduction on any property is to be subject to the limitation that it cannot exceed 50 percent of taxable income from the property (computed without regard to the deduction for depletion), and depletion in excess of adjusted basis is treated as an item of tax preference under the minimum tax.

Under the Senate amendment, the definition of natural gas produced from geopressured brine is to be issued by the Secretary of the Treasury in consultation with the Secretary of Energy.

The Senate amendment is effective for taxable years ending after December 31, 1977.

Conference agreement

The conference agreement generally follows the Senate amendment with the following modifications. The conference agreement provides that the term "natura gas produced from geopressured brine" is to be precisely the same gas eligible for the special treatment under section 107(c)(2) of the Natural Gas Policy Act of 1978, and defined pursuant to section 503 of that Act. The conferees intend that, because percentage depletion is not limited to natural gas produced from geopressured brine but is available to a wide range of minerals, this provision is not to be construed to be a special tax provision or comparable adjustment under section 107(d) of that Act.

Ten-percent depletion for natural gas produced from geopressured brine is to be allowed only for wells drilled after September 30, 1978, and before January 1, 1984. Wells drilled within this period will continue to be entitled to percentage depletion for their entire producing lives. However, wells drilled before and after these dates will be treated as natural gas wells as under present law. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

37. Geothermal Provisions—Intangible Drilling Costs: Option to Deduct Drilling Costs

House bill

Under present law, oil and gas producers may elect to deduct intangible drilling costs (IDCs) rather than capitalize them and generally may recover those costs as part of the depletion or depreciation deduction. This election must be made for all of a taxpayer's oil and gas wells.

The House bill extends similar treatment to geothermal wells and provides that a separate election can be made for a taxpayer's geothermal wells, on the one hand, and for his oil and gas wells on the other.

Under the House bill, wells producing natural gas from geopressured brine are treated as geothermal wells, and intangible drilling costs for wells producing natural gas from geopressured brine must be expensed if a taxpayer elects to expense intangible drilling costs for his geothermal wells.

Senate amendment

The Senate amendment is the same as the House bill except that it provides for separate elections for (a) oil and gas wells, (b) geothermal wells, and (c) wells producing natural gas from geopressured brine.

Conference agreement

The conference agreement allows an election to deduct IDCs for geothermal wells. The election is to be separate from that for oil and gas wells. The conference agreement does not change present law with respect to wells producing natural gas from geopressured brine, so that these will continue to be treated as natural gas wells for purposes of the IDC election.

Because the conference agreement does not change the IDC treatment of wells producing natural gas from geopressurized brine, the conferees intend that this provision is not be to construed to be a special tax provision or comparable adjustment under section 107(d) of the Natural Gas Policy Act of 1978.

38. Geothermal Provisions—Intangible Drilling Costs: Application of the Minimum Tax

House bill

Under present law, the deduction for intangible drilling costs on productive wells in excess of the deduction which would have been allowed with respect to those costs for that year through either 10-year amortization or cost depletion (excess IDCs) is treated as a tax preference item for purposes of the minimum tax for individuals.

In the Tax Reduction and Simplification Act of 1977, the Congress provided that for taxable years beginning only in 1977, excess IDCs in excess of oil and gas production income would constitute a tax preference item.

The House bill extends to geothermal properties for all future years a provision similar to the minimum tax provision on intangible drilling costs of individuals which was applicable for 1977. As a result, the item of tax preference will be the amount (if any) by which the amount of excess IDC's on geothermal properties in the taxable year is greater than the amount of the net income of the taxpayer from geothermal properties for the taxable year. Excess IDCs will be the amount of IDCs on productive wells, reduced by the deduction which would have been allowed with respect to those costs through cost depletion. The amount of the net income of the taxpayer from geothermal properties for the taxable year will be the excess of (a) the aggregate amount of gross income (within the meaning of section 613(a)) from all geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over (b) the amount of any deductions allocable to such properties (reduced by the excess IDCs) for such taxable years.

Under the House bill, natural gas produced from geopressured brine is treated as a geothermal resource for purposes of the minimum tax.

This provision applies to wells commenced on or after April 20, 1977, in taxable years ending after that date.

Senate amendment

The Senate amendment is the same as the House bill, except that the intangible drilling costs computation is to be made separately for geothermal resources, natural gas from geopressured brine, and oil and gas wells. Thus, the offset for related income in computing the minimum tax preference is to be made separately for each of the three categories.

Conference agreement

The conference agreement generally follows the House bill. In addition, it continues the present law treatment of wells producing natural gas from geopressured brine as gas wells. Thus, income and deductions from wells producing natural gas from geopressured brine will continue to be aggregated with income and deductions from all oil and gas property for purposes of the related income offset under the minimum tax.

The conference agreement with respect to the application of the minimum tax to intangible drilling costs is the same as the rule applicable to those costs for 1977. Thus, a taxpayer's IDC preference is the amount (if any) by which the amount of excess IDCs arising in the taxable year is greater than the amount of the taxpayer's net income from oil and gas properties for the taxable year. The amount of the excess IDCs arising in the taxable year is the excess of (i) the IDCs paid or incurred in connection with oil and gas wells (other than cost incurred in drilling a nonproductive well) allowable for the taxable year, over (ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles had been used with respect to such costs. The amount of the taxpayer's net income from oil and gas properties for the taxable year is the excess of (i) the aggregated amount of gross income (within the meaning of section 613(a)) from all oil and gas properties of the taxpayer received or accrued during the taxable year, over (ii) the amount of any deductions allocable to such properties reduced by excess IDCs for that taxable year. The term "straight line recovery of intangibles" means, except as described below, ratable amortization of IDCs over the 120-month period beginning with the month in which production from the well begins. Alternatively, at the taxpayer's election, straight line recovery of intangibles means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of determining the IDC preference. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

39. Geothermal Provisions—Intangible Drilling Costs: Recapture

House bill

Under present law, the total of IDCs deducted, reduced by the amount of IDCs which would have been deductible had those costs been capitalized and deducted through cost depletion, is subject to recapture upon a disposition of an oil and gas property.

The House bill extends present law to geothermal (including geopressured natural gas) properties, and applies it separately from recapture as to oil and gas properties. This provision would apply to wells commenced on or after April 20, 1977, in taxable years ending after that date.

Senate amendment

The Senate amendment is the same as the House bill, except that oil and gas, geothermal, and geopressured natural gas properties would be treated separately.

Conference agreement

The conference agreement essentially follows the House bill in applying recapture to geothermal wells. However, geopressured natural gas wells are to be treated as gas wells as under present law. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

40. Geothermal Provisions—Intangible Drilling Costs: At Risk Limitation

House bill

Under present law, the amount of any loss (otherwise allowable for the year) which may be deducted in connection with exploring for, or exploiting, oil and gas cannot exceed the aggregate amount with respect to which the taxpayer is at risk with regard to the property at the close of the taxable year.

The House bill extends present law to geothermal (including geopressured natural gas) properties, and treats developing those properties as an activity separate from developing oil and gas properties. This provision would apply to wells commenced on or after April 20, 1977, in taxable years ending after that date.

Senate amendment

The Senate amendment is the same as the House bill, except that exploiting and developing oil and gas, geothermal, and geopressured natural gas are treated as separate activities.

Conference agreement

The conference agreement follows the House bill. However, geopressured natural gas is aggregated with oil and gas as one activity. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

41. Percentage Depletion for Peat

House bill

No provision.

Senate amendment

Under present law, peat is allowed 5 percent depletion.

The Senate amendment allows a 10-percent depletion deduction for peat from U.S. deposits which is used as fuel or otherwise to produce energy. (Peat for other purposes is still allowed 5 percent depletion.) This provision applies to taxable years ending after December 31, 1977.

Conference agreement

The conference agreement does not include this provision.

42. Production Credits for Nonconventional Oil and Gas

House bill

No provision.

Senate amendment

Present law contains no provision for production incentives.

The Senate amendment provides nonrefundable income tax credits for production of nonconventional oil and gas in or offshore of the United States or its possessions. The credits are:

(a) $3 per barrel for shale oil;
(b) $3 per barrel for oil from tar sands;
(c) 50 cents per mcf for geopressured natural gas; and
(d) 50 cents for tight rock formation gas.

Credits are allowed according to the ratio of the taxpayer's gross income from the property to total gross income from the property. Credits are reduced on a project-by-project basis according to the ratio between Federal grants for equipment and facilities and total investment in equipment and facilities for nonconventional energy processes. The credits apply for taxable years beginning after December 31, 1977.

Conference agreement

The conference agreement does not include these provisions.

G. LIMITATION OF PRESIDENT'S AUTHORITY TO ADJUST OIL IMPORTS; IMPORT ADJUSTMENT TAX CREDIT

43. Amendments to Trade Expansion Act of 1962

House bill

No provision.

Senate amendment

Under present law, the President may adjust imports of petroleum or petroleum products by quotas or monetary exactions (tariffs, duties, or fees) so that such imports do not threaten national security.

The Senate amendment nullifies the President's authority to adjust imports of petroleum or petroleum products under section 232(b) of the Trade Expansion Act of 1962, except for:

(a) military and defense emergencies involving national security; or

(b) adjustments of imports of refined petroleum products for reasons of national security.

The Senate amendment expressly recognizes the close relation between national security and a U.S. refining industry competitive with foreign refineries. Present law contains no such provision.

The amendment also provides for a 2-House veto of any proposed Presidential adjustment of imports of refined petroleum products under the Trade Expansion Act of 1962 authority within 30 days of the proposal's transmittal to Congress.

The amendment requires the President to establish procedures for refunding all or part of any increased tariff, fees, etc., on imported refined petroleum products to a public utility which demonstrates that it imports such products solely because of the unavailability of domestic supplies (regardless of price) of such product or of alternate domestic fuels or energy sources. Present law has no comparable provision.

Conference agreement

The conference agreement does not include this provision.

44. Amendments to Trade Act of 1974

House bill

No provision.

Senate amendment

Present law allows the President to impose or increase duties on any import pursuant to trade agreements with foreign countries. He also may designate imports from a developing country for duty-free import treatment.

The Senate amendment bars the presidential imposition of, or increase in, import duties on petroleum or petroleum products pursuant to trade agreements with foreign countries under authority granted the

President in Title I of the Trade Act of 1974, and also prohibits the President from designating imported petroleum or petroleum products as eligible articles for duty-free import treatment under Title V of the Trade Act of 1974.

This provision is effective as of the date of enactment.

Conference agreement

The conference agreement does not include this provision.

45. Refined Petroleum Product Import Adjustment Tax Credit

House bill

No provision.

Senate amendment

The Senate amendment provides a refundable tax credit for the cost of purchasing refined petroleum products (both imported and domestic) for use in tax-exempt residences, hospitals, churches and schools.

The amount of credit is determined by multiplying units of such products used by an adjustment amount. The adjustment amount is determined by dividing the net revenues from any increased duty or fee imposed by the President under section 232(f) of the Trade Expansion Act of 1962 on imported refined petroleum products by the number of units used for qualified uses.

Present law contains no comparable provision.

The provision would be effective in taxable years beginning after December 31, 1976.

Conference agreement

The conference agreement does not include this provision.

H. OTHER PROVISIONS

46. Intangible Drilling Cost Deductions for Oil and Gas Wells and the Minimum Tax

House bill

Under present law, the deduction for intangible drilling costs on productive wells in excess of the deduction which would have been allowed with respect to those costs for that year through either 10-year amortization or cost depletion (excess IDCs) is treated as a tax preference item for purposes of the minimum tax for individuals.

In the Tax Reduction and Simplification Act of 1977, Congress provided that for taxable years beginning only in 1977, the tax preference would be excess IDCs in excess of oil and gas production income.

The House bill extends for all future years the minimum tax provision on intangible drilling costs of individuals which was applicable for 1977. Thus, with respect to all oil and gas properties of the taxpayer, the tax preference will be the amount (if any) by which the amount of excess IDCs arising in the taxable year is greater than the amount of the net income of the taxpayer from oil and gas properties for the taxable year. The amount of the net income of the taxpayer from oil and gas properties for the taxable year is the excess of (a) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil and gas properties of the taxpayer received or accrued by the taxpayer during the taxable year, over (b) the amount of any deductions allocable to such properties, reduced by excess IDCs, for such taxable year.

These provisions are effective for taxable years ending December 31, 1977.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

The conference agreement with respect to the application of the minimum tax to intangible drilling costs is the same as the rule applicable to those costs for 1977. Thus, a taxpayer's IDC preference is the amount (if any) by which the amount of excess IDCs arising in the taxable year is greater than the amount of the taxpayer's net income from oil and gas properties for the taxable year. The amount of the excess IDCs arising in the taxable year is the excess of (i) the IDCs paid or incurred in connection with oil and gas wells (other than cost incurred in drilling a nonproductive well) allowable for the taxable year, over (ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles had been used with respect to such costs. The

amount of the taxpayer's net income from oil and gas properties for the taxable year is the excess of (i) the aggregated amount of gross income (within the meaning of section 613(a)) from all oil and gas properties of the taxpayer received or accrued during the taxable year, over (ii) the amount of any deductions allocable to such properties reduced by excess IDCs for that taxable year. The term "straight line recovery of intangibles" means, except as described below, ratable amortization of IDCs over the 120-month period beginning with the month in which production from the well begins. Alternatively, at the taxpayer's election, straight line recovery of intangibles means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of determining the IDC preference.

47. Rerefined Lubricating Oil

House bill

Under present law, a 6-cent-per-gallon manufacturers excise tax is imposed on lubricating oil (other than cutting oils) sold in the United States by a manufacturer or producer, or used anywhere by a manufacturer or producer. The sale of recycled oil is not subject to the tax unless the recycled oil is mixed with new lubricating oil. In such a case, the excise tax is imposed on the portion of the mixture which consists of new lubricating oil.

The House bill exempts the sale of lubricating oil from the 6-cent-per-gallon manufacturers excise tax where the lubricating oil is sold for use in a mixture with previously used or waste lubricating oil which has been cleaned, renovated, or rerefined.

For the exemption to apply, the blend of old and new oil must consist of 25 percent or more of waste or rerefined oil. All of the new oil in a mixture is to be exempt from the excise tax if the blend contains 55 percent or less new oil. If the mixture contains more than 55 percent new oil, the excise tax exemption applies only with regard to the portion of the new oil that does not exceed 55 percent of the mixture.

The provision is effective for sales on or after the first day of the first calendar month beginning more than 10 days after enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

48. Annual Report on Energy and Revenue Effects of the Bill

House bill

The House bill requires the President to submit an annual report to the Congress every August after 1977. The report is to provide estimates of the amount of revenue increases or decreases resulting from each energy tax provision, and an evaluation of the extent to which each provision has resulted in increased energy conservation and production. The President is expected to include in his report the petroleum (or natural gas) savings resulting from each provision and the extent of any shifts from petroleum and natural gas to other materials

resulting from each provision. This provision is effective upon enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement does not include this provision.

49. White House Conference on Energy Conservation, and National Energy Conservation Planning and Advisory Council

House bill

No provision.

Senate amendment

The Senate amendment requires the President to convene a White House Conference on Energy to assess problems and make recommendations relating to energy conservation, no later than December 31, 1978.

Conference agreement

The conference agreement does not include this provision.

50. Suspension of Import Duty on Insulation Materials

House bill

No provision.

Senate amendment

The Senate amendment suspends present law import duties on glass fiber, mineral wool and related insulation materials, and boric acid with respect to material entered or withdrawn from warehouse for consumption. The suspension of duty would be effective through June 30, 1979.

Conference agreement

The conference agreement does not include this provision.

51. Energy Stamp Program

House bill

No provision.

Senate amendment

The Senate amendment authorizes annual appropriations of $25 million for each of fiscal years 1978, 1979, and 1980, for five pilot projects to demonstrate an energy-stamp program providing financial assistance to low- and fixed-income households (homeowners or apartment dwellers) for residential energy costs. Participants must pay one-third the value of energy stamps received.

The authorization applies for fiscal years 1978–80.

There is no comparable program in present law.

Conference agreement

The conference agreement does not include this provision.

52. Expedited Consideration of Authorization for U.S. Oil Pipelines From West Coast

House bill

No provision.

Senate amendment

The Senate amendment sets deadlines and otherwise expedites consideration of Federal authorizations for proposed U.S. pipeline systems to carry crude oil supplies inland from the West Coast. The Senate amendment also expedites judicial review of any such authorizations. This provision is effective upon enactment.

Conference agreement

The conference agreement does not include this provision.

53. Coordination of Effective Dates With the Congressional Budget Act

House bill

No provision.

Senate amendment

The Senate amendment provides that notwithstanding any other provision of the amendment, the Secretary of Treasury is to postpone (but not later than September 30, 1978) any of the effective dates of the amendment to insure that revenues for the fiscal year 1978 will not be less than $397 billion.

Conference agreement

The conference agreement does not include this provision.

54. Sense of the Senate Regarding Revenue Loss From the Bill for Fiscal Year 1978

House bill

No provision.

Senate amendment

The Senate amendment expresses the sense of the Senate that the conferees on the part of the Senate shall, to the extent practical, limit the revenue loss from this amendment to $972 million for the fiscal year 1978.

Conference agreement

The conference agreement does not include this provision.

APPENDIX: BUDGET EFFECTS OF ENERGY TAX PROVISIONS OF H.R. 5263

Table 1.—Budget Effects on House, Senate and Conference Versions of the Energy Tax Provisions of H.R. 5263

[In millions of dollars]

Item	House					Senate					Conference				
	1979*	1980	1981	1982	1983	1979*	1980	1981	1982	1983	1979*	1980	1981	1982	1983
Residential energy tax credits:															
Credit for insulation and other energy-conserving components [a]	−827	−491	−518	−546	−576	−1,265	−973	−1,112	−1,211	−1,125	−635	−370	−392	−415	−440
Credit for solar and wind energy expenditures [a]	−80	−62	−71	−87	−111	−84	−66	−74	−93	−118	−81	−64	−72	−89	−115
Subtotal [a]	−907	−553	−589	−633	−687	−1,349	−1,039	−1,186	−1,304	−1,243	−716	−434	−464	−504	−555
Tax credits for home energy costs:															
Energy cost credit for the elderly						−1,169	−1,180	−1,192	−1,202	−1,212					
Tax credit for increased residential energy costs attributable to imported oil						−43	−40	−44	−46	−50					
Tax credit for home heating oil costs						−1,400	−1,207	−1,181	−1,155	−954					
Tax credit for home heating extended to propane						−531	−476	−479	−485	−411					
Subtotal						−3,143	−2,903	−2,896	−2,888	−2,627					
Transportation tax provisions:															
Gas guzzler tax	100	100	100	135	150						(2)	45	50	100	
Repeal of deduction for State and local tax on gasoline [b]	895	859	944	1,039	1,143										
Tax extension to 1985 of existing rate on gasoline and other motor fuels [c]		3,302	3,404	3,496	3,585		3,302	3,404	3,496	3,585					
Exemption or reduction of tax rate for certain blended fuels						(2)	(2)	(2)	(2)	−6	(2)	(2)	(2)	(2)	−6
Denial of credit or refund for nonbusiness nonhighway use of gasoline and amendment of motor boat fuel provisions	5	4	4	4	4	4	4	4	4	4	(1)	4	4	4	4
Removal of excise tax on buses	−22	−9	−9	−9	−9	−22	−9	−9	−9	−9	−22	−9	−9	−9	−9
Removal of excise tax on bus parts	−6	−3	−3	3	−3	−6	3	−3	−3	−3	−2	−3	3	−3	−3
Removal of excise tax on certain items used in connection with intercity local and school buses	−26	−13	−13	−13	13	−26	−13	−13	−13	−13	−11	−13	−13	−13	−13
Vanpooling incentives						(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Credit for qualified electric and hydrogen motor vehicles	(1)	−1	1	2	−4	−4	−3	−4	−5	−8					
Subtotal	946	4,239	4,426	4,647	4,853	−54	3,278	3,379	3,470	3,550	−35	−21	24	29	73

See footnotes at end of table.

Table 1.—Budget Effects on House, Senate and Conference Versions of the Energy Tax Provisions of H.R. 5263—Continued

Item	House					Senate					Conference				
	1979[2]	1980	1981	1982	1983	1979[2]	1980	1981	1982	1983	1979[2]	1980	1981	1982	1983
Crude oil equalization and natural gas liquids tax after rebate	2,758	8,038	11,557	3,633											
Excise tax on business use of oil and natural gas after income tax offset and rebate	−25	398	88	104	592		21	31	6	33					
Changes in business investment credit to encourage conservation of or conservation from oil and gas or to encourage new energy technology:															
Alternative conservation and new technology credits [4]	−824	−516	−673	−789	−491	−2,348	−1,578	−1,850	−2,164	−2,456	−221	−391	−496	−597	−458
Investment credit disallowed on property financed with credits	57	184	238	231	205										
Investment credit denied and depreciation limited to straightline on oil or gas boilers and air-conditioning and space heaters	204	121	114	103	99						42	98	99	93	90
Subtotal	−563	−211	−321	−455	−97	−2,348	−1,578	−1,850	−2,164	−2,456	−179	−293	−397	−504	−362
Tax incentives relating to alternative fuel sources:															
Use of industrial development bonds for coal gasification and liquefaction and bioconversion facilities						−16	−27	−47	−69	−97					
Percentage depletion:															
Peat						(1)	(1)	(1)	(1)	(1)					
Geothermal	(1)	(1)	(1)	(1)	(1)	(1)	(1)	−2	−4	−6	(1)	(1)	−2	−4	−6
Geopressurized methane							−1	−3	−5	−8		−1	−3	−5	−8

Option to deduct intangible drilling costs:															
Geothermal	−15	−17	−21	−20	−20	−26	−18	−21	−26	−30	−10	−18	−21	−26	−30
Geopressurized methane						−25	−17	−18	−20	−20	−11	−16	−17	−18	−19
Tax credits for production of oil and gas from nonconventional sources:															
50 cents credit per mcf of geopressurized methane gas							−7	−14	−22	−31					
50 cents credit per mcf of gas from nonconventional source							−29	−58	−90	−124					
$3 credit per barrel of shale oil and oil from tar sands						−23	−48	−83	−126	−176					
Subtotal	−15	−17	−21	−20	−20	−92	−147	−246	−362	−492	−21	−35	−43	−53	−63
Miscellaneous provisions:															
Treatment of intangible drilling costs for purposes of minimum tax [4]	−51	−61	−73	−84	−97	−51	−61	−73	−84	−97	−51	−61	−73	−84	−97
Refined lubricating oil	−6	−3	−3	−3	−3	−6	−3	−3	−3	−3	−2	−3	−3	−3	−3
Duty on building insulation materials and related materials						−2									
Subtotal	−57	−64	−76	−87	−100	−59	−64	−76	−87	−100	−53	−64	−76	−87	−100
Total	−2,137	12,430	15,064	7,249	4,541	−7,045	−2,432	−2,844	−3,229	−3,335	−1,004	−847	−956	−1,119	−1,007

*Figures may reflect liabilities of prior years.

[1] Less than $1,000,000.
[2] Less than $5,000,000.
[3] The revenue estimates shown under the Senate version have been revised from the comparable figures in the Conference Comparison document dated July 12 1978.
[4] This provision has been included in H.R. 13511 (The Revenue Act of 1978), as passed the House and by the Senate.
[5] This provision (for a 5-year extension) has been included in H.R. 11733 (The Highway Revenue Act of 1978) as passed the House and the Senate.
[6] Under the House version additional credits could be claimed against the business use tax of oil and gas.
[7] These figures represent revised estimates and are higher than those shown in the Conference Comparison document dated July 12 1978.

Table 2.—Estimated Budget Effect of the Tax Credits [1] for Business Qualified Property by Type of Property As Agreed to by the Conference Committee, Fiscal Years 1979–83

[In millions of dollars]

Credit provision	1979	1980	1981	1982	1983
Alternative energy property [2]	−36	−90	−156	−227	−191
Specially defined energy property [3]	−145	−236	−261	−278	−207
Shale oil equipment	−7	−15	−21	−27	−20
Geopressurized methane equipment	−6	−9	−9	−9	−6
Solar and wind energy property	−7	−10	−15	−19	−13
Recycling equipment [3]	−20	−31	−34	−37	−21
Total	−221	−391	−496	−597	−458

[1] 10-percent nonrefundable credit effective after Sept. 30, 1978.
[2] Industrial (nonutility) equipment, primarily, nonoil or gas-burning boilers, combustors, and pollution control and handling equipment.
[3] Only if applied to or within a structure in existence before Oct. 1, 1979.

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