96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 96-817

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

MARCH 7, 1980.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 3919]

The Committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil, 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; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crude Oil Windfall Profit Tax Act of 1980".

(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.—

Sec. 1. Short title; amendment of 1954 Code; table of contents.

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

Sec. 101. Windfall profit tax.
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PART IV—ENERGY-RELATED USES OF TAX EXEMPT BONDS

Sec. 241. Solid waste disposal facilities.
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Sec. 310. Payments.
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TITLE IV—MISCELLANEOUS PROVISIONS

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Sec. 402. Disapproval of Presidential actions adjusting oil imports.
Sec. 403. Qualified liquidations of LIFO inventories.
Sec. 404. Exemption of certain interest income from tax.

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

SEC. 101. WINDFALL PROFIT TAX.

(a) IN GENERAL.—

(1) AMENDMENT OF SUBTITLE D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"SUBCHAPTER A. Imposition and amount of tax.
"SUBCHAPTER B. Categories of oil.
"SUBCHAPTER C. Miscellaneous provisions.

"Subchapter A—Imposition and Amount of Tax

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Windfall profit; removal price.
"Sec. 4989. Adjusted base price.
"Sec. 4990. Phaseout of tax.

"SEC. 4986. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the crude oil.

"SEC. 4987. AMOUNT OF TAX.

"(a) IN GENERAL.—The amount of tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be the applicable percentage of the windfall profit on such barrel.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) GENERAL RULE FOR TIERS 1 AND 2.—The applicable percentage for tier 1 oil and tier 2 oil which is not independent producer oil is—

"Tier 1	*70*
"Tier 2	*60*

"(2) INDEPENDENT PRODUCER OIL.—The applicable percentage for independent producer oil which is tier 1 oil or tier 2 oil is—

"Tier 1	*50*
"Tier 2	*30*

"(3) TIER 3 OIL.—The applicable percentage for tier 3 oil is 30 percent.

"(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on the whole barrel.

"SEC. 4988. WINDFALL PROFIT; REMOVAL PRICE.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4996(c).

"(b) NET INCOME LIMITATION ON WINDFALL PROFIT.—

"(1) IN GENERAL.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) DETERMINATION OF NET INCOME.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil from such property taken into account for such taxable year.

"(3) TAXABLE INCOME FROM THE PROPERTY.—For purposes of paragraph (2)—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a).

"(B) CERTAIN DEDUCTIONS NOT ALLOWED.—No deduction shall be allowed for—

"(i) depletion,

"(ii) the tax imposed by section 4986,

"(iii) section 263(c) costs, or

"(iv) qualified tertiary injectant expenses to which an election under subparagraph (E) applies.

"(C) TAXABLE INCOME REDUCED BY COST DEPLETION.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all—

"(I) section 263(c) costs, and

"(II) qualified tertiary injectant expenses to which an election under subparagraph (E) applies,

incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all taxable periods.

"(D) SECTION 263(c) COSTS.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(E) ELECTION TO CAPITALIZE QUALIFIED TERTIARY INJECTANT EXPENSES.—

"(i) IN GENERAL.—Any taxpayer may elect, with respect to any property, to capitalize qualified tertiary injectant expenses for purposes of this paragraph. Any such election shall apply to all qualified tertiary injec-

tant expenses allocable to the property for which the election is made, and may be revoked only with the consent of the Secretary. Any such election shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(ii) QUALIFIED TERTIARY INJECTANT EXPENSES.—The term 'qualified tertiary injectant expenses' means any expense allowable as a deduction under section 193.

"(4) SPECIAL RULE FOR APPLYING PARAGRAPH (3) (C) TO CERTAIN TRANSFERS OF PROVEN OIL OR GAS PROPERTIES.—

"(A) IN GENERAL.—In the case of any proven oil or gas property transfer which (but for this subparagraph), would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only those amounts which would have been allowable with respect to the transferor under paragraph (3)(C) and those costs incurred during periods after such transfer.

"(B) PROVEN OIL OR GAS PROPERTY TRANSFER.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

"(5) SPECIAL RULE WHERE THERE IS PRODUCTION PAYMENT.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property of both the person holding such production payment and the person holding the interest from which such production payment was created.

"(c) REMOVAL PRICE.—For purpose of this chapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) OIL REMOVED FROM PREMISES BEFORE SALE.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) REFINING BEGUN ON PREMISES.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) MEANING OF TERMS.—The terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"SEC. 4989. ADJUSTED BASE PRICE.

"(a) ADJUSTED BASE PRICE DEFINED.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending June 30, 1979.

"(2) ADDITIONAL ADJUSTMENT FOR TIER 3 OIL.—The adjusted base price for tier 3 oil shall be determined by substituting for the implicit price deflator referred to in paragraph (1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where 'n' equals the number of calendar quarters beginning after September 1979 and before the calendar quarter in which the oil is removed from the premises.

"(3) FIRST REVISION OF PRICE DEFLATOR USED.—For purposes of paragraphs (1) and (2), the first revision of the price deflator shall be used.

"(c) BASE PRICE FOR TIER 1 OIL.—For purposes of this chapter, the base price for tier 1 oil is—

"(1) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, reduced by

"(2) 21 cents.

"(d) BASE PRICES FOR TIER 2 OIL AND TIER 3 OIL.—For purposes of this chapter—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the base prices for tier 2 oil and tier 3 oil shall be prices determined pursuant to the method prescribed by the Secretary by regulations. Any method so prescribed shall be designed so as to yield, with respect to oil of any grade, quality, and field, a base price which approximates the price at which such oil would have sold in December 1979 if—

"(A) all domestic crude oil were uncontrolled, and

"(B) the average removal price for all domestic crude oil (other than Sadlerochit oil) were—

"(i) $15.20 a barrel for purposes of determining base prices for tier 2 oil, and

"(ii) $16.55 a barrel for purposes of determining base prices for tier 3 oil.

"(2) INTERIM RULE.—For months beginning before October 1980 (or such earlier date as may be provided in regulations taking effect before such earlier date), the base prices for tier 2 oil and tier 3 oil, respectively, shall be the product of—

"(A)(i) the highest posted price for December 31, 1979, for uncontrolled crude oil of the same grade, quality, and field, or

"(ii) if there is no posted price described in clause (i), the highest posted price for such date for uncontrolled crude oil at the nearest domestic field for which prices for oil of the same grade and quality were posted for such date, multiplied by

"(B) a fraction the denominator of which is $35, and the numerator of which is—

"(i) $15.20 for purposes of determining base prices for tier 2 oil, and

"(ii) $16.55 for purposes of determining base prices for tier 3 oil.

For purposes of the preceding sentence, no price which was posted after January 14, 1980, shall be taken into account.

"(3) MINIMUM INTERIM BASE PRICE.—The base price determined under paragraph (2) for tier 2 oil or tier 3 oil shall not be less than the sum of—

"(A) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, plus

"(B)(i) $1 in the case of tier 2 oil, or

"(ii) $2 in the case of tier 3 oil.

"SEC. 4990. PHASEOUT OF TAX.

"(a) PHASEOUT.—Notwithstanding any other provision of this chapter, the tax imposed by this chapter with respect to any crude oil removed from the premises during any month during the phaseout period shall not exceed—

"(1) the amount of tax which would have been imposed by this chapter with respect to such crude oil but for this subsection, multiplied by

"(2) the phaseout percentage for such month.

"(b) TERMINATION OF TAX.—Notwithstanding any other provision of this chapter, no tax shall be imposed by this chapter with respect to any crude oil removed from the premises after the phaseout period.

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

"(1) PHASEOUT PERIOD.—The term 'phaseout period' means the 33-month period beginning with the month following the target month.

"(2) PHASEOUT PERCENTAGE.—The phaseout percentage for any month is 100 percent reduced by 3 percentage points for each month after the target month and before the month following the month for which the phaseout percentage is being determined.

"(3) TARGET MONTH.—The term 'target month' means the later of—

"(A) December 1987, or

"(B) the first month for which the Secretary publishes an estimate under subsection (d)(2).

In no event shall the target month be later than December 1990.

"(d) Determination of Aggregate Net Windfall Revenue.—

"(1) Estimate by the Secretary.—For each month after 1986, the Secretary shall make an estimate of the aggregate net windfall revenue as of the close of such month. Any such estimate shall be made during the preceding month and shall be made on the basis of the best available data as of the date of making such estimate.

"(2) Publication.—If the Secretary estimates under paragraph (1) that the aggregate net windfall revenue as of the close of any month will exceed $227,300,000,000, the Secretary shall (not later than the last day of the preceding month) publish notice in the Federal Register that he has made such an estimate for such month.

"(3) Aggregate net windfall revenue defined.—For purposes of this subsection, the term 'aggregate net windfall revenue' means the amount which the Secretary estimates to be the excess of—

"(A) the gross revenues from the tax imposed by section 4986 during the period beginning on March 1, 1980, and ending on the last day of the month for which the estimate is being made, over

"(B) the sum of—

"(i) the refunds of and other adjustments to such tax for such period, plus

"(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986.

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

"Subchapter B—Categories of Oil

"Sec. 4991. Taxable crude oil; categories of oil.

"Sec. 4992. Independent producer oil.

"Sec. 4993. Incremental tertiary oil.

"Sec. 4994. Definitions and special rules relating to exemptions.

"SEC. 4991. TAXABLE CRUDE OIL; CATEGORIES OF OIL.

"(a) Taxable Crude Oil.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than exempt oil.

"(b) Exempt Oil.—For purposes of this chapter, the term 'exempt oil' means—

"(1) any crude oil from a qualified governmental interest or a qualified charitable interest,

"(2) any exempt Indian oil,

"(3) any exempt Alaskan oil, and

"(4) any exempt front-end oil.

"(c) Tier 1 Oil.—For purposes of this chapter, the term 'tier 1 oil' means any taxable crude oil other than—

"(1) tier 2 oil, and

"(2) tier 3 oil.

"(d) TIER 2 OIL.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'tier 2 oil' means—

"(A) any oil which is from a stripper well property within the meaning of the June 1979 energy regulations, and

"(B) any oil from an economic interest in a National Petroleum Reserve held by the United States.

"(2) EXCLUSION OF CERTAIN OIL.—The term 'tier 2 oil' does not include tier 3 oil.

"(e) TIER 3 OIL.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'tier 3 oil' means—

"(A) newly discovered oil,

"(B) heavy oil, and

"(C) incremental tertiary oil.

"(2) NEWLY DISCOVERED OIL.—The term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(3) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—

"(A) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(B) the taxable period,

had a weighted average gravity of 16 degrees API or less (corrected to 60 degrees Fahrenheit).

"(4) INCREMENTAL TERTIARY OIL.—

"For definition of incremental tertiary oil, see section 4993.

"SEC. 4992. INDEPENDENT PRODUCER OIL.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'independent producer oil' means that portion of an independent producer's qualified production for the quarter which does not exceed such person's independent producer amount for such quarter.

"(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'independent producer' means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

"(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied—

"(A) by substituting 'quarter' for 'taxable year' each place it appears in such paragraphs, and

"(B) by substituting '$1,250,000' for '$5,000,000' in paragraph (2) of section 613A(d).

"(c) INDEPENDENT PRODUCER AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—A person's independent producer amount for any quarter is the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days in such quarter (31 in the case of the first quarter of 1980).

"(2) PRODUCTION EXCEEDS AMOUNT.—If a person's qualified production for any quarter exceeds such person's independent producer amount for such quarter, the independent producer amount shall be allocated—

"(A) between tiers 1 and 2 in proportion to such person's production for such quarter of domestic crude oil in each such tier, and

"(B) within any tier, on the basis of the removal prices for such person's domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

"(d) QUALIFIED PRODUCTION OF OIL DEFINED.—For purposes of this section—

"(1) IN GENERAL.—An independent producer's qualified production of oil for any quarter is the number of barrels of taxable crude oil—

"(A) of which such person is the producer,

"(B) which is removed during such quarter,

"(C) which is tier 1 oil or tier 2 oil, and

"(D) which is attributable to the independent producer's working interest in a property.

"(2) WORKING INTEREST DEFINED.—

"(A) IN GENERAL.—The term 'working interest' means an operating mineral interest (within the meaning of section 614(d))—

"(i) which was in existence as such an interest on January 1, 1980, or

"(ii) which is attributable to a qualified overriding royalty interest.

"(B) QUALIFIED OVERRIDING ROYALTY INTEREST.—For purposes of subparagraph (A) (ii), the term 'qualified overriding royalty interest' means an overriding royalty interest in existence as such an interest on January 1, 1980, but only if on February 20, 1980, there was in existence a binding contract under which such interest was to be converted into an operating mineral interest (within the meaning of section 614(d)).

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of a transfer on or after January 1, 1980, of an interest in any property, the qualified production of the transferee shall not include any production attributable to such interest.

"(B) SMALL PRODUCER TRANSFER EXEMPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of an interest in property if the transferee establishes (in such manner as may be prescribed by the Secretary by regulations) that at no time after December 31, 1979, has the property been held by a person who was a disqualified transferor for any quarter ending after September 30, 1979, and ending before the date such person transferred the interest.

"(ii) DISQUALIFIED TRANSFEROR.—The term 'disqualified transferor' means, with respect to any quarter, any person who—

"(I) had qualified production for such quarter which exceeded such person's independent producer amount for such quarter, or

"(II) was not an independent producer for such quarter.

"(iii) SPECIAL RULES.—For purposes of this paragraph—

"(I) PROPERTY HELD BY PARTNERSHIPS.—Property held by a partnership at any time shall be treated as owned proportionately by the partners of such partnership at such time.

"(II) PROPERTY HELD BY TRUST OR ESTATE.—Property held by any trust or estate shall be treated as owned both by such trust or estate and proportionately by its beneficiaries.

"(III) CONSTRUCTIVE APPLICATION.—This chapter shall be treated as having been in effect for periods after September 30, 1979, for purposes of making any determination under subclause (I) or (II) of clause (ii).

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death,

"(ii) a change of beneficiaries of a trust which qualifies under clause (iii) of section 613A(c)(9)(B) (determined without regard to the exception at the end of such clause), and

"(iii) any transfer so long as the transferor and transferee are required by subsection (e) to share the 1,000 barrel amount contained in subsection (c)(1)(A).

The preceding sentence shall apply in the case of any property only if the production from the property was qualified production for the transferor.

"(D) TRANSFERS INCLUDE SUBLEASES, ETC.—For purposes of this paragraph—

"(i) a sublease shall be treated as a transfer, and

"(ii) an interest in a partnership or trust shall be treated as an interest in property held by the partnership or trust.

"(e) ALLOCATION WITHIN RELATED GROUP—

(1) IN GENERAL.—In the case of persons who are members of the same related group at any time during any quarter, the 1,000 barrel amount contained in subsection (c)(1)(A) for days during such quarter shall be reduced for each such person by allocating such amount among all such persons in proportion to their respective qualified production for such quarter.

"(2) RELATED GROUP.—For purposes of this subsection, persons shall be treated as members of a related group if they are described in any of the following clauses:

"(A) a family,

"(B) a controlled group of corporations,

"(C) a group of entities under common control; or

"(D) if 50 percent or more of the beneficial interest in 1 or more corporations, trusts, or estates is owned by the same family, all such entities and such family.

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

"(A) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given such term by section 613A(c)(8)(D)(i).

"(B) GROUP OF ENTITIES UNDER COMMON CONTROL.—The term 'group of entities under common control' means any group of corporations, trusts, or estates which (as determined under regulations prescribed by the Secretary) are under common control. Such regulations shall be based on principles similar to the principles which apply under subparagraph (A).

"(C) FAMILY.—The term 'family' means an individual and the spouse and minor children of such individual.

"(D) CONSTRUCTIVE OWNERSHIP.—For purposes of paragraph (2)(D), an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly by the entity and proportionately by its shareholders, partners, or beneficiaries, as the case may be.

"(E) MEMBERS OF MORE THAN 1 RELATED GROUP.—If a person is a member of more than 1 related group during any quarter, the determination of such person's allocation under paragraph (1) shall be made by reference to the related group which results in the smallest allocation for such person.

"SEC. 4993. INCREMENTAL TERTIARY OIL.

"(a) IN GENERAL.—For purposes of this chapter, the term 'incremental tertiary oil' means the excess of—

"(1) the amount of crude oil which is removed from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(2) the base level for such property for such month.

"(b) DETERMINATION OF AMOUNT.—For purposes of this section—

"(1) BASE LEVEL.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed from such property during the 6-month period ending March 31, 1979, reduced (but not below zero) by the sum of—

"(A) 1 percent of such amount for each month which begins after 1978 and before the first month beginning after the project beginning date, and

"(B) 2½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

"(2) MINIMUM AMOUNT IN CASE OF PROJECTS CERTIFIED BY DOE.—In the case of a project described in subsection (c)(1)(A),

for the period during which the project is in effect, the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(3) ALLOCATION RULES.—The determination of which barrels of crude oil removed during any month are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between—

"(i) oil which (but for this subsection) would be tier 1 oil, and

"(ii) oil which (but for this subsection) would be tier 2 oil,

in proportion to the respective amounts of each such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices, beginning with the highest of such prices.

"(c) QUALIFIED TERTIARY RECOVERY PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

"(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—A project meets the requirements of this paragraph if—

"(A) the project involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(B) the project beginning date is after May 1979,

"(C) the portion of the property to be affected by the project is adequately delineated,

"(D) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets the requirements of subparagraphs (A), (B), and (C), or

"(ii) a certification that a jurisdictional agency (within the meaning of subsection (d)(5)) has approved the project as meeting the requirements of subparagraphs (A), (B), and (C), and that such approval is still in effect, and

"(E) the operator submits (at such time and such manner as the Secretary may by regulations prescribe) to the Secretary a certification from a petroleum engineer that the project continues to meet the requirements of subparagraphs (A), (B), and (C).

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

"(1) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this chapter.

"(2) PROJECT BEGINNING DATE.—The term 'project beginning date' means the later of—

"(A) the date on which the injection of liquids, gases, or other matter begins, or

"(B) the date on which—

"(i) in the case of a project described in subsection (c)(1)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

"(ii) in the case of a project described in subsection (c)(1)(B), a petroleum engineer certifies, or a jurisdictional agency approves, the project as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2).

"(3) PROJECT ONLY AFFECTS PORTION OF PROPERTY.—If a qualified tertiary recovery project can reasonably be expected to increase the ultimate recovery of crude oil from only a portion of a property, such portion shall be treated as a separate property.

"(4) SIGNIFICANT EXPANSION TREATED AS SEPARATE PROJECT.—A significant expansion of any project shall be treated as a separate project.

"(5) JURISDICTIONAL AGENCY.—The term 'jurisdictional agency' means—

"(A) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

"(i) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

"(ii) if the Governor of such State does not submit such written notification within 180 days after the date of the enactment of the Crude Oil Windfall Profit Tax Act of 1980, the United States Geological Survey (until such time as the Governor submits such notification), or

"(B) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

"(6) BASIS OF REVIEW OF CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any project which is approved under subsection (c)(2)(D)(ii) and for which a certification is submitted to the Secretary, the project shall be considered as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) unless the Secretary determines that—

"(A) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

"(B) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of subsection (c)(2).

If the Secretary makes a determination described in subparagraph (A) or (B) of the preceding sentence, the determination of whether the project meets the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) shall be made without regard to the preceding sentence.

"(7) RULINGS RELATING TO CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under subsection (c)(2)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date after he receives the request and such information as may be necessary to make a determination.

"SEC. 4994. DEFINITIONS AND SPECIAL RULES RELATING TO EXEMPTIONS.

"(a) QUALIFIED GOVERNMENTAL INTEREST.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'qualified governmental interest' means an economic interest in crude oil if—

"(A) such interest is held by a State or political subdivision thereof or by an agency or instrumentality of a State or political subdivision thereof, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to a public purpose.

"(2) NET INCOME.—For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to the interest.

"(3) AMOUNTS PLACED IN CERTAIN PERMANENT FUNDS TREATED AS DEDICATED TO PUBLIC PURPOSE.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to a public purpose.

"(b) QUALIFIED CHARITABLE INTEREST.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'qualified charitable interest' means an economic interest in crude oil if—

"(A) such interest is—

"(i) held by an organization described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) which is also described in section 170(c)(2), or

"(ii) held—

"(I) by an organization described in clause (i) of section 170(b)(1)(A) which is also described in section 170(c)(2), and

"(II) for the benefit of an organization described in clause (i) of this subparagraph, and

"(B) such interest was held by the organization described in clause (i) or subclause (I) of clause (ii) of subparagraph (A) on January 21, 1980, and at all times thereafter before the last day of the taxable period.

"(2) SPECIAL RULE.—For purposes of paragraph (1)(A)(ii), an interest shall be treated as held for the benefit of an organization described in paragraph (1)(A)(i) only if all the proceeds from such interest were dedicated on January 21, 1980, and at all times thereafter before the last day of the taxable period, to the organization described in paragraph (1)(A)(i).

"(c) FRONT-END TERTIARY OIL.—

"(1) EXEMPTION FOR TERTIARY PROJECTS OF INDEPENDENTS.—For purposes of this chapter, the term 'exempt front-end oil' means any domestic crude oil—

"(A) which is removed from the premises before October 1, 1981, and

"(B) which is treated as front-end oil by reason of a front-end tertiary project on one or more properties each of which is a qualified property.

"(2) REFUNDS FOR TERTIARY PROJECTS OF INTEGRATED PRODUCERS.—

"(A) IN GENERAL.—In the case of any front-end tertiary project which does not meet the requirements of paragraph (1)(B), the excess of—

"(i) the allowed expenses of the taxpayer with respect to such project, over

"(ii) the tertiary incentive revenue,

shall be treated as a payment by the taxpayer with respect to the tax imposed by this chapter made on September 30, 1981.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the payment determined under subparagraph (A) with respect to any producer shall not exceed the aggregate tax imposed by section 4986 with respect to front-end oil of that producer removed after February 1980 and before October 1981.

"(C) TERTIARY INCENTIVE REVENUE.—For purposes of this paragraph, the term 'tertiary incentive revenue' has the meaning given such term by the front-end tertiary provisions of the energy regulations.

"(3) DEFINITION OF ALLOWED EXPENSES; PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—For purposes of this subsection (including the application of the front-end tertiary provisions for purposes of this subsection)—

"(A) ALLOWED EXPENSES.—Except as provided in subparagraph (B), allowed expenses shall be determined under the front-end tertiary provisions of the energy regulations.

"(B) PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—The term 'allowed expenses' shall not include any amount attributable to periods after September 30, 1981.

"(C) PERIOD TO WHICH ITEM IS ATTRIBUTABLE.—For purposes of subparagraph (B)—

"(i) any injectant and any fuel shall be treated as attributable to periods before October 1, 1981, if the injectant is injected, or the fuel is used, before October 1, 1981, and

"(ii) any other item shall be treated as attributable to periods before October 1, 1981, only to the extent that under chapter 1 deductions for such item (including depreciation in respect of such item) are properly allocable to periods before October 1, 1981.

For purposes of the preceding sentence, an act shall be treated as taken before a date if it would have been taken before such date but for an act of God, a severe mechanical breakdown, or an injunction.

"(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FRONT-END TERTIARY PROVISIONS.—The term 'front-end tertiary provisions' means—

"(i) the provisions of section 212.78 of the energy regulations which exempt crude oil from ceiling price limitations to provide financing for tertiary projects (as such provisions took effect on October 1, 1979), and

"(ii) any modification of such provisions, but only to the extent that such modification is for purposes of coordinating such provisions with the tax imposed by this chapter.

"(B) FRONT-END OIL.—The term 'front-end oil' means any domestic crude oil which is not subject to a first sale ceiling price under the energy regulations solely by reason of the front-end tertiary provisions of such regulations.

"(C) QUALIFIED PROPERTY.—The term 'qualified property' means any property if, on January 1, 1980, 50 percent or more of the operating mineral interest in such property is held by persons who were independent producers (within the meaning of section 4992(b)) for the last quarter of 1979.

"(D) FRONT-END TERTIARY PROJECT.—The term 'front-end tertiary project' means any project which qualifies under the front-end tertiary provisions of the energy regulations.

"(E) ORDERING RULE.—Front-end oil of any taxpayer shall be treated as attributable first to projects which meet the requirements of paragraph (1)(B).

"(d) EXEMPT INDIAN OIL.—For purposes of this chapter, the term 'exempt Indian oil' means any domestic crude oil—

"(1) the producer of which is an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization under an economic interest held by such a tribe, member, or organization on January 21, 1980, and which is produced from mineral interests which are—

"(A) held in trust by the United States for the tribe, member, or organization, or

"(B) held by the tribe, member, or organization subject to a restriction on alienation imposed by the United States because it is held by an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization,

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"(2) the producer of which is a native corporation organized under the Alaska Native Claims Settlement Act (as in effect on January 21, 1980), and which—

"(A) is produced from mineral interests held by the corporation which were received under that Act, and

"(B) is removed from the premises before 1992, or

"(3) the proceeds from the sale of which are deposited in the Treasury of the United States to the credit of tribal or native trust funds pursuant to a provision of law in effect on January 21, 1980.

"(e) EXEMPT ALASKAN OIL.—For purposes of this chapter, the term 'exempt Alaskan oil' means any crude oil (other than Sadlerochit oil) which is produced—

"(1) from a reservoir from which oil has been produced in commercial quantities through a well located north of the Arctic Circle, or

"(2) from a well located on the northerly side of the divide of the Alaska-Aleutian Range and at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

"Subchapter C—Miscellaneous Provisions

"Sec. 4995. Withholding; depositary requirements.
"Sec. 4996. Other definitions and special rules.
"Sec. 4997. Records and information; regulations.
"Sec. 4998. Cross references.

"SEC. 4995. WITHHOLDING; DEPOSITARY REQUIREMENTS.

"(a) WITHHOLDING BY PURCHASER.—

"(1) WITHHOLDING REQUIRED.— Except to the extent provided in regulations prescribed by the Secretary—

"(A) the first purchaser of any domestic crude oil shall withhold a tax equal to the amount of the tax imposed by section 4986 with respect to such oil from amounts payable by such purchaser to the producer of such oil, and

"(B) the first purchaser of such oil shall be liable for the payment of the tax required to be withheld under subparagraph (A) and shall not be liable to any person for the amount of any such payment.

"(2) DETERMINATION OF AMOUNT TO BE WITHHELD.—

"(A) IN GENERAL.—The purchaser shall determine the amount to be withheld under paragraph (1)—

"(i) on the basis of the certification furnished to the purchaser under section 6050C, unless the purchaser has reason to believe that any information contained in such certification is not correct, or

"(ii) if clause (i) does not apply, under regulations prescribed by the Secretary.

"(B) NET INCOME LIMITATION NOT TO BE APPLIED.—For purposes of determining the amount to be withheld under paragraph (1), subsection (b) of section 4988 shall not apply.

"(3) ADJUSTMENTS FOR WITHHOLDING ERRORS.—

"(A) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, withholding errors made by a purchaser with respect to the crude oil of a producer re-

moved during any calendar year shall be corrected by that purchaser by making proper adjustments in the amounts withheld from subsequent payments to such producer for crude oil removed during the same calendar year.

"(B) WITHHOLDING ERROR.—For purposes of subparagraph (A), there is a withholding error if the amount withheld by the purchaser under paragraph (1) with respect to any payment for any crude oil exceeds (or is less than) the tax imposed by section 4986 with respect to such oil (determined without regard to section 4988(b)).

"(C) LIMITATION ON AMOUNT OF ADJUSTMENTS.—No adjustment shall be required under subparagraph (A) with respect to any payment for any crude oil to the extent that such adjustment would result in amounts withheld from such payment in excess of the windfall profit from such crude oil.

"(D) VOLUNTARY WITHHOLDING.—The Secretary may by regulations provide for withholding under this subsection of additional amounts from payments by any purchaser to any producer if the purchaser and producer agree to such withholding. For purposes of this title, any amount withheld pursuant to such an agreement shall be treated as an amount required to be withheld under paragraph (1).

"(4) PRODUCER TREATED AS HAVING PAID WITHHELD AMOUNT.—

"(A) IN GENERAL.—The producer of any domestic crude oil shall be treated as having paid any amount withheld with respect to such oil under this subsection.

"(B) TIME PAYMENT DEEMED MADE.—The producer shall be treated as having made any payment described in subparagraph (A) on the last day of the first February after the calendar year in which the oil is removed from the premises.

"(5) PRODUCER REQUIRED TO FILE RETURN ONLY TO EXTENT PROVIDED IN REGULATIONS.—Except to the extent provided in regulations, the producer of crude oil with respect to which withholding is required under paragraph (1) shall not be required to file a return of the tax imposed by section 4986 with respect to such oil.

"(6) PURCHASER'S QUARTERLY RETURNS TO CONTAIN SUMMARY.—The purchaser's return of tax under this chapter for any calendar quarter of any calendar year shall contain such information (with respect to such quarter and the prior quarters of such calendar year) as may be necessary to facilitate the coordination of the withholding of tax by such purchaser with respect to each producer with the determination of the tax imposed by section 4986 with respect to such producer.

"(7) ELECTION FOR PURCHASER AND OPERATOR TO HAVE OPERATOR TAKE PLACE OF PURCHASER.—

"(A) IN GENERAL.—If the purchaser of domestic crude oil and the operator of the property from which the crude oil was produced make a joint election under this paragraph with respect to such property (or portion thereof)—

"(i) the operator shall be substituted for the purchaser for purposes of applying this subsection and subsec-

tion (b) (and so much of subtitle F as relates to such subsections), and

"(ii) if the operator is not an integrated oil company, the operator shall be treated as having the same status as the purchaser for purposes of applying subsection (b) with respect to amounts withheld by the operator by reason of such election.

"(B) REGULATIONS MAY LIMIT ELECTION.—The Secretary may by regulations limit the circumstances under which an election under this paragraph may be made to situations where substituting the operator for the purchaser is administratively more practicable.

"(8) NO ASSESSMENTS OR REFUNDS BEFORE CLOSE OF THE YEAR.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any oil subject to withholding under this subsection—

"(A) no notice of any deficiency with respect to the tax imposed by section 4986 may be mailed under section 6212, and

"(B) no proceeding in any court for the refund of the tax imposed by section 4986 may be begun,

before the last day of the first February after the calendar year in which such oil was removed from the premises.

"(b) DEPOSITARY REQUIREMENTS.—

"(1) INTEGRATED OIL COMPANIES.—In the case of an integrated oil company, deposit of the estimated amount of—

"(A) withholding under subsection (a) by such company, and

"(B) such company's liability for the tax imposed by section 4986 with respect to oil for which withholding is not required,

shall be made twice a month.

"(2) PERSONS WHO ARE NOT INTEGRATED OIL COMPANIES.—In the case of a person, other than an integrated oil company—

"(A) DEPOSITS OF WITHHELD AMOUNTS.—Deposit of the amounts required to be withheld under subsection (a) shall be made not later than—

"(i) except as provided in clause (ii), 45 days after the close of the month in which the oil was removed, or

"(ii) in the case of oil purchased under a contract therefor by an independent refiner under which no payment is required to be made before the 46th day after the close of the month in which the oil is purchased, before the first day of the 3rd month which begins after the close of the month in which such oil was removed.

"(B) ESTIMATED SECTION 4986 TAX.—Deposits of the estimated amount of such person's liability for the tax imposed by section 4986 with respect to oil for which withholding is not required shall be made not later than 45 days after the close of the month in which the oil was removed from the premises.

"(3) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means a taxpayer

described in paragraph (2) or (4) of section 613A(d) who is not an independent refiner.

"(4) INDEPENDENT REFINER.—For purposes of this subsection, the term 'independent refiner' has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (as in effect on January 1, 1980), except that 'the preceding calendar quarter' shall be substituted for 'November 27, 1973' in applying such paragraph for purposes of this paragraph.

"(c) CROSS REFERENCE.—

"For provision authorizing the Secretary to establish by regulations the mode and time for collecting the tax imposed by section 4986 (to the extent not otherwise provided in this chapter), see section 6302(a).

"SEC. 4996. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) PRODUCER AND OPERATOR.—For purposes of this chapter—

"(1) PRODUCER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(B) PARTNERSHIPS.—

"(i) IN GENERAL.—If (but for this subparagraph) a partnership would be treated as the producer of any crude oil—

"(I) such crude oil shall be allocated among the partners of such partnership, and

"(II) any partner to whom such crude oil is allocated (and not the partnership) shall be treated as the producer of such crude oil.

"(ii) ALLOCATION.—Except to the extent otherwise provided in regulations, any allocation under clause (i)(I) shall be determined on the basis of a person's proportionate share of the income of the partnership.

"(2) OPERATOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'operator' means the person primarily responsible for the management and operation of crude oil production on a property.

"(B) DESIGNATION OF OTHER PERSON.—Under regulations prescribed by the Secretary, the term 'operator' means the person (or persons) designated with respect to a property (or portion thereof) as the operator for purposes of this chapter by persons holding operating mineral interests in the property.

"(b) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) DOMESTIC.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(4) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) TAXABLE PERIOD.—The term 'taxable period' means—

"(A) March 1980, and

"(B) each calendar quarter beginning after March 1980.

"(8) ENERGY REGULATIONS.—

"(A) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) MARCH 1979 ENERGY REGULATIONS.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) SEVERANCE TAX ADJUSTMENT.—For purposes of this chapter—

"(1) IN GENERAL.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been valued at its adjusted base price.

"(2) SEVERANCE TAX DEFINED.—For purposes of this subsection, the term 'severance tax' means a tax—

"(A) imposed by a State with respect to the extraction of oil, and

"(B) determined on the basis of the gross value of the extracted oil.

"(3) LIMITATIONS.—

"(A) 15 PERCENT LIMITATION.—A severance tax shall not be taken into account to the extent that the rate thereof exceeds 15 percent.

"(B) INCREASES AFTER MARCH 31, 1979, MUST APPLY EQUALLY.—The amount of the severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under a State severance tax in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax (or to the imposition of a severance tax) which applies equally to

all portions of the gross value of each barrel of oil subject to such tax.

"(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

"(1) IN GENERAL.—In the case of Sadlerochit oil—

"(A) ADJUSTED BASE PRICE INCREASED BY TAPS ADJUSTMENT.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(B) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of such oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) TAPS ADJUSTMENT.—

"(A) IN GENERAL.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26, over

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) TAPS TARIFF.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(C) TAPS DEFINED.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaska Pipeline System.

"(3) SADLEROCHIT OIL DEFINED.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.

"(e) SPECIAL RULES FOR POST-1978 TRANSFERS OF PROPERTY.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer crude oil produced from any portion of such property shall not constitute oil from a stripper well property, newly discovered oil, or heavy oil, if such oil would not be so classified if the property had not been transferred.

"(f) ADJUSTMENT OF REMOVAL PRICE.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"(g) NO EXEMPTIONS FROM TAX.—No taxable crude oil, and no producer of such crude oil, shall be exempt from the tax imposed by this chapter except to the extent provided in this chapter or in any provision of law enacted after the date of the enactment of this chapter which grants a specific exemption, by reference to this chapter, from the tax imposed by this chapter.

"(h) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636.

"SEC. 4997. RECORDS AND INFORMATION; REGULATIONS.

"(a) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each op-

erator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the oil) with respect to such oil as the Secretary may by regulations prescribe.

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

"SEC. 4998. CROSS REFERENCES.

"(1) For additions to the tax and additional amount for failure to file tax return or to pay tax, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for negligence and fraud, see section 6653.

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241."

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 45. Windfall profit tax on domestic crude oil."

(b) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986."

(c) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX; DEPOSITARY REQUIREMENTS.—

(1) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"SEC. 6076. TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.

"(a) GENERAL RULE.—Except in the case of a return required by regulations prescribed under section 4995(a)(5), each return—

"(1) of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4996(b)(7)), or

"(2) by a person required under section 4995(a) to withhold the windfall profit tax for any taxable period,

shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) CROSS REFERENCE.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 4995(b)."

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax."

(2) CROSS REFERENCE.—Subsection (d) of section 6302 is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).

"(2) For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b)."

(3) TECHNICAL AMENDMENT.—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(A) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(B) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) CERTAIN INFORMATION REQUIRED TO BE FURNISHED.—

(1) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050C. INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

"(a) CERTIFICATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary, the operator of a property from which domestic crude oil was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser—

"(1) the adjusted base price (within the meaning of section 4989) with respect to such crude oil,

"(2) the tier and category of such crude oil for purposes of the tax imposed by section 4986,

"(3) if any certification is furnished to the operator by the producer with respect to whether such oil is exempt oil or independent producer oil, a copy of such certification,

"(4) the amount of such crude oil, and

"(5) such other information as the Secretary by regulations may require.

"(b) AGREEMENT BETWEEN OPERATOR AND PURCHASER.—The Secretary may by regulations provide that, if the operator and purchaser agree thereto, the operator shall be relieved of the duty of furnishing some or all of the information required under subsection (a).

"(c) SPECIAL RULE FOR OIL NOT SUBJECT TO WITHHOLDING.—If the tax imposed by section 4986 with respect to any oil for which withholding is not required under section 4995(a)—

"(1) subsections (a) and (b) shall be applied by substituting 'producer' for 'purchaser', and

"(2) paragraph (3) of subsection (a) shall not apply.

"(d) CROSS REFERENCES.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7241."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 6652(b) is amended—

(i) by striking out "or section 6050A" and inserting in lieu thereof the following: ", section 6050A", and

(ii) by inserting ", or section 6050C (relating to information regarding windfall profit tax on crude oil)" after "fishing boat operators)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information regarding windfall profit tax on domestic crude oil."

(e) CRIMINAL PENALTY FOR FAILURE TO FURNISH CERTAIN INFORMATION.—

(1) IN GENERAL.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"SEC. 7241. WILLFUL FAILURE TO FURNISH CERTAIN INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil."

(f) DEFICIENCY PROCEDURES.—

(1) The following provisions are each amended by striking out "or 44" each place it appears and inserting in lieu thereof "44, or 45":

(A) section 6211(a),
(B) section 6211(b)(2),
(C) section 6212(a),
(D) section 6213(a),
(E) section 6213(f),
(F) section 6214(c),
(G) section 6214(d),
(H) section 6161(b)(1),
(I) section 6344(a)(1), and
(J) section 7422(e).

(2) Subsection (a) of section 6211 is amended by striking out "and 44" and inserting in lieu thereof "44, and 45".

(3) Subsection (b) of section 6211 is amended by adding at the end thereof the following new paragraphs:

"(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not

otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

"(6) Any liability to pay amounts required to be withheld under section 4995(a) shall not be treated as a tax imposed by chapter 45."

(4) Paragraph (1) of section 6212(b) is amended—

(A) by striking out "or chapter 44" and inserting in lieu thereof "chapter 44, or chapter 45",

(B) by striking out "chapter 44, and this chapter" and inserting in lieu thereof "chapter 44, chapter 45, and this chapter", and

(C) by striking out "TAXES IMPOSED BY CHAPTER 42" in the paragraph heading and inserting in lieu thereof "CERTAIN EXCISE TAXES".

(5) Paragraph (1) of section 6212(c) is amended—

(A) by striking out "or of chapter 42 tax" and inserting in lieu thereof "of chapter 42 tax", and

(B) by inserting ", or of chapter 45 tax for the same taxable period" after "to which such petition relates".

(6)(A) Subsection (a) of section 6512 is amended—

(i) by striking out "chapter 41, 42, 43, or 44 taxes" and inserting in lieu thereof "certain excise taxes",

(ii) by striking out "or of tax imposed by chapter 41" and inserting in lieu thereof "of tax imposed by chapter 41", and

(iii) by inserting ", or of tax imposed by chapter 45 for the same taxable period" after "to which such petition relates".

(B) Paragraph (1) of section 6512(b) is amended—

(i) by striking out "or of tax imposed by chapter 41" and inserting in lieu thereof "of tax imposed by chapter 41", and

(ii) by inserting ", or of tax imposed by chapter 45 for the same taxable period" after "to which such petition relates".

(7) The subsection heading for subsection (c) of section 6601 is amended by striking out "CHAPTER 41, 42, 43, OR 44 TAX" and inserting in lieu thereof "CERTAIN EXCISE TAX".

(8) Subsection (a) of section 6653 is amended—

(A) by striking out "or by chapter 12" and inserting in lieu thereof ", by chapter 12",

(B) by striking out "is due" and inserting in lieu thereof ", or by chapter 45 (relating to windfall profit tax) is due", and

(C) by striking out "OR GIFT" in the subsection heading and inserting in lieu thereof ", GIFT, OR WINDFALL PROFIT".

(9) Subsection (a) of section 6862 is amended by striking out "certain excise taxes" and inserting in lieu thereof "the excise taxes imposed by chapters 41, 42, 43, 44, and 45".

(g) SPECIAL RULES FOR STATUTE OF LIMITATIONS.—

(1) ASSESSMENT.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(q) SPECIAL RULES FOR WINDFALL PROFIT TAX.—

"(1) OIL SUBJECT TO WITHHOLDING.—

"(A) In general.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in this section shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year ends.

"(B) Removal year.—For purposes of subparagraph (A), the term 'removal year' means the calendar year in which the oil is removed from the premises.

"(2) Extension of liability attributable to DOE reclassification.—

"(A) In general.—In the case of the tax imposed by chapter 45, if a Department of Energy change becomes final, the period for assessing any deficiency attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

"(B) Department of energy change.—For purposes of subparagraph (A) and section 6511(h)(2), the term 'Department of Energy change' means any change by the Department of Energy in the classification under the June 1979 energy regulations (as defined in section 4996(b)(8)(C)) of a property or of domestic crude oil from a property.

"(3) Partnership items of federally registered partnerships.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (o) shall apply to the tax imposed by section 4986."

(2) Refund.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rules for Windfall Profit Taxes.—

"(1) Oil subject to withholding.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in subsection (a) shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year (as defined in section 6501(q)(1)(B)) ends.

"(2) Special rule for DOE reclassification.—In the case of any tax imposed by chapter 45, if a Department of Energy change (as defined in section 6501(q)(2)(B)) becomes final, the period for filing a claim for credit or refund for any overpayment attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

"(3) Partnership items of federally registered partnerships.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986."

(h) Interest on Overpayments.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Windfall Profit Tax.—

"(1) In general.—If any overpayment of tax imposed by section 4986 is refunded within 45 days after—

"(A) the last date (determined without regard to any extension of time for filing the return) prescribed for filing the return of the tax imposed by section 4986 for the taxable period with respect to which the overpayment was made, or

"(B) if such return is filed after such last date, the date on which the return is filed,

no interest shall be allowed under subsection (a) on such overpayment.

"(2) SPECIAL RULE WHERE NO RETURN IS REQUIRED.—In the case of any oil for which no return of the tax imposed by section 4986 is required, the return referred to in paragraph (1) shall be the return of the tax imposed by subtitle A for the taxable year of the producer in which the removal year (with respect to which the overpayment was made) ends. For purposes of the preceding sentence, the term 'removal year' means the calendar year in which the oil is removed from the premises."

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to periods after February 29, 1980.

(2) TRANSITIONAL RULES.—For the period ending June 30, 1980, the Secretary of the Treasury or his delegate shall prescribe rules relating to the administration of chapter 45 of the Internal Revenue Code of 1954. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 45 of such Code (or in so much of subtitle F of such Code as relates to such chapter 45).

SEC. 102. ALLOCATION OF NET REVENUES FROM WINDFALL PROFIT TAX TO CERTAIN USES.

(a) SEPARATE ACCOUNT IN TREASURY ESTABLISHED.—The net revenues from the windfall profit tax for each fiscal year beginning after September 30, 1980, and before October 1, 1990, are hereby allocated for accounting purposes to a separate account in the Treasury to be known as the Windfall Profit Tax Account (hereinafter in this section referred to as the "Account").

(b) SPECIFIED USES FOR AMOUNTS IN THE ACCOUNT.—

(1) BASIC NET REVENUES.—In the case of the amount of basic net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	*Percent*
Income tax reductions	*60*
Low-income assistance	*25*
Energy and transportation programs	*15*

(2) ADDITIONAL NET REVENUES.—In the case of the amount of additional net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	*Percent*
Income tax reductions	*66⅔*
Low-income assistance	*33⅓*

(3) SPECIAL RULE FOR LOW-INCOME ASSISTANCE FOR 1982 AND SUBSEQUENT YEARS.—In the case of any amount allocated under paragraph (1) to the subaccount for low-income assistance for the fiscal year beginning October 1, 1981, or any subsequent fiscal year—

(A) 50 percent shall be allocated to a program to assist AFDC and SSI recipients under the Social Security Act, and

(B) 50 percent shall be allocated to a program of emergency energy assistance.

(c) NET REVENUES DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "net revenues of the windfall profit tax" means, for any fiscal year, the amount which the Secretary estimates to be the excess of—

(A) the gross revenues from the tax imposed by section 4986 for the fiscal year, over

(B) the sum of—

(i) the refunds of and other adjustments to such tax for such fiscal year, plus

(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986.

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

(2) BASIC NET REVENUES.—The term "basic net revenues" means the estimated net revenues which would result for any period under the assumptions for such period which were made in enacting the Crude Oil Windfall Profit Tax Act of 1980.

(3) ADDITIONAL NET REVENUES.—The term "additional net revenues" means for any period the net revenues in excess of the basic net revenues for such period.

(d) PRESIDENT TO PROPOSE ALLOCATION OF NET REVENUES.—

(1) IN GENERAL.—The President shall propose for each fiscal year to which this section applies an allocation of the net revenues among the uses set forth in subsection (b).

(2) TIME AND MANNER FOR PROPOSING.—Except for the fiscal year beginning October 1, 1980, the proposal for each fiscal year shall be contained in the annual budget for such fiscal year. The proposal for the fiscal year beginning October 1, 1980, shall be submitted by the President within 90 days after the date of the enactment of this Act.

(e) REPORTS.—The Secretary of the Treasury shall report to the Congress not later than January 1 of 1982 and of each calendar year thereafter before 1992—

(1) the net revenues derived from the windfall profit tax for the fiscal year ending on September 30 of the preceding year, and

(2) the actual disposition for such fiscal year of such revenues among the uses specified in subsection (b).

SEC. 103. STUDY OF EFFECTS OF DECONTROL OF OIL PRICES AND OF WINDFALL PROFIT TAX.

(a) GENERAL RULE.—The President shall, not later than January 1, 1983, submit to the Congress a report on the effect of decontrol of oil prices and the windfall profit tax on—

(1) domestic oil production,

(2) foreign oil imports,
(3) profits of the oil industry,
(4) inflation,
(5) employment,
(6) economic growth,
(7) Federal revenues, and
(8) national security.

(b) REPORT TO INCLUDE RECOMMENDATIONS.—The report required under subsection (a) shall include such legislative recommendations as the President determines to be advisable.

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 201. GENERAL PROVISIONS RELATING TO CREDIT.

(a) JOINT OWNERSHIP OF ENERGY ITEMS.—Section 44C(d) (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

"(A) IN GENERAL.—Any expenditure otherwise qualifying as an energy conservation expenditure or a renewable energy source expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

"(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made by each individual."

(b) SECRETARIAL AUTHORITY.—

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(9) LIMITATIONS ON SECRETARIAL AUTHORITY.—

"(A) IN GENERAL.—The Secretary shall not specify any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i) unless the Secretary determines that—

"(i) there will be a reduction in oil or natural gas consumption as a result of such specification, and such reduction is sufficient to justify any resulting decrease in Federal revenues,

"(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety, and

"(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

"(B) FACTORS TAKEN INTO ACCOUNT.—In making any determination under subparagraph (A)(i), the Secretary (after consultation with the Secretary of Energy)—

"(i) shall make an estimate of the amount by which the specification will reduce oil and natural gas consumption, and

"(ii) shall determine whether such specification compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost to the Federal Government (including revenue loss), with other Federal programs in existence or being proposed.

"(C) FACTORS TAKEN INTO ACCOUNT IN MAKING ESTIMATES.—In making any estimate under subparagraph (B)(i), the Secretary shall take into account (among other factors)—

"(i) the extent to which the use of any item will be increased as a result of the specification,

"(ii) whether sufficient capacity is available to increase production to meet any increase in demand caused by such specification,

"(iii) the amount of oil and natural gas used directly or indirectly in the manufacture of such item and other items necessary for its use, and

"(iv) the estimated useful life of such item."

(2) PERIOD FOR SPECIFYING ITEMS.—Paragraph (6) of section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraphs:

"(C) ACTION ON REQUESTS.—

"(i) IN GENERAL.—The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) for specifying an item under paragraph (4)(A)(viii) or for specifying a form of renewable energy under paragraph (5)(A)(i) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

"(ii) REPORTS.—Each month the Secretary shall publish a report of any request which has been denied during the preceding month and the reasons for the denial.

"(D) EFFECTIVE DATE.—

"(i) IN GENERAL.—In the case of any item or energy source specified under paragraph (4)(A)(viii) or (5)(A)(i), the credit allowed by subsection (a) shall apply with respect to expenditures which are made on or after the date on which final notice of such specification is published in the Federal Register.

"(ii) EXPENDITURES TAKEN INTO ACCOUNT IN FOLLOWING TAXABLE YEARS.—The Secretary may prescribe by regulations that expenditures made on or after the date referred to in clause (i) and before the close of the taxable year in which such date occurs shall be taken into account in the following taxable year."

SEC. 202. RENEWABLE ENERGY SOURCE EXPENDITURES.

(a) AMOUNT OF CREDIT.—Paragraph (2) of section 44C(b) (relating to qualified renewable energy source expenditures) is amended to read as follows:

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are 40 percent of so much of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $10,000."

(b) SOLAR ELECTRIC ENERGY.—Clause (i) of section 44C(c)(5)(A) (defining renewable energy source property) is amended by striking out "providing hot water" and inserting in lieu thereof "providing hot water or electricity".

(c) COSTS OF DRILLING GEOTHERMAL WELL.—Subparagraph (B) of section 44C(c)(2) (relating to renewable energy source expenditure) is amended to read as follows:

"(B) CERTAIN LABOR AND OTHER COSTS INCLUDED.—The term 'renewable energy source expenditure' includes—

"(i) expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property, and

"(ii) expenditures for an onsite well drilled for any geothermal deposit (as defined in section 613(e)(3)), but only if the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures."

(d) SOLAR PANELS INSTALLED ON ROOFS.—Paragraph (2) of section 44C(c) (relating to renewable energy source expenditure) is amended by adding at the end thereof the following new subparagraph:

"(D) CERTAIN SOLAR PANELS.—No solar panel installed as a roof (or portion thereof) shall fail to be treated as renewable energy source property solely because it constitutes a structural component of the dwelling on which it is installed."

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

(2) SUBSECTIONS (b), (c), AND (d).—The amendments made by subsections (b), (c), and (d) shall apply to expenditures made after December 31, 1979, in taxable years ending after such date.

SEC. 203. PROVISIONS TO PREVENT DOUBLE BENEFITS.

(a) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(10) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(A) REDUCTION OF QUALIFIED EXPENDITURES.—For purposes of determining the amount of energy conservation or renewable energy source expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

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"(B) DOLLAR LIMITS REDUCED.—Paragraph (1) or (2) of subsection (b) (whichever is appropriate) shall be applied with respect to such dwelling unit for any taxable year of such taxpayer by reducing each dollar amount contained in such paragraph (reduced as provided in subsection (b)(3)) by an amount equal to the sum of—

"(i) the amount of the expenditures which were made by the taxpayer during such taxable year or any prior taxable year with respect to such dwelling unit and which were not taken into account by reason of subparagraph (A), and

"(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year or any prior taxable year which was used to make energy conservation or renewable energy source expenditures with respect to the dwelling unit and which was not included in the gross income of such taxpayer.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy."

(b) RETURN REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

"SEC. 6050D. RETURNS RELATING TO ENERGY GRANTS AND FINANCING.

"(a) IN GENERAL.—Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants for projects to conserve or produce energy shall, to the extent required under regulations prescribed by the Secretary, make a return setting forth the name and address of each taxpayer receiving financing or a grant under such program and the aggregate amount so received by such individual.

"(b) DEFINITION OF PERSON.—For purposes of this section, the term 'person' means the officer or employee having control of the program, or the person appropriately designated for purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050D. Returns relating to energy grants and financing."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980, but only with respect to financing or grants made after such date.

PART II—BUSINESS ENERGY INVESTMENT CREDITS

SEC. 221. CHANGES IN AMOUNT AND PERIOD OF APPLICATION OF ENERGY PERCENTAGE.

(a) IN GENERAL.—Subparagraph (C) of section 46(a)(2) (relating to energy percentage) is amended to read as follows:

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

"Column A—Description	Column B—Percentage	Column C—Period	
In the case of:	The energy percentage is:	For the period:	
		Beginning on:	And ending on:
I. GENERAL RULE.—Property not described in any of the following provisions of this column	10 percent	Oct. 1, 1978	Dec. 31, 1982.
II. SOLAR, WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(viii)	A. 10 percent	Oct. 1, 1978	Dec. 31, 1979.
	B. 15 percent	Jan. 1, 1980	Dec. 31, 1985.
III. OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1980	Dec. 31, 1985.
IV. QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(l)(2)(A)(vii)	11 percent	Jan. 1, 1980	Dec. 31, 1985.
V. QUALIFIED INTERCITY BUSES.—Property described in section 48(l)(2)(A)(ix)	10 percent	Jan. 1, 1980	Dec. 31, 1985.
VI. BIOMASS PROPERTY.—Property described in section 48(l)(15)	10 percent	Oct. 1, 1978	Dec. 31, 1985.

"(ii) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under clause (i) (as modified by clauses (iii) and (iv)).

"(iii) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in subclause (I) of clause (i) with respect to property which is a part of a project with a normal construction period of 2 years or more (within the meaning of section 46(d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(I) before January 1, 1983, the taxpayer has completed all engineering studies in connection with the commencement of the construction of the project, and has applied for all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project, and

"(II) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at

least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(iv) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in subclause (IV) of clause (i) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 48(l) (relating to treatment as section 38 property) is amended to read as follows:

"(1) TREATMENT AS SECTION 38 PROPERTY.—For any period for which the energy percentage determined under section 46(a)(2)(C) for any energy property is greater than zero—

"(A) such 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 such property."

(2) Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds) is amended by striking out "5 percent" and inserting in lieu thereof "one-half of the energy percentage determined under section 46(a)(2)(C)".

SEC. 222. CHANGES IN ENERGY PROPERTY ITEM DESCRIPTIONS.

(a) IN GENERAL.—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(1) by striking out "or" at the end of clause (v), and

(2) by adding at the end thereof the following new clauses:

"(vii) qualified hydroelectric generating property,

"(viii) cogeneration equipment, or

"(ix) qualified intercity buses,".

(b) ALTERNATIVE ENERGY PROPERTY.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended—

(1) by striking out "(other than coke or coke gas)" in clause (iii),

(2) by striking out clause (v) and inserting in lieu thereof the following:

"(v) equipment to convert—

"(I) coal (including lignite), or any nonmarketable substance derived therefrom, into a substitute for a petroleum or natural gas derived feedstock for the manufacture of chemicals or other products, or

"(II) coal (including lignite), or any substance derived therefrom, into methanol, ammonia, or a hydroprocessed coal liquid or solid,",

(3) by striking out "and" at the end of clause (vii),

(4) by striking out the period at the end of clause (viii) and inserting in lieu thereof ", and", and

(5) by adding at the end thereof the following new clause:

"(ix) equipment, placed in service at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy."

(c) SOLAR OR WIND ENERGY PROPERTY.—Paragraph (4) of section 48(l) (defining solar or wind energy property) is amended—

(1) by striking out "or" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(C) to provide solar process heat."

(d) SPECIALLY DEFINED ENERGY PROPERTY.—

(1) ALUMINA ELECTROLYTIC CELLS.—Paragraph (5) of section 48(l) (defining specially defined energy property) is amended—

(A) by striking out "or" at the end of subparagraph (K), and

(B) by redesignating subparagraph (L) as subparagraph (M) and by inserting after subparagraph (K) the following new subparagraph:

"(L) modifications to alumina electrolytic cells, or".

(2) STANDARDS FOR SECRETARIAL DISCRETION.—Paragraph (5) of section 48(l) is amended by adding at the end thereof the following new sentence: "The Secretary shall not specify any property under subparagraph (M) unless he determines that such specification meets the requirements of paragraph (9) of section 44C(c) for specification of items under section 44C(c)(4)(A)(viii)."

(e) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(13) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(A) IN GENERAL.—The term 'qualified hydroelectric generating property' means property installed at a qualified hydroelectric site which is—

"(i) equipment for increased capacity to generate electricity by water (up to, but not including, the electrical transmission stage), and

"(ii) structures for housing such generating equipment, fish passageways, and dam rehabilitation property, required by reason of the installation of equipment described in clause (i).

"(B) QUALIFIED HYDROELECTRIC SITE.—The term 'qualified hydroelectric site' means any site—

"(i) at which—

"(I) there is a dam the construction of which was completed before October 18, 1979, and which was not significantly enlarged after such date, or

"(II) electricity is to be generated without any dam or other impoundment of water, and

"(ii) the installed capacity of which is less than 125 megawatts.

"(C) LIMITATION ON CREDIT WHEN INSTALLED CAPACITY EXCEEDS 25 MEGAWATTS.—For purposes of applying the energy percentage to any qualified hydroelectric generating

property placed in service in connection with a site the installed capacity of which exceeds 25 megawatts, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by a fraction—

"(i) the numerator of which is 25 reduced by 1 for each whole megawatt by which such installed capacity exceeds 100 megawatts, and

"(ii) the denominator of which is the number of megawatts of such installed capacity but not in excess of 100.

"(D) DAM REHABILITATION PROPERTY.—For purposes of this paragraph, the term 'dam rehabilitation property' means any amount properly chargeable to capital account for property (or additions or improvements to property) in connection with the rehabilitation of a dam.

"(E) INSTALLED CAPACITY.—The term 'installed capacity' means, with respect to any site, the installed capacity of all electrical generating equipment placed in service at such site. Such term includes the capacity of equipment installed during the 3 taxable years following the taxable year in which the equipment is placed in service."

(2) REGULAR INVESTMENT CREDIT TO APPLY TO FISH PASSAGEWAYS.—Subparagraph (D) of section 46(a)(2) (relating to special rule for certain energy property) is amended by adding at the end thereof the following new sentence: "In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero."

(f) COGENERATION PROPERTY.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(14) COGENERATION EQUIPMENT.—

"(A) IN GENERAL.—The term 'cogeneration equipment' means property which is an integral part of a system for using the same fuel to produce both qualified energy and electricity at an industrial or commercial facility at which, as of January 1, 1980, electricity or qualified energy was produced.

"(B) ONLY COGENERATION INCREASES TAKEN INTO ACCOUNT.—The term 'cogeneration equipment' includes property only to the extent that such property increases the capacity of the system to produce qualified energy or electricity, whichever is the secondary energy product of the system.

"(C) LIMITATION ON USE OF OIL OR GAS.—The term 'cogeneration equipment' does not include any property which is part of a system if—

"(i) such system uses oil or natural gas (or a product of oil or natural gas) as a fuel for any purpose other than—

"(I) start-up,

"(II) flame control, or

"(III) back-up, or

"(ii) more than 20 percent (determined on a Btu basis) of the fuel for such system for any taxable year consists of oil or natural gas (or a product of oil or natural gas).

"(D) QUALIFIED ENERGY.—The term 'qualified energy' means steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial, commercial, or space-heating purposes (other than in the production of electricity).

"(E) INDUSTRIAL INCLUDES PURIFICATION AND DESALINIZATION OF WATER.—The term 'industrial' includes the purification of water and the desalinization of water."

(g) BIOMASS PROPERTY.—

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(15) BIOMASS PROPERTY.—

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

"(i) any property described in clause (i), (ii), or (iii) of paragraph (3)(A), as modified by the last sentence of paragraph (3)(A) and by subparagraph (B) of this paragraph, and

"(ii) any equipment described in so much of clause (vi) or (vii) of paragraph (3)(A) as relates to property described in clause (i) of this subparagraph.

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) the term 'alternate substance' has the meaning given to such term by paragraph (3)(B), except that such term does not include any inorganic substance and does not include coal (including lignite) or any product of such coal, and

"(ii) clause (iii) of paragraph (3)(A) shall be applied by substituting 'a qualified fuel' for 'a synthetic liquid, gaseous, or solid fuel'.

"(C) QUALIFIED FUEL.—For purposes of subparagraph (B), the term 'qualified fuel' means—

"(i) any synthetic solid fuel, and

"(ii) alcohol for fuel purposes if the primary source of energy for the facility producing the alcohol is not oil or natural gas or a product of oil or natural gas."

(2) STORAGE OF FUEL DERIVED FROM GARBAGE.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended by adding at the end thereof the following new sentence:

"The equipment described in clause (vii) includes equipment used for the storage of fuel derived from garbage at the site at which such fuel was produced from garbage."

(h) QUALIFIED INTERCITY BUSES.— Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(16) QUALIFIED INTERCITY BUSES.—

"(A) IN GENERAL.—Paragraph (2)(A)(ix) shall apply only with respect to the qualified investment in qualified intercity buses of a taxpayer—

"(i) which is a common carrier regulated by the Interstate Commerce Commission or an appropriate State agency (as determined by the Secretary), and

"(ii) which is engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus.

"(B) QUALIFIED INTERCITY BUS.—The term 'qualified intercity bus' means an automobile bus—

"(i) the chassis and body of which is exempt under section 4063(a)(6) from the tax imposed by section 4061(a),

"(ii) which has—

"(I) a seating capacity of more than 35 passengers (in addition to the driver), and

"(II) 1 or more baggage compartments, separated from the passenger area, with a capacity of at least 200 cubic feet, and

"(iii) which is used predominantly by the taxpayer in the trade or business of furnishing intercity passenger transportation or intercity charter service.

"(C) OPERATING CAPACITY MUST INCREASE.—Under regulations prescribed by the Secretary—

"(i) IN GENERAL.—The amount of qualified investment taken into account under paragraph (2)(A)(ix) for any taxable year shall not exceed the amount of the qualified investment which is attributable to an increase in the taxpayer's total operating seating capacity for the taxable year over such capacity as of the close of the preceding taxable year.

"(ii) SPECIAL RULES.—The regulations prescribed under this subparagraph—

"(I) shall provide that only buses used predominantly on a full-time basis in the trade or business of furnishing intercity passenger or intercity charter service shall be taken into account in determining the taxpayer's total operating seating capacity, and

"(II) shall provide rules treating related taxpayers as 1 person."

(i) TECHNICAL AMENDMENTS.—

(1) PUBLIC UTILITY PROPERTY.—

(A) Paragraph (3) of section 48(l) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) Subsection (l) of section 48 is amended by adding at the end thereof the following new paragraph:

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

(2) OCEAN THERMAL PROPERTY.—Section 48(a)(2)(B) (relating to property used outside the United States) is amended—

(A) by striking out "and" at the end of clause (ix),

(B) by striking out the period at the end of clause (x) and inserting in lieu thereof ", and", and

(C) by inserting immediately after clause (x) the following new clause:

"(xi) any property described in subsection (l)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States."

(3) POLLUTION CONTROL EQUIPMENT.—Subparagraph (C) of section 48(l)(3) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, in the case of property which is alternative energy property solely by reason of the amendments made by section 222(b) of the Crude Oil Windfall Profit Tax Act of 1980, 'January 1, 1980' shall be substituted for 'October 1, 1978'."

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(2) ALUMINA ELECTROLYTIC CELLS.—The amendments made by subsection (d)(1) shall apply to periods after September 30, 1978, under rules similar to the rules of section 48(m) of such Code.

SEC. 223. OTHER CHANGES WITH RESPECT TO THE INVESTMENT CREDIT FOR INVESTMENT IN ENERGY PROPERTY.

(a) BOILERS FUELED BY PETROLEUM COKE OR PETROLEUM PITCH.—

(1) IN GENERAL.—Paragraph (10) of section 48(a) (relating to boilers fueled by oil or gas) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'petroleum or petroleum products' does not include petroleum coke or petroleum pitch."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(b) REPEAL OF REFUNDABLE CREDIT FOR SOLAR OR WIND PROPERTY.—

(1) IN GENERAL.—Paragraph (10) of section 46(a) (relating to special rules in case of energy property) is amended—

(A) in subparagraph (A)—

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

(ii) by striking out "(other than solar or wind energy property), and" and inserting in lieu thereof a period in clause (ii), and

(iii) by striking out clause (iii);

(B) by striking out "OTHER THAN SOLAR OR WIND ENERGY PROPERTY" in the heading of subparagraph (B); and

(C) by striking out subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 6401 (relating to amounts treated as overpayments) is amended by striking out subsection (d).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to qualified investment for taxable years beginning after December 31, 1979.

(c) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

(1) IN GENERAL.—Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds), as amended by section 221(b)(2), is amended to read as follows:

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

"(A) REDUCTION OF QUALIFIED INVESTMENT.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

"(i) subsidized energy financing, or

"(ii) 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 amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by the fraction determined under subparagraph (B).

"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

"(i) the numerator of which is that portion of the qualified investment in the property which is allocable to such financing or proceeds, and

"(ii) the denominator of which is the qualified investment in the property.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy."

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(B) EARLIER APPLICATION FOR CERTAIN PROPERTY.—In the case of property which is—

(i) qualified hydroelectric generating property (described in section 48(l)(2)(A)(vii) of such Code),

(ii) cogeneration equipment (described in section 48(l)(2)(A)(viii) of such Code),

(iii) qualified intercity buses (described in section 48(l)(2)(A)(ix) of such Code),

(iv) ocean thermal property (described in section 48(l)(3)(A)(ix) of such Code), or

(v) expanded energy credit property,

the amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(C) EXPANDED ENERGY CREDIT PROPERTY.—For purposes of subparagraph (B), the term "expanded energy credit property" means—

(i) property to which section 48(l)(3)(A) of such Code applies because of the amendments made by paragraphs (1) and (2) of section 222(b),

(ii) property described in section 48(l)(4)(C) of such Code (relating to solar process heat),

(iii) property described in section 48(l)(5)(L) of such Code (relating to alumina electrolytic cells), and

(iv) property described in the last sentence of section 48(l)(3)(A) of such Code (relating to storage equipment for refuse-derived fuel).

(D) FINANCING TAKEN INTO ACCOUNT.—For the purpose of applying the provisions of section 48(l)(11) of such Code in the case of property financed in whole or in part by subsidized energy financing (within the meaning of section 48(l)(11)(C) of such Code), no financing made before January 1, 1980, shall be taken into account. The preceding sentence shall not apply to financing provided from the proceeds of any tax-exempt industrial development bond (within the meaning of section 103(b)(2) of such Code).

PART III—PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES; ALCOHOL FUELS

SEC. 231. PRODUCTION TAX CREDIT.

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

"SEC. 44D. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) $3, multiplied by

"(2) the barrel-of-oil equivalent of qualified fuels—

"(A) sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the taxable year begins exceeds $23.50, bears to

"(B) $6.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The $3 amount in subsection (a) and the $23.50 and $6 amounts in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which a taxable year begins. In the case of gas from a tight formation, the $3 amount in subsection (a) shall not be adjusted.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—

"(A) IN GENERAL.—The amount of the credit allowable under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(i) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(I) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(II) proceeds of any issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

"(III) the aggregate amount of subsidized energy financing (within the meaning of section 48(l)(11)(C)) provided in connection with the project, and

"(ii) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

"(B) AMOUNTS DETERMINED AT CLOSE OF YEAR.—The amounts under subparagraph (A) for any taxable year shall be determined as of the close of the taxable year.

"(4) CREDIT REDUCED FOR ENERGY CREDIT.—The amount allowable as a credit under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1), (2), and (3)) shall be reduced by the excess of—

"(A) the aggregate amount allowed under section 38 for the taxable year or any prior taxable year by reason of the energy percentage with respect to property used in the project, over

"(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A)—

"(i) under section 47 for the taxable year or any prior taxable year, or

"(ii) under this paragraph for any prior taxable year.

The amount recaptured under section 47 with respect to any property shall be appropriately reduced to take into account any reduction in the credit allowed by this section by reason of the preceding sentence.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such 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 the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax' imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(c) DEFINITION OF QUALIFIED FUELS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified fuels' means—

"(A) oil produced from shale and tar sands,

"(B) gas produced from—

"(i) geopressured brine, Devonian shale, coal seams, or a tight formation, or

"(ii) biomass,

"(C) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks,

"(D) qualifying processed wood fuels, and

"(E) steam produced from solid agricultural byproducts (not including timber byproducts).

"(2) GAS FROM GEOPRESSURED BRINE, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation shall be made in accordance with section 503 of the Natural Gas Policy Act of 1978.

"(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term 'gas produced from a tight formation' shall only include—

"(i) gas the price of which is regulated by the United States, and

"(ii) gas for which the maximum lawful price applicable under the Natural Gas Policy Act of 1978 is at least 150 percent of the then applicable price under section 103 of such Act.

"(3) BIOMASS.—The term 'biomass' means any organic material which is an alternate substance (as defined in section 48(l)(3)(B)) other than coal (including lignite) or any product of such coal.

"(4) QUALIFYING PROCESSED WOOD FUEL.—

"(A) IN GENERAL.—The term 'qualifying processed wood fuel' means any processed solid wood fuel (other than charcoal, fireplace products, or a product used for ornamental or recreational purposes) which has a Btu content per unit of volume or weight, determined without regard to any nonwood elements, which is at least 40 percent greater per unit of volume or weight than the Btu content of the wood from which it is produced (determined immediately before the processing).

"(B) ELECTION.—A taxpayer shall elect, at such time and in such manner as the Secretary by regulations may prescribe, as to whether Btu content per unit shall be determined for purposes of this paragraph on a volume or weight basis. Any such election—

"(i) shall apply to all production from a facility; and

"(ii) shall be effective for the taxable year with respect to which it is made and for all subsequent taxable years and, once made, may be revoked only with the consent of the Secretary.

"(5) AGRICULTURAL BYPRODUCT STEAM.—Steam produced from solid agricultural byproducts which is used by the taxpayer in his trade or business shall be treated as having been sold by the taxpayer to an unrelated person on the date on which it is used.

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

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to qualified fuels the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1979. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(C) REFERENCE PRICE.—The term 'reference price' means with respect to a calendar year the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a property or facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the property or facility (as the case may be) shall be allocated among such persons in proportion to their respective interests in the gross sales from such property or facility.

"(4) SPECIAL RULES APPLICABLE TO GAS FROM GEOPRESSURED BRINE, DEVONIAN SHALE, COAL SEAMS, OR A TIGHT FORMATION.—

"(A) CREDIT ALLOWED ONLY FOR NEW PRODUCTION.—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before January 1, 1980.

"(B) REFERENCE PRICE AND APPLICATION OF PHASEOUT FOR DEVONIAN SHALE.—

"(i) REFERENCE PRICE FOR DEVONIAN SHALE.—For purposes of this section, the term 'reference price' for gas from Devonian shale sold during calendar years 1980, 1981, and 1982 shall be the average wellhead price per thousand cubic feet for such year of high cost natural gas (as defined in section 107(c) (2), (3), and (4) of the Natural Gas Policy Act of 1978 and determined

under section 503 of that Act) as estimated by the Secretary after consultation with the Federal Energy Regulatory Commission.

"(ii) DIFFERENT PHASEOUT TO APPLY FOR 1980, 1981, AND 1982.—For purposes of applying paragraphs (1) and (2) of subsection (b) with respect to sales during calendar years 1980, 1981, and 1982 of gas from Devonian shale, '$4.05' shall be substituted for '$23.50' and '$1.03' shall be substituted for '$6.00'.

"(5) PHASEOUT DOES NOT APPLY FOR FIRST 3 YEARS OF PRODUCTION FROM FACILITY PRODUCING QUALIFYING PROCESSED WOOD OR STEAM FROM SOLID AGRICULTURAL BYPRODUCTS.—In the case of a facility for the production of—

"(A) qualifying processed wood fuel,

or

"(B) steam from solid agricultural byproducts,

paragraph (1) of subsection (b) shall not apply with respect to the amount of the credit allowable under subsection (a) for fuels sold during the 3-year period beginning on the date the facility is placed in service.

"(6) BARREL-OF-OIL EQUIVALENT.—The term 'barrel-of-oil equivalent' with respect to any fuel means that amount of such fuel which has a Btu content of 5.8 million; except that in the case of qualified fuels described in subparagraph (C), (D), or (E) of subsection (c)(1), the Btu content shall be determined without regard to any material from a source not described in such subparagraph.

"(7) BARREL DEFINED.—The term 'barrel' means 42 United States gallons.

"(8) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(9) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(e) CREDIT NOT ALLOWABLE IF TAXPAYER MAKES ELECTION UNDER NATURAL GAS POLICY ACT OF 1978.—If the taxpayer makes an election under section 107(d) of the Natural Gas Policy Act of 1978 to have subsections (a) and (b) of section 107 of that Act, and subtitle B of title I of that Act, apply with respect to gas described in subsection (c)(1)(B)(i) produced from any well on a property, then the credit allowable by subsection (a) shall not be allowed with respect to any gas produced on that property.

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before January 1, 1990, or

"(ii) produced in a facility placed in service after December 31, 1979, and before January 1, 1990, and

"(B) which are sold after December 3, 1979, and before January 1, 2001.

"(2) SPECIAL RULES APPLICABLE TO QUALIFIED PROCESSED WOOD AND SOLID AGRICULTURAL BYPRODUCT STEAM.—

"(A) CREDIT ALLOWED ONLY FOR CERTAIN PRODUCTION.— In the case of qualifying processed wood fuel and steam from solid agricultural byproducts, this section shall apply only with respect to—

"(i) qualifying processed wood fuel produced in facilities placed in service after December 3, 1979, and before January 1, 1982, which is sold before the later of—

"(I) October 1, 1983, or

"(II) the date which is 3 years after the date on which the facility is placed in service; and

"(ii) steam produced in facilities placed in service after Decemer 31, 1979, from solid agricultural byproducts which is sold before January 1, 1985.

"(B) EXPANDED PRODUCTION OF STEAM TREATED AS NEW FACILITY PRODUCTION.—For purposes of this subsection and subsection (d)(5), in the case of a facility for the production of steam from solid agricultural byproducts which was placed in service before January 1, 1980, any production of steam attributable to an expansion of the capacity of the facility to produce such steam through placing additional or replacement equipment in service after December 31, 1979, shall be treated as if it were produced by a facility placed in service on the date on which such equipment is placed in service."

(b) TECHNICAL AND CONFORMING 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 44C the following new item:

"Sec. 44D. Credit for producing fuel from a nonconventional source."

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

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1979.

SEC. 232. ALCOHOL FUELS.

(a) EXTENSION OF EXEMPTION THROUGH 1992.—

(1) GASOLINE.—Subsection (c) of section 4081 (relating to gasoline mixed with alcohol) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—Paragraph (1) shall not apply to any sale after December 31, 1992."

(2) SPECIAL FUELS.—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended by ading at the end thereof the following new paragraph:

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1992."

(3) TECHNICAL AMENDMENT.—Subsections (a)(2) and (b)(2) of the Energy Tax Act of 1978 are each amended by striking out ", and before October 1, 1984".

(b) CREDIT AGAINST INCOME TAX.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting before section 45 the following new section:

"SEC. 44E. ALCOHOL USED AS FUEL.

"(a) GENERAL RULE.—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 alcohol mixture credit, plus

"(2) the alcohol credit.

"(b) DEFINITION OF ALCOHOL MIXTURE CREDIT AND ALCOHOL CREDIT.—For purposes of this section—

"(1) ALCOHOL MIXTURE CREDIT.—

"(A) IN GENERAL.—The alcohol mixture credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol used by the taxpayer in the production of a qualified mixture.

"(B) QUALIFIED MIXTURE.—The term 'qualified mixture' means a mixture of alcohol and gasoline or of alcohol and a special fuel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Alcohol used in the production of a qualified mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified mixture.

"(2) ALCOHOL CREDIT.—

"(A) IN GENERAL.—The alcohol credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol which is not in a mixture with gasoline or a special fuel (other than any denaturant) and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO ALCOHOL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any alcohol which was sold in a retail sale described in subparagraph (A)(ii).

"(3) SMALLER CREDIT FOR LOWER PROOF ALCOHOL.—In the case of any alcohol with a proof which is at least 150 but less than 190, paragraphs (1)(A) and (2)(A) shall be applied by substituting "30 cents" for "40 cents".

"(4) ADDING OF DENATURANTS NOT TREATED AS MIXTURE.—The adding of any denaturant to alcohol shall not be treated as the production of a mixture.

"(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit allowable under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such alcohol solely by reason of the application of section 4041(k) or 4081(c).

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

"(1) ALCOHOL DEFINED.—

"(A) IN GENERAL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal, or

"(ii) alcohol with a proof of less than 150.

"(B) DETERMINATION OF PROOF.—The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(2) SPECIAL FUEL DEFINED.—The term 'special fuel' includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

"(3) MIXTURE OR ALCOHOL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was allowable under this section with respect to alcohol used in the production of any qualified mixture, and

"(ii) any person—

"(I) separates the alcohol from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of alcohol in such mixture.

"(B) ALCOHOL.—If—

"(i) any credit was allowable under this section with respect to the retail sale of any alcohol, and

"(ii) any person mixes such alcohol or uses such alcohol other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of such alcohol.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) VOLUME OF ALCOHOL.—For purposes of determining—

"(A) under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), or

"(B) under section 4041(k) or 4081(c) the percentage of any mixture which consists of alcohol,

the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do

not exceed 5 percent of the volume of such alcohol (including denaturants).

"(5) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be an alcohol fuel credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as credit under subsection (a) for such years. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 7 taxable years to which (by reason of the preceding sentence) such credit may be carried, and then to each of the other 6 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such succeeding taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(f) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any sale or use after December 31, 1992.

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under subsection (e)(2) to any taxable year beginning after December 31, 1994."

(2) TECHNICAL AMENDMENTS RELATED TO CARRYOVER OF CREDIT.—

(A) Paragraph (3) of section 55(c) is amended by adding at the end thereof the following new sentence:

"In determining any carryover under section 44E(e)(2), a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A), and the applications of subparagraphs (A), (B), and (C) shall be adjusted accordingly."

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 44E FOR ALCOHOL USED AS FUEL.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44E, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44E in respect of the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused investment credits, work incentive credits, new employee credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44E(e)(2)," after "section 53(c),", and

*(ii) by striking out "**NEW EMPLOYEE CREDITS**" in the section heading and inserting in lieu thereof "**NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS**".*

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44E(e)(2)," after "section 53(c),", and

*(ii) by striking out "**NEW EMPLOYEE CREDITS**" in the section heading and inserting in lieu thereof "**NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS**".*

(3) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 4081(c) (defining alcohol) is amended by adding at the end thereof the following new sentence: "Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants)."

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

"Sec. 44E. Alcohol used as fuel."

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 231, is amended by striking out "and 44D" and inserting "44D, and 44E".

(c) CREDIT TO BE INCLUDED IN INCOME.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 86. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the amount of the credit allowable to the taxpayer under section 44E for the taxable year (determined without regard to subsection (e) thereof)."

(2) TECHNICAL AMENDMENT.—Subparagraph (B) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out "section 667" and inserting in lieu thereof "section 86 or 667".

(3) CONFORMING AMENDMENT.—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"Sec. 86. Alcohol fuel credit."

(d) REFUND OF TAX ON GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) GENERAL RULE.—Section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(B) by inserting after subsection (e) the following new subsection:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1)."

(2) QUARTERLY REFUND ALLOWED WHERE $200 OR MORE IS PAYABLE.—

(A) Subparagraph (A) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) $200 or more is payable under subsection (f),".

(B) Subparagraph (B) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter."

(3) TREATMENT OF SUBSEQUENT SEPARATION.—Paragraph (2) of section 4081(c) (relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or pay-

ment was allowed or made by reason of section 6427(f)(1))" after "this subsection".

(4) TECHNICAL AMENDMENTS.—

(A) Subsections (a)(4) and (b) of section 39 are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

(B) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

(C) Subsection (g)(1) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(D) Subsection (i)(2) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

(E) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) EXEMPTION FROM DISTILLED SPIRITS RULES.—

(1) IN GENERAL.—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section:

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE.

"(a) IN GENERAL.—

"(1) PURPOSES FOR WHICH PLANT MAY BE ESTABLISHED.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

"(A) producing, processing, and storing, and

"(B) using or distributing,

distilled spirits to be used exclusively for fuel use.

"(2) REGULATIONS.—In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

"(A) expedite all applications;

"(B) establish a minimum bond; and

"(C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

"(b) AUTHORITY TO EXEMPT.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) SPECIAL RULES FOR SMALL PLANT PRODUCTION.—

"(1) APPLICATIONS.—

"(A) IN GENERAL.—An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

"(B) RECEIPT OF APPLICATION.—Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

"(C) MULTIPLE APPLICATIONS.—If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

"(2) DETERMINATION.—

"(A) IN GENERAL.—In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

"(B) FAILURE TO MAKE DETERMINATION.—If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

"(C) REJECTION OF APPLICATION.—If the Secretary determines under subparagraph (A) that a permit should not be issued—

"(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

"(ii) such determination shall not prejudice any further application for such operating permit.

"(3) BOND.—No bond shall be required for an eligible distilled spirit plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.

"(4) ELIGIBLE DISTILLED SPIRITS PLANT.—The term 'eligible distilled spirits plant' means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

"(d) WITHDRAWAL FREE OF TAX.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection

(c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

"(e) PROHIBITED WITHDRAWAL, USE, SALE, OR DISPOSITION.—

"(1) IN GENERAL.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

"(2) RENDERING UNFIT FOR USE.—For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(f) DEFINITION OF DISTILLED SPIRITS.—For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE, OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;".

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181."

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(D) Section 5005(d) (relating to person liable for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(E) Section 221(d) of the Energy Tax Act of 1978 is repealed.

(F) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"Sec. 5181. Distilled spirits for fuel use.

"Sec. 5182. Cross references."

(f) STUDY OF IMPORTED ALCOHOL.—Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall furnish to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the United States House of Representatives recommendations as to what methods, if any, may be used to limit the importing of alcohol into the United States for fuel purposes, including, but not limited to—

(1) denial of the exemption under sections 4081(c) and 4041(k) of the Internal Revenue Code of 1954 or of the credit under section 44E of such Code to fuels produced from imported alcohol,

(2) import quotas and duties on such alcohol, and

(3) strict surveillance of such imports to monitor their effect on the domestic fuel alcohol industry.

(g) REPORTS.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

"(c) REPORTS.—On April 1 of each year, beginning with April 1, 1981, and ending with April 1, 1992, 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—

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

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels.

"(3) 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 the credit allowable under section 44E of such Code and the impact of such revenue loss on the Highway Trust Fund, and

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol."

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to sales or uses after September 30, 1980, in taxable years ending after such date.

(2) SUBSECTION (d).—

(A) IN GENERAL.—The amendments made by subsection (d) shall take effect on January 1, 1979.

(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of the Internal Revenue Code of 1954 (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.

(3) DISTILLED SPIRITS PLANTS.—The amendments made by subsection (e) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act.

PART IV—ENERGY-RELATED USES OF TAX-EXEMPT BONDS

SEC. 241. SOLID WASTE DISPOSAL FACILITIES.

(a) IN GENERAL.—Section 103 (relating to interest on governmental obligations) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) QUALIFIED STEAM-GENERATING OR ALCOHOL-PRODUCING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (b)(4)(E), the term 'solid waste disposal facility' includes—

"(A) a qualified steam-generating facility, and

"(B) a qualified alcohol-producing facility.

"(2) QUALIFIED STEAM-GENERATING FACILITY DEFINED.—For purposes of paragraph (1), the term 'qualified steam-generating facility' means a steam-generating facility for which—

"(A) more than half of the fuel (determined on a Btu basis) is solid waste or fuel derived from solid waste, and

"(B) substantially all of the solid waste derived fuel is produced at a facility which is—

"(i) located at or adjacent to the site for such steam-generating facility, and

"(ii) owned and operated by the person who owns and operates the steam-generating facility.

"(3) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of paragraph (1), the term 'qualified alcohol-producing facility' means a facility—

"(A) the primary product of which is alcohol,

"(B) more than half of the feedstock for which is solid waste or a feedstock derived from solid waste, and

"(C) substantially all of the solid waste derived feedstock for which is produced at a facility which is—

"(i) located at or adjacent to the site for such alcohol-producing facility, and

"(ii) owned and operated by the person who owns and operates the alcohol-producing facility.

"(4) SPECIAL LOCATION RULE IN CASE OF STEAM-GENERATING FACILITY.—A facility for producing solid waste derived fuel shall be treated as a facility which meets the requirements of clauses (i) and (ii) of paragraph (2)(B) if—

"(A) such facility and the steam-generating facility are owned and operated by or for a State or the same political subdivision or subdivisions of a State, and

"(B) substantially all of the solid waste used in producing the solid waste derived fuel at the facility producing such fuel is collected from the area in which the steam-generating facility is located."

(b) CERTAIN SOLID WASTE AND ENERGY-PRODUCING FACILITIES.—

(1) GENERAL RULE.—For purposes of section 103 of the Internal Revenue Code of 1954, any obligation issued by an authority for 2 or more political subdivisions of a State which is part of an issue substantially all of the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as an obligation of a political subdivision of a State which meets the requirements of section 103(b)(4)(E) of such Code (relating to solid waste disposal, etc., facilities). Nothing in the preceding sentence shall be construed to override the limitations of section 103(c) of such Code (relating to arbitrage bonds).

(2) SOLID WASTE-ENERGY PRODUCING FACILITIES.—For purposes of pararaph (1), the term "solid waste-energy producing facilities" means any solid waste disposal facility and any facility for the production of steam and electrical energy if—

(A) substantially all of the fuel for the facility producing steam and electrical energy is derived from solid waste from such solid waste disposal facility,

(B) both such solid waste disposal facility and the facility producing steam and electrical energy are owned and operated by the authority referred to in paragraph (1), and

(C) all of the electrical energy and steam produced by the facility for producing steam and electricity which is not used by such facility is sold, for purposes other than resale, to an agency or instrumentality of the United States.

(3) SOLID WASTE DISPOSAL FACILITY.—For purposes of paragraph (2), the term "solid waste disposal facility" means any solid waste disposal facility within the meaning of section 103(b)(4)(E) of the Internal Revenue Code of 1954 (determined without regard to section 103(g) of such Code).

(4) OBLIGATIONS MUST BE IN REGISTERED FORM.—This subsection shall not apply to any obligation which is not issued in registered form.

(c) SPECIAL RULE FOR CERTAIN ALCOHOL-PRODUCING FACILITIES.—

(1) IN GENERAL.—Subparagraph (C) of section 103(g)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any facility for the production of alcohol from solid waste if—

(A) substantially all of the solid waste derived feedstock for such facility is produced at a facility which—

(i) went into full production in 1977,

(ii) is located within the limits of a city, and

(iii) is located in the same metropolitan area as the alcohol-producing facility, and

(B) before March 1, 1980, there were negotiations between a governmental body and an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 with respect to the utilization of a special process for the production of alcohol at such alcohol-producing facility.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) with respect to any project shall not exceed $30,000,000.

(3) TERMINATION.—This subsection shall not apply to obligations issued after December 31, 1985.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsections (b) and (c) shall apply with respect to obligations issued after October 18, 1979.

SEC. 242 QUALIFIED HYDROELECTRIC GENERATING FACILITIES.

(a) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(A) by striking out "or" at the end of subparagraph (F),

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or", and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) qualified hydroelectric generating facilities."

(2) DEFINITIONS.—Subsection (b) of section 103 is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—For purposes of this section—

"(A) QUALIFIED HYDROELECTRIC GENERATING FACILITY.—The term 'qualified hydroelectric generating facility' means any qualified hydroelectric generating property which is owned by a State, political subdivision thereof, or agency or instrumentality of any of the foregoing.

"(B) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified hydroelectric generating property' has the meaning given to such term by section 48(l)(13).

"(ii) DAM MUST BE OWNED BY GOVERNMENTAL BODY.—The term 'qualified hydroelectric generating property' does not include any property installed at the site of any dam described in section 48(l)(13)(B)(i)(I) unless such dam was owned by one or more governmental bodies described in subparagraph (A) on October 18, 1979, and at all times thereafter until the obligations are no longer outstanding.

"(C) LIMITATION.—Paragraph (4)(H) of this subsection shall not apply to any issue of obligations (otherwise qualifying under paragraph (4)(H)) if the portion of the proceeds of such issue which is used to provide qualified hydroelectric generating facilities exceeds (by more than an insubstantial amount) the product of—

"(i) the eligible cost of the facilities being provided in whole or in part from the proceeds of the issue, and

"(ii) the installed capacity fraction.

"(D) INSTALLED CAPACITY FRACTION.—The term 'installed capacity fraction' means the fraction—

"(i) the numerator of which is 25, reduced by 1 for each megawatt by which the installed capacity exceeds 100 megawatts, and

"(ii) the denominator of which is the number of megawatts of the installed capacity (but not in excess of 100).

For purposes of the preceding sentence, the term 'installed capacity' has the meaning given to such term by section 48(l)(13)(E).

"(E) ELIGIBLE COST.—

"(i) IN GENERAL.—The eligible cost of any facilities is that portion of the total cost of such facilities which is reasonably expected—

"(I) to be the cost to the governmental body described in subparagraph (A), and

"(II) to be attributable to periods after October 18, 1979, and before 1986 (determined under rules similar to the rules of section 48(m)).

"(ii) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, clause (i)(II) shall be applied with respect to such property by substituting '1989' for '1986'.

"(F) CERTAIN PRIOR ISSUES TAKEN INTO ACCOUNT.—If the proceeds of 2 or more issues (whether or not the issuer of

each issue is the same) are or will be used to finance the same facilities, then, for purposes of subparagraph (C), in determining the amount of the proceeds of any later issue used to finance such facilities, there shall be taken into account the proceeds used to finance such facilities of all prior such issues which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue)."

(b) APPLICATION OF SECTION 103(b)(4)(H) TO CERTAIN FACILITIES.—

(1) IN GENERAL.—For purposes of section 103(b)(4)(H) of the Internal Revenue Code of 1954 (relating to qualified hydroelectric generating facilities), in the case of a hydroelectric generating facility described in paragraph (2)—

(A) the facility shall be treated as a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) without regard to clause (ii) of section 48(l)(13)(B) of such Code (relating to maximum generating capacity), and

(B) the fraction referred to in subparagraph (C) of section 103(b)(8) of such Code shall be deemed to be 1.

(2) FACILITIES TO WHICH PARAGRAPH (1) APPLIES.—A facility is described in this paragraph if—

(A) it would be a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) if clause (ii) of section 48(l)(13)(B) did not apply,

(B) it constitutes an expansion of generating capacity at an existing hydroelectric generating facility,

(C) such facility is located at 1 of 2 dams located in the same county where—

(i) the rated capacity of the hydroelectric generating facilities at each such dam on October 18, 1979, was more than 750 megawatts,

(ii) the construction of the first such dam began in 1956, power at such first dam was first generated in 1959, and full power production at such first dam began in 1961, and

(iii) the construction of the second such dam began in 1959, power at such second dam was first generated in 1963, and full power production at such second dam began in 1964,

(D) acquisition or construction of the existing facility referred to in subparagraph (B) was financed with the proceeds of an obligation described in section 103(a)(1) of such Code,

(E) the existing facility is owned and operated by a State, political subdivision of a State, or agency or instrumentality of any of the foregoing,

(F) no more than 60 percent of the electric power and energy produced by such existing facility and of the qualified hydroelectric generating facility is to be sold to anyone other than an exempt person (within the meaning of section 103(b)(3) of such Code), and

(G) the agency of the State in which the facility is located which has jurisdiction over water rights had granted,

before October 18, 1979, a water right under which expanded power and energy generating capacity for the facility was contemplated.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsection (b) shall apply with respect to obligations issued after October 18, 1979.

SEC. 243. RENEWABLE ENERGY PROPERTY.

(a) CERTAIN STATE OBLIGATIONS FOR RENEWABLE ENERGY PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of subsection (b) of section 103 of the Internal Revenue Code of 1954 shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide renewable energy property, if—

(A) the obligations are general obligations of a State,

(B) the authority for the issuance of the obligations requires that taxes be levied in sufficient amount to provide for the payment of principal and interest on such obligations,

(C) the amount of such obligations, when added to the sum of the amounts of all such obligations previously issued by the State which are outstanding, does not exceed the smaller of—

(i) $500,000,000 or

(ii) one-half of 1 percent of the value of all property in the State,

(D) such obligations are issued pursuant to a program to provide financing for small scale energy projects which was established by a State the legislature of which, before October 18, 1979, approved a constitutional amendment to provide for such a program, and

(E) such obligations meet the requirements of paragraph (1) of section 103(h) of the Internal Revenue Code of 1954.

(2) RENEWABLE ENERGY PROPERTY.—For purposes of his subsection, the term "renewable energy property" means property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy sources (including wind, solar, and geothermal energy, waste heat, biomass, and water).

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to obligations issued after the date of enactment of this Act.

SEC. 244. CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.

(a) GENERAL RULE.—Section 103 (relating to interest on governmental obligations), as amended by section 241, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.—

"(1) IN GENERAL.—An obligation to which this subsection applies shall be treated as an obligation not described in subsection (a) if—

"(A) such obligation is not issued in registered form,

"(B) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the

United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

"(C) the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

"(2) OBLIGATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(A) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(B) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued on or after October 18, 1979.

PART V—TERTIARY INJECTANTS

SEC. 251. TERTIARY INJECTANTS.

(a) DEDUCTION FOR TERTIARY INJECTANTS.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 193. TERTIARY INJECTANTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the qualified tertiary injectant expenses of the taxpayer for tertiary injectants injected during such taxable year.

"(b) QUALIFIED TERTIARY INJECTANT EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary injectant expenses' means any cost paid or incurred during the taxable year (whether or not chargeable to capital account) for any tertiary injectant (other than a hydrocarbon injectant which is recoverable) which is used as a part of a tertiary recovery method.

"(2) HYDROCARBON INJECTANT.—The term 'hydrocarbon injectant' includes natural gas, crude oil, and any other injectant which is comprised of more than an insignificant amount of natural gas or crude oil. The term does not include any tertiary injectant which is hydrocarbon-based, or a hydrocarbon-derivative, and which is comprised of no more than an insignificant amount of natural gas or crude oil. For purposes of this paragraph, that portion of a hydrocarbon injectant which is not a hydrocarbon shall not be treated as a hydrocarbon injectant.

"(3) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations (as defined by section 4996(b)(8)(C), or

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this section.

"(c) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under subsection (a) with respect to any expenditure—

"(1) with respect to which the taxpayer has made an election under section 263(c)), or

"(2) with respect to which a deduction is allowed or allowable to the taxpayer under any other provision of this chapter."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 193. Tertiary injectants."

(B) Section 263(a)(1) (relating to capital expenditures) is amended—

(i) by striking out "or" at the end of subparagraph (E),

(ii) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and

(iii) by adding at the end thereof the following new subparagraph:

"(G) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193."

(C) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(i) by striking out "or 190" each place it appears in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "190, or 193",

(ii) by inserting "193," after "190," each place it appears in paragraph (2), and

(iii) by inserting "or 193" after "190" in the last sentence of paragraph (2).

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190, or 193".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

TITLE III—LOW-INCOME ENERGY ASSISTANCE

SHORT TITLE

SEC. 301. This title may be cited as the "Home Energy Assistance Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 302. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower

middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income, and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health, or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

(b) It is the purpose of this title to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

SEC. 303. As used in this title—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means a source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, and nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor;

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 304. (a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States on behalf of eligible households to assist such households to meet the rising costs of home energy.

(b) There are authorized to be appropriated $3,000,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(c) For the purpose of affording adequate notice of assistance available under this title, appropriations under this title are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 305. (a) Eligible household means any household which the State determines is—

(1) a household in which one or more individuals are eligible for (A) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act), (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act, but not eligible under subsection (a)(1)(A), (C), or (D) of this section, shall not be considered eligible for home energy assistance under this title if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(c) In verifying income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act.

ALLOTMENTS

SEC. 306. (a)(1) From 95 per centum of the sums appropriated pursuant to section 304(b) for the fiscal year 1981, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States.

(2) From 95 per centum of such sums, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level, bears to the sum of such products for all States.

(3)(A) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is less than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection, be the greater of its allotment as so determined under paragraphs (1) and (2) or the product of the total amount available for

allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(B) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is equal to or more than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection and subparagraph (C) of this paragraph, be the greater of its allotment as so determined under such paragraphs (6) and (8) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(C) There is authorized to be appropriated amounts not in excess of $90,000,000 for the fiscal year 1981 for the additional amounts to be allocated pursuant to subparagraph (B) of this paragraph.

(4) The alternative allotment percentage for any State shall be equal to (A) the percentage of 95 per centum of the total amount appropriated for the fiscal year pursuant to section 304(b) which the State would receive if its allotment were increased from the $25,000,000 authorized under this subsection to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120, or, unless the percentage determined under subparagraph (A) would be higher, (B) the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 304(b) which would be allotted to such State if—

(i) of such 90 per centum (I) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (II) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the word "squared" were deleted and the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(ii) the allotment of each State as determined under subdivision (i) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120.

There are authorized to be appropriated $25,000,000 for the fiscal year 1981 for the additional amounts to be allocated to States pursuant to the application of subparagraph (A) of this paragraph. In the event that the aggregate of such additional amounts would exceed the amount appropriated under the preceding sentence, the

additional amount applicable to each State shall be reduced on a pro rata basis.

(5) For purposes of this subsection, the term "recipient household" means—

(A) a household that is an eligible household under section 3(i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph;

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93–66.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(6) The allotment of any State shall be increased under paragraph (3) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraph (A) or (B)(ii) of paragraph (4).

(7) If the allotment for any State determined under paragraphs (1) and (2) of this subsection (without the application of paragraph (8)), is less than the lower of—

(A) the amount which would be allotted to such State if "one-half" in paragraph (1) of this subsection were replaced by "one-quarter" and "one-half" in paragraph (2) of this subsection were replaced by "three-quarters"; or

(B) the amount which would be allotted to such State if the word "squared" in paragraph (2) of this subsection were deleted,

then the allotment of such State shall, subject to paragraph (8) of this subsection, be increased to the lower of the allotment it would receive under subparagraph (A) or (B).

(8) The allotments for any fiscal year determined under paragraphs (1) and (2) of this subsection which are not increased pursuant to paragraphs (3)(A) and (7) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (3)(A) and (7) of this subsection do not exceed the sum of (A) 95 per centum of the sums appropriated for such fiscal year pursuant to section 304(b) plus (B) the amount appropriated pursuant to the authorization in paragraph (4).

(9) If the amount appropriated for fiscal year 1981 is less than the sum of $3,000,000,000 plus such additional amounts as are necessary to carry out paragraphs (3) and (4), then each State's allotment shall be determined on the basis of an appropriation of such sum and shall be reduced on a pro rata basis as necessary.

(b)(1) From the remainder of the sums appropriated pursuant to section 304(b) for each fiscal year, the Secretary shall—

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, Ameri-

can Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsection (a) of this section. Twenty per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the preceding sentence.

(2) Each jurisdiction to which paragraph (1)(A) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 308(b) of this title.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 304(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this title.

(ii) No grant may be made under this subparagraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) That part of the remainder of the sums appropriated pursuant to section 304(b) which is not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

(4)(A) From the sums appropriated pursuant to section 304(b) and made available under paragraph (1)(B) of this subsection, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this title. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 308(b)(16).

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this title, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other

States based on need and ability to expend the funds consistent with the provisions of this title and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this title, and the total reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this title. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this title that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

USES OF HOME ENERGY GRANTS

SEC. 307. Grants for fiscal year 1981 under this title may be used for home energy assistance in accordance with plans approved under section 308.

STATE PLANS

SEC. 308. (a) Each State desiring to receive a home energy grant under this title shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables, and standards established by the Secretary pursuant to subsection (d)(4) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this title and describe local administrative arrangements;

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent times of quotient of the exact costs of residential fuel costs paid as an undesignated part of rent divided by the number of tenants, the amount of such monthly quotient not to exceed a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households, if such operators give assurances to the State that tenants eligible for assistance under this title are not discriminated against with respect to rent;

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(i) the average home energy expenditure,

(ii) the proportional burden of energy costs in relation to ranges of income,

(iii) the variation in degree days in regions of the State in any State where appropriate, and

(iv) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which—

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6) and shall notify each participating household of the amount of assistance paid on its behalf;

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) subject to such subsection (f) of this section the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this title will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A) (ii) and (iii) of clause (3) applies;

(9) provide for public participation in the development of the plan;

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this title;

(11) provide that—

(A) the State may use for planning and administering the plan an amount of the funds received by such State under this title not to exceed 5 per centum of the cost of carrying out the plan except that—

(i) upon proof of unusual circumstances and upon application to the Secretary, the State may use an additional amount for planning and administering the plan not to exceed 2½ per centum of the cost of carrying out the plan, and

(ii) in no case may the Federal share of the cost of planning and administering the plan exceed 50 per centum of such cost, and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(12) describe the administrative procedures to be used in carrying out the plan;

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedures for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this title in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this title by using community action agencies, area agencies on aging, State and local welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will not reduce regular benefit levels, from the levels of such benefits as of February 26, 1980, in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program for the purposes of this paragraph;

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this title;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 309; and

(21) provide assurances in the case described in section 305(a)(2) that the State will not establish any standards of eligibility under this title based on an assets test which counts cars, household and personal belongings, or primary residences and in the case of a household which the State determines to be eligible under section 305(a)(1), no such test will be established under this title.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this title without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan.

(2) Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this title, the Secretary may waive compliance with any of the requirements of subsection (b) to the extent and for the period the Secretary finds necessary to enable any such State to carry out the program assisted under this title.

(3) The Secretary shall carry out the functions of the Secretary under this section promptly.

(4) The Secretary, as soon as possible after the date of enactment of this title, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities relating to the development of a State plan and for other activities under this title in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 306(a) when funds are appropriated to carry out the provisions of this title.

(f) A State agency may exempt small home energy suppliers from the requirements of subsection (b)(7)(D), of this section if the State agency determines that compliance with such subsection, will seriously jeopardize the ability of the small home energy supplier to conduct such business.

(g) A State may use funds available under this title for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to eligible households and suppliers will not be impeded by the implementation of such plan.

(h) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households (except for individuals described in section 305(b)(1), (2), and (3)) containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

(i) At the option of the State, payments described in subsection (b) of this section may be made, without limitation, in the form of a duly issued coupon, stamp, or certificate.

UNIFORM DATA COLLECTION

SEC. 309. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this title.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this title, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

(2) In carrying out this section, the Secretary shall analyze information supplied by the Secretary of Energy on the price structure of various types of fuel, particularly the increases in such price structure as it relates to the financial assistance provided under this title.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

SEC. 310. (a) From the amount allotted to each State pursuant to section 306, the Secretary shall pay to the State which has an application approved under section 308 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this title may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

SEC. 311. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a substantial failure to comply with any provision set forth in the State plan of that State approved under section 308, the Secretary shall notify the State that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

CRIMINAL PENALTIES

SEC. 312. Whoever violates provisions of this title or who knowingly provides false information in any report required under this title shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

SEC. 313. (a)(1) The Secretary may delegate any functions under this title, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this title, within sixty days after the date of enactment of this title.

(b) In administering the provisions of this title, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(c)(1) Notwithstanding any other provision of law, the amount of any fuel assistance payments or allowances provided to an eligible household under this title shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) during fiscal year 1981, any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this title.

(e) The Secretary shall coordinate the administration of the program established under this title with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 308(b)(15).

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed.

(b) REVIVAL OF PRIOR LAW.—Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted.

(c) CONFORMING CHANGES.—

(1) Subsection (c) of section 1016 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

"(B) an additional estate tax is imposed on such conversion under section 2032A(c),

then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount

which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange."

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 is amended to read as follows:

"Sec. 1040. Use of farm, etc., real property to satisfy pecuniary bequest."

(3) The second sentence of section 2614(a) (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a)."

(d) ELECTION OF CARRYOVER BASIS RULES BY CERTAIN ESTATES.—Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within 120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury or his delegate shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

SEC. 402. DISAPPROVAL OF PRESIDENTIAL ACTIONS ADJUSTING OIL IMPORTS.

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e)(1) An action taken by the President under subsection (b) to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

"(2)(A) This paragraph is enacted by the Congress—

"(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the proce-

dure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

"(B) For purposes of this subsection, the term 'disapproval resolution' means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ———— dated ————.', the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

"(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance.

"(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent."

SEC. 403. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

(a) TREATMENT OF QUALIFIED LIQUIDATIONS.—

(1) IN GENERAL.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 473. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

"(a) GENERAL RULE.—If, for any liquidation year—

"(1) there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and

"(2) the taxpayer elects to have the provisions of this section apply with respect to such liquidation,

then the gross income of the taxpayer for such taxable year shall be adjusted as provided in subsection (b).

"(b) ADJUSTMENT FOR REPLACEMENTS.—If the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be—

"(1) decreased by an amount equal to the excess of—

"(A) the aggregate replacement cost of the liquidated goods so replaced during such year, over

"(B) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

"(2) increased by an amount equal to the excess of—

"(A) the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over

"(B) such aggregate replacement cost.

"(c) QUALIFIED LIQUIDATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified liquidation' means—

"(A) a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if

"(B) the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

"(2) QUALIFIED INVENTORY INTERRUPTION DEFINED.—

"(A) IN GENERAL.—The term 'qualified inventory interruption' means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B).

"(B) DETERMINATION BY SECRETARY.—Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

"(i) that—

"(I) any Department of Energy regulation or request with respect to energy supplies, or

"(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

"(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

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

"(1) LIQUIDATION YEAR.—The term 'liquidation year' means the taxable year in which occurs the qualified liquidation to which this section applies.

"(2) REPLACEMENT YEAR.—The term 'replacement year' means any taxable year in the replacement period; except that such term shall not include any taxable year after the taxable year in which replacement of the liquidated goods is completed.

"(3) REPLACEMENT PERIOD.—The term 'replacement period' means the shorter of—

"(A) the period of the 3 taxable years following the liquidation year, or

"(B) the period specified by the Secretary in a notice published in the Federal Register with respect to that qualified inventory interruption.

Any period specified by the Secretary under subparagraph (B) may be modified by the Secretary in a subsequent notice published in the Federal Register.

"(4) LIFO METHOD.—The term 'LIFO method' means the method of inventorying goods described in section 472.

"(5) ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall be made subject to such conditions, and in such manner and form and at such time, as the Secretary may prescribe by regulation.

"(B) IRREVOCABLE ELECTION.—An election under this section shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under this section.

"(e) Replacement; Inventory Basis.—For purposes of this chapter—

"(1) Replacements.—If the closing inventory of the taxpayer for any replacement year reflects an increase over the opening inventory of such goods for such year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a qualified liquidation) and not previously replaced.

"(2) Amount at which replacement goods taken into account.—In the case of any qualified liquidation, any goods considered under paragraph (1) as having been acquired in replacement of the goods liquidated in such liquidation shall be taken into purchases and included in the closing inventory of the taxpayer for the replacement year at the inventory cost basis of the goods replaced.

"(f) Special Rules for Application of Adjustments.—

"(1) Period of limitations.—If—

"(A) an adjustment is required under this section for any taxable year by reason of the replacement of liquidated goods during any replacement year, and

"(B) the assessment of a deficiency, or the allowance of a credit or refund of an overpayment of tax attributable to such adjustment, for any taxable year, is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises),

then such deficiency may be assessed, or credit or refund allowed, within the period prescribed for assessing a deficiency or allowing a credit or refund for the replacement year if a notice for deficiency is mailed, or claim for refund is filed, within such period.

"(2) Interest.—Solely for purposes of determining interest on any overpayment or underpayment attributable to an adjustment made under this section, such overpayment or underpayment shall be treated as an overpayment or underpayment (as the case may be) for the replacement year.

"(g) Coordination With Section 472.—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this section with the provisions of section 472."

(2) Clerical amendment.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 473. Qualified liquidations of LIFO inventories."

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to qualified liquidations (within the meaning of section 473(c) of the Internal Revenue Code of 1954) in taxable years ending after October 31, 1979.

(b) Recognition of Gain on Certain Dispositions of LIFO Inventories.—

(1) Amendment of section 336.—Section 336 (relating to general rule for liquidations) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) General Rule.—Except as provided in subsection (b) of this section and in section 453(d) (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in partial or complete liquidation.

"(b) LIFO INVENTORY.—

"(1) IN GENERAL.—If a corporation inventorying goods under the LIFO method distributes inventory assets in partial or complete liquidation, then the LIFO recapture amount with respect to such assets shall be treated as gain to the corporation recognized from the sale of such inventory assets.

"(2) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION 334(b)(1).—Paragraph (1) shall not apply to any liquidation under section 332 for which the basis of property received is determined under section 334(b)(1).

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

"(A) the inventory amount of the inventory assets under the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

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

"(A) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472 (relating to last-in, first-out inventories).

"(B) OTHER DEFINITIONS.—The term 'inventory assets' has the meaning given to such term by subparagraph (A) of section 311(b)(2), and the term 'inventory amount' has the meaning given to such term by subparagraph (B) of section 311(b)(2) (as modified by paragraph (3) of section 311(b))."

(2) SECTION 337 LIQUIDATIONS.—

(A) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR LIFO INVENTORIES.—

"(1) IN GENERAL.—In the case of a corporation inventorying goods under the LIFO method, this section shall apply to gain from the sale or exchange of inventory assets (which under subsection (b)(2) constitute property) only to the extent that such gain exceeds the LIFO recapture amount with respect to such assets.

"(2) DEFINITIONS.—The terms used in this subsection shall have the same meaning as when used in section 336(b).

"(3) CROSS REFERENCE.—

> ***"For treatment of gain from the sale or exchange of an installment obligation as gain resulting from the sale or exchange of the property in respect of which the obligation was received, see the last sentence of section 453(d)(1)."***

(B) Subparagraph (B) of section 453(d)(4) (relating to liquidations to which section 337 applies) is amended by adding at the end thereof the following new sentence: "In the case of any installment obligation which would have met the requirements of clauses (i) and (ii) of the first sentence of this subparagraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the day of such distribution."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to distributions and dispositions pursuant to plans of liquidation adopted after December 31, 1981.

SEC. 404. EXEMPTION OF CERTAIN INTEREST INCOME FROM TAX.

(a) IN GENERAL.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) a dividend from a domestic corporation, or

"(2) interest.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $200 ($400 in the case of a joint return under section 6013).

"(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

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

"(1) INTEREST DEFINED.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

"(ii) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to any dividend from—

"(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

"(B) real estate investment trust, subject to the limitations provided in section 857(c).

"(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b)."

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116(c) to the extent such interest is excludable from gross income under section 116".

(3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the caption and text thereof.

(4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each place it appears in the caption or text thereof.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends".

(6) Subsection (b) of section 854 (relating to other dividends) is amended—

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS",

(B) by striking out the caption of paragraph (1) and inserting in lieu thereof "DEDUCTION UNDER SECTION 243.—",

(C) by striking out "the exclusion under section 116 and" in paragraph (1),

(D) by redesignating paragraphs (2) and (3) as (3) and (4),

(E) by inserting after paragraph (1) the following new paragraph:

"(2) EXCLUSION UNDER SECTION 116.—In the case of a dividend (other than a dividend described in subsection (a)) received from a regulated investment company—

"(A) which meets the requirements of section 852(a) for the taxable year in which it paid the dividend,

"(B) the aggregate interest received by which during the taxable year is less than 75 percent of its gross income, and

"(C) the aggregate dividends received by which during the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income. For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year."

(F) by striking out "section 116(b)" in subparagraph (B) of paragraph (4) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "section 116(b)(2)",

(G) by striking out "section 116(c)" in subparagraph (B) of paragraph (4) (as so redesignated) and inserting in lieu thereof "section 116(c)(2)".

(H) by adding at the end of paragraph (4) (as redesignated) the following new subparagraph:

"(C) The term 'aggregate interest received' includes only interest described in section 116(c)(1)."

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

"(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

"(1) CAPITAL GAIN DIVIDEND.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS.—In the case of a dividend received from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest received by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as aggregate interest received bears to gross income.

"(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

"(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received for the taxable year, and

"(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

"(4) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, the term 'aggregate interest received' means only interest described in section 116(c)(1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243(c)(2)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980, and before January 1, 1983.

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.

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES VANIK,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
WILLIAM R. COTTER,
PETE STARK,
BARBER B. CONABLE, JR.,
Managers on the Part of the House.

RUSSELL B. LONG,
H. E. TALMADGE,
HARRY F. BYRD, JR.,
GAYLORD NELSON,
MIKE GRAVEL,
LLOYD BENTSEN,
DAN MOYNIHAN,
BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil submit the following joint statement to the House and the Senate as an explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

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I. WINDFALL PROFIT TAX

The windfall profit tax is a temporary excise, or severance, tax applying to domestically produced crude oil. All taxable oil is classified into one of several tiers. The structure of the tax is essentially the same for all tiers: the tax equals the tax rate times the taxable windfall profit, which equals the selling price of the oil minus an adjusted base price and minus a deduction for State severance taxes on the windfall profit. The tiers differ in the tax rate which is applied, in the adjusted base price which is used, and in some other respects. The principal change is to provide a precise formula which producers will use to determine their base prices for specific properties until a permanent base price formula is published in Treasury regulations. Also, the standards to be used by the Treasury in these regulations are clarified. Certain kinds of producers are either entirely exempt from the tax, or eligible for reduced tax rates, on part or all of their production.

1. Tier one oil

House bill.—Under the House bill, oil which would have been controlled as lower or upper tier oil under pre-June 1979 Department of Energy (DOE) price control regulations (i.e., the regulations in effect prior to the Administration's phased decontrol program) is taxed in one of two tiers. Tier one includes oil produced on a property which would have been lower tier oil under the old regulations and which is below the amount represented by a 1.5-percent decline curve. Tier two includes oil which would have been upper tier oil under the old regulations, oil in excess of the decline curve, marginal oil, and front-end tertiary oil. Alaskan oil, stripper oil, newly discovered oil and incremental tertiary oil are included in tier three. Tier two merges into tier three between 1986 and 1990.

The tax rate is 60 percent for both tier one and tier two. The tier one base price is the May 1979 lower tier ceiling price (which averaged $5.91 per barrel), and the tier two base price is the May 1979 upper tier ceiling price (which averaged $13.02).

Senate amendment.—The Senate amendment adds several new categories of oil to tier two: high water-cut oil, Cook Inlet oil, oil from the Sadlerochit Reservoir on Alaska's North Slope, and deep marginal oil. It makes some technical changes to the 1.5-percent decline curve. It also raises the tax rate on tier one and tier two to 75 percent, eliminates the merger of tier two into tier three between 1986 and 1990, and reduces the tier two base price to the May 1979 upper tier ceiling price minus 25 cents.

Conference agreement.—The conference agreement combines tiers one and two into a new, expanded tier one of the tax. The merged tier one includes essentially all of the oil taxed in either tier one or

tier two of the Senate amendment. More precisely, tier one includes all taxable oil except oil specifically included in a higher tier; i.e., stripper oil, oil from a National Petroleum Reserve, newly discovered oil, heavy oil and incremental tertiary oil. The merger of tiers one and two in the conference agreement eliminates about one-half the complexity of the House and Senate versions of the tax.

The tax rate on the new tier one in the conference agreement is 70 percent. (However, independent producers are given a special 50-percent rate, described in item 25 below, on up to 1,000 barrels a day.) The tier one base price on a property is the May 1979 upper tier ceiling price for the property reduced by 21 cents. The conference agreement follows the Senate amendment in not phasing out this tier between 1986 and 1990.

Although the conferees have eliminated special tax treatment for high water-cut crude oil through the merger of tier one and tier two, the conferees reemphasize the important contribution of high water-cut crude oil to our domestic supplies.

The conferees want to make clear that consideration by the Department of Energy, through rule-making or otherwise, of special price treatment for this important category of oil is deemed appropriate. The conferees were satisfied that the mechanism in the Senate bill requiring the taxpayer's affirmative qualification is administratively workable and could, therefore, be utilized by the Department of Energy.

2. Front-end tertiary oil

House bill.—Under a DOE rule adopted in August 1979, producers who invest in enhanced oil recovery projects before October 1981 are allowed to deregulate the price of specified volumes of price-controlled oil (called front-end tertiary oil) to finance that investment. The additional revenue received by the producer for the deregulated front-end tertiary oil is limited to the lesser of 75 percent of specified tertiary expenses actually incurred or $20 million per project or property. Under this DOE rule, producers may deregulate oil produced from properties other than the one on which the project is located.

Under the House bill, front-end tertiary oil is taxed in tier two.

Senate amendment.—The Senate amendment generally is the same as the House bill. However, front-end tertiary oil sold after September 30, 1980, to finance projects using carbon dioxide or chemical surfactant processes is exempt from tax.

Conference agreement.—Oil that DOE deregulates as front-end tertiary oil is generally exempt from the windfall profit tax if the project is controlled by producers who were independent producers (as defined for purposes of reduced windfall profit tax rates) for the fourth quarter of 1979. For these projects, all of the front-end tertiary oil deregulated in connection with the project (including any produced by a major company) is exempt with two exceptions. First, oil which could have been released from crude oil price controls under any other part of the DOE pricing regulations cannot qualify for this exemption. Second, oil deregulated to finance prepaid expenses cannot qualify.

If the tertiary project for which front-end oil is being deregulated is controlled by major oil companies, all front-end tertiary oil related to that project is subject to tax (including any produced by an independent producer). However, a tax refund is available for windfall profit taxes paid on the front-end tertiary oil to the extent that qualifying recoupable tertiary recovery expenditures for the project under the DOE regulations exceed the amount actually recouped under the front-end financing program. As with projects controlled by independent producers, prepaid expenses cannot qualify for the refund, nor can oil which could have been deregulated under any other price control provision.

This provision applies only to front-end tertiary oil deregulated under the August 1979 energy pricing regulations as those regulations took effect on October 1, 1979, except for changes in those regulations designed specifically to take into account the windfall profit tax itself.

A tertiary project is considered controlled by a major oil company if more than 50 percent of the operating mineral interest in the property (or portion thereof) on which the project is being undertaken was owned, directly or indirectly, by or for major oil companies on January 1, 1980. Ownership of the front-end tertiary oil itself is irrelevant for this purpose. A major oil company is any producer who is defined as being ineligible for percentage depletion on oil and gas income because it is a retailer or refiner of oil or gas.

The conference agreement does not allow the front-end tertiary exemption or refund for front-end tertiary oil deregulated by DOE to finance tertiary expenditures attributable to periods after September 30, 1981 (prepaid expenses). For this purpose, fuel or tertiary injectants are attributable to periods prior to October 1, 1981, if used or injected before that date. Other items are treated as attributable to periods before October 1, 1981, to the extent that income tax deductions for the item (including depreciation in respect of the item) are properly allocable to periods before October 1, 1981. Therefore, expenses paid outside the normal course of business for items which ordinarily would not be taken into account prior to October 1, 1981, are not allowed expenses for purposes of the windfall profit tax; that is, front-end tertiary oil deregulated to finance those expenses is not exempt or eligible for the refund.

However, some pre-October 1, 1981, expenditures may constitute "allowed expenses," even though they represent items completed, placed in service, or used after that date, to the extent that income tax deductions (including depreciation) are properly allocable to the item for periods before October 1, 1981. Such a determination depends upon the circumstances involved, and must be made on a case-by-case basis. For example, an expenditure could be treated as an "allowed expense" if its disbursement is in the ordinary course of business and is for a service which reasonably could be expected to be performed prior to October 1, 1981. This reasonable expectation requirement could be satisfied if such a service would have been completed prior to October 1, 1981, but for the occurrence of an event beyond the producer's control, e.g., an act of God, a severe mechanical breakdown, or an injunction. An act of God could include a strike, and injunctions could include restraining orders.

In the case of producers of front-end tertiary oil deregulated for projects controlled by major oil companies, producers are entitled to a refund of windfall profit tax previously paid on the front-end tertiary oil equal to the difference between the amount of qualifying expenses actually incurred and the amount of those expenses recouped by the release of controlled oil to the market price. Refunds would be available after September 30, 1981, for the entire period March 1, 1980, to September 30, 1981. As an alternative to obtaining a tax refund, these producers may adjust their tax withholding for taxable periods after September 30, 1981, in a manner prescribed by regulations.

3. Oil taxed in tier two

House bill.—Tier three of the House bill, which is renumbered as tier two under the conference agreement because of the merger of tiers one and two into a new, expanded tier one, consists of all oil not taxed in tiers one and two. This includes (1) stripper oil, (2) oil produced on a National Petroleum Reserve, (3) oil released to tier three after 1990 by virtue of the phaseout of tiers one and two, (4) newly discovered oil, (5) oil from the Sadlerochit Reservoir in Alaska, and (6) incremental tertiary oil. However, the basic tier three rules apply only to the first three of these six categories; various special rules apply to the others.

Senate amendment.—Tier three includes stripper oil, newly discovered oil, incremental tertiary oil and heavy oil, but the basic tier three rules apply only to stripper oil.

Conference agreement.—Tier three is renumbered as tier two because of the merger of tiers one and two. Tier two includes stripper oil and oil produced on a National Petroleum Reserve in which the United States has an economic interest.

4. Computation of tier two tax

House bill.—The House bill generally taxes oil in this tier at the rate of 60 percent. The base price is $16 adjusted for grade, quality, and location. The base price is adjusted for inflation occurring after June 30, 1979.

Senate amendment.—The Senate amendment follows the House bill except that the base price is $15.30, adjusted for grade, quality and location, and is adjusted for inflation after December 31, 1978.

Conference agreement.—The conference agreement has a 60-percent rate for tier two oil and a base price of $15.20, adjusted for grade, quality and location. (However independent producers are given a special 30-percent rate, as described in item 25 below, on up to 1,000 barrel a day.) The base price is adjusted for inflation after June 30, 1979.

The conference agreement uses a somewhat different formula for determining the specific tier two base price for a particular property than does either the House or Senate bill. The precise base price for a particular property is to be determined under regulations issued by the Treasury.

Under the interim rule, the tier two base price on any property is the highest posted price for December 31, 1979, for uncontrolled oil of the same grade, quality and field multiplied by the fraction 15.20/35.00. If there was no December posting for such oil, the producer is to use the December 1979 posting for oil of the same grade and quality in the nearest domestic oil field for which prices for oil of that grade and quality were posted for December 1979. No postings made after January 14, 1980, are to be taken into account. This cut-off prevents purchasers from raising base prices artificially by increasing posted prices retroactively for December. This formula is intended to achieve an array of base prices such that oil of national average grade, quality and location (excluding North Slope Alaskan oil, whose wellhead price is affected by the extraordinary transportation costs) would have a base price of $15.20 and oil of above- or below-average grade, quality and location will have a proportionately higher or lower base price. The data on December 1979 prices for uncontrolled oil posted as of January 14, 1980, suggest that 35 is the proper denominator in the fraction to achieve this result.

To ensure that this formula does not unduly penalize producers in fields where December 1979 posted prices are unusually low, there is a minimum tier two base price equal to the property's May 1979 upper tier ceiling price plus $1.00. Without this minimum base price, some properties would have had a tier two base price less than their May 1979 upper tier ceiling price.

For a posted price to qualify for use in determining a producer's base price, the price has to be published in writing by a purchaser of a substantial volume of crude oil in the field. A posted price does not, for example, include a price offered by a purchaser who simply offers to buy oil at a figure (say) $1 higher than whatever prices are posted by the purchasers who are purchasing most of the oil in a particular oil field.

The Treasury regulations prescribing the permanent method of determining tier two base prices must estimate the price at which oil from a particular property would have sold in December 1979 if all domestic oil had been uncontrolled and the average price for domestic crude oil, other than North Slope Alaskan oil, had been $15.20. Thus, if oil from a particular property typically sells for 80 percent of the price of oil of national average grade, quality and location, based on market price differentials prevailing in December 1979, its tier two base price should generally be 80 percent of $15.20, or $12.16.

The conferees did not simply adopt the interim rule as the permanent rule because the interim rule may not lead to a situation in which the tier two base price for oil of national average grade, quality and location equals $15.20 and because the interim rule may not be equitable for all categories of oil. The $35 price used in the denominator is based on preliminary data for prices for December 1979 posted as of January 15, 1980, and better data available later in 1980 will permit the Secretary to make a better estimate. The Secretary may want to take into account the increase in December postings which occurred in late January and February, although this may require raising the denominator above $35. Also, the Secretary may determine, after analyzing the data, that a formula based on actual selling prices, not posted prices, would be more accurate.

The conferees are aware that the interim rule may lead to inequities in the case of oil produced in California and certain other areas because its December 1979 price was much lower, relative to the national average, than it had been in prior years and is likely to be in the future. That is why the conferees included the minimum interim base price. The guidelines in the conference agreement give the Secretary enough flexibility to devise a permanent solution to this problem.

The interim rule applies until October 1980 or whatever earlier date is provided by Treasury regulations effective before that earlier date. It is intended that the Secretary publish the permanent rule and make it effective as quickly as possible.

5. Computation of tier three tax

House bill.—Special rules apply to newly discovered oil and incremental tertiary oil. The tax rate is 50 percent on the first $9 of windfall profit (with no severance tax deduction on that amount) and 60 percent of any additional windfall profit (with a severance tax deduction). The base price is $17, adjusted for grade, quality and location. The inflation adjustment to the base price is for inflation after June 1979 plus a "kicker" of 2 percent per year.

Senate amendment.—Incremental tertiary oil and heavy oil are taxed at a 20-percent rate with a severance tax deduction. The base price is $16.30, adjusted for grade, quality and location. The inflation adjustment is for inflation after December 1978 plus a 2-percent "kicker." The rules for newly discovered oil are the same, except that the tax rate is 10 percent and the base price is $19.30, adjusted for grade, quality and location.

Conference agreement.—Newly discovered oil, incremental tertiary oil, and heavy oil comprise tier three. The tax rate is 30 percent with a severance tax deduction. The base price is $16.55, adjusted for grade, quality and location. Specifically, the tier three base price on a particular property is to be determined exactly like the tier two base price, as described above in item 4, except that "$16.55" is to be substituted for "$15.20" in the formulas. Also, the minimum tier three base price under the interim rule is to be the May 1979 upper tier ceiling price plus $2. The inflation adjustment is for inflation after June 1979 plus the 2-percent "kicker."

6. Definition of newly discovered oil

House bill.—Newly discovered oil generally has the same definition as under price controls. However, oil produced from a property which produced any oil in commercial quantities after 1969, and prior to 1979, does not qualify as newly discovered oil. In addition, newly discovered oil does not include oil produced from a reservoir on any tract or parcel of land if the reservoir was penetrated after 1969, and prior to 1979, by a well on that tract or parcel from which oil was produced in commercial quantities if oil could have been produced from the penetrated reservoir through that well prior to 1979.

Senate amendment.—Newly discovered oil is defined as it is under price controls. The Secretary's general authority to adopt price control regulations for use in the windfall profit tax includes the authority

to make technical amendments to the pricing definition (see item 28 below).

Conference agreement.—The conference agreement follows the Senate amendment. For windfall profit tax purposes, therefore, newly discovered oil includes production from a property which did not produce oil in commercial quantities during calendar year 1978. Thus, it includes production from a property on which oil was produced in 1978 if that production was incident to the drilling of exploratory or test wells and was not part of continuous or commercial production from the property during 1978.

7. Definition of incremental tertiary oil—overview

House bill.—Incremental tertiary oil is production in excess of a decline curve on a property (or portion thereof) on which a qualified tertiary project is undertaken. Remaining production is taxed proportionately in other tiers.

Senate amendment.—The definition of incremental tertiary oil is essentially the same as the House bill, except that there are changes to the definition of what is a qualifying project, how qualification of projects is to be established, and the decline curve.

Conference agreement.—The conference agreement includes provisions from both the House bill and the Senate amendment, described in items 8–11 below.

8. Qualified tertiary methods

House bill.—Under the House bill, a tertiary recovery method is any of the following: (1) miscible fluid displacement, (2) steam drive injection, (3) microemulsion, (4) in situ combustion, (5) polymer augmented water flooding, (6) cyclic steam injection, (7) alkaline flooding, (8) carbonated water flooding, and (9) immiscible carbon dioxide displacement. In addition, the Secretary may approve other tertiary enhanced recovery methods.

Senate amendment.—The Senate amendment is the same as the House bill except that the Senate amendment clarifies that tertiary processes do not include water flooding or immiscible natural gas injection.

Conference agreement.—The conference agreement is the same as the Senate amendment.

9. Qualified tertiary recovery projects

House bill.—A qualified tertiary recovery project is either (1) a project with respect to which a DOE-reviewed certification is in effect for pricing purposes, or (2) a self-certified project for the tertiary recovery of oil which meets the following requirements of the tax: (1) it involves the application of tertiary recovery methods; (2) the methods are applied in accordance with sound engineering principles; (3) the application of the tertiary recovery methods reasonably can be expected to result in a significant increase in the amount of oil which ultimately will be recovered from the property, or the project area, above the amount which reasonably could be expected to be recovered in the absence of the project; (4) the project could not be expected to

be economic without the preferential tax treatment; (5) the project's beginning date is after May 1979; and (6) the operator submits to the Secretary such information, forms, and certifications as may be required (including any certifications that the project continues to meet the tax's specifications). A significant expansion of a project after May 1979 is considered to be a new project.

Under the House bill, self-certified projects are subject to the generally applicable rules pertaining to IRS reviews upon audit examination.

Senate amendment.—The Senate amendment deletes the requirements that the projects be certified as being uneconomic without preferential tax treatment and that the expected increase in production be significant.

The Senate amendment allows projects to be certified as qualifying for tax purposes by nontax regulatory agencies and subjects these projects to somewhat different rules than self-certified projects. Regulatory certification may be issued by a competent government regulatory body, such as the U.S. Geological Survey (in the case of lands managed by any Federal agency or the Outer Continental Shelf) or the appropriate State agency designated by the Governor of the State in which the project is located.

A regulatory certification remains effective for tax purposes, even if subsequently revoked by the regulatory body, unless (1) a material fact was misrepresented by the producer or its agent in obtaining the certification or (2) the project was not implemented and operated in a manner reasonably consistent with the plan upon which the certification was based.

Under the Senate amendment, a "substantial evidence" rule applies for audit examination reviews of projects certified by a regulatory body. Under this rule, a project's qualification would stand unless the IRS established that the certification was not supported by substantial evidence or presented substantial evidence that the project did not qualify for certification. In making such a determination, the IRS could "go behind" the certification issued by the regulatory body. If the IRS met the substantial evidence rule, the producer then could introduce additional evidence to sustain the qualification of the project. At that point, the usual rules pertaining to audit examination reviews which apply to self-certified projects would apply.

In the case of a tertiary project certified by a regulatory body, producers could apply for an advance IRS determination on the windfall profit tax status of the project.

Conference agreement.—The conference agreement follows the Senate amendment with some modifications.

First, the requirement that a project reasonably be expected to result in an increase in production is changed to an expectation that there be more than an insignificant increase in production. The determination of whether an expected increase is more than insignificant depends upon the facts and circumstances of each case. When a tertiary project is expected to affect a portion of a property, that portion is treated as a separate property; therefore, significance is measured in relation to total production only on the portion of the property treated as a separate property.

Second, the conference agreement provides that, except in the case of DOE certified projects and significant expansions of pre-June 1979 projects, qualifying projects must begin after May 1979.

Third, the conference agreement deletes the provision of the Senate amendment relating to circumstances in which the tax law would continue to recognize regulatory certifications which have been revoked. If a regulatory body revokes its certification of a project, the project is treated as having been self-certified. To qualify for preferential tax treatment, therefore, such a project would have to meet the tax requirements pertaining to self-certified projects.

Fourth, the conference agreement retains the Senate amendment's advance ruling procedure for regulatory certified projects, but clarifies that such a ruling must be issued within 180 days of the time that the request, together with the information necessary to make a determination, is submitted to the Secretary. Whether information adequate to make such a ruling has been submitted to the Secretary is to be an objective determination.

The conference agreement retains the provisions of the House bill that significant expansions of tertiary projects are treated as new projects. Generally, such expansions would include any which could qualify as expansions under the June energy regulations. Pre-June 1979 projects which were curtailed significantly before 1980, and which were expanded to the average pre-curtailment level after that date, would qualify under this provision. A project would be considered to have been curtailed significantly, for example, if the average post-curtailment concentration of injected gases was reduced by 35 percent or more from the average pre-curtailment concentration of injected gases. For purposes of making this determination, the entire pre-curtailment project area would be compared with the same area after the curtailment. The conferees also clarified that expansions of otherwise qualifying projects could include a significantly more intensive use of a tertiary recovery method, or a significant expansion of tertiary activities, within a project area.

10. Continuing tertiary qualification

House bill.—A project generally is qualified only so long as the tertiary method continues to affect the reservoir. Thus, oil produced after the discontinuation of a tertiary project no longer is considered to be eligible for classification as incremental tertiary oil if the process' effect on the reservoir has terminated.

Senate amendment.—A project generally is qualified only so long as the tertiary method continues to be used in, or affects, the reservoir in accordance with the plan. There is however, a special rule, applicable only to regulatory certified projects, which applies after the termination of tertiary injections. A regulatory certified project may retain its qualification after the discontinuation of the tertiary process if (1) the project was implemented and operated in accordance with sound engineering principles and with the regulatory approved plan (or an approved modification of such a plan), (2) the regulatory approval has not been revoked, (3) a continuation of the discontinued process is certified by a petroleum engineer as being ineffective or counterproductive, and (4) the certifying agency certifies that a continuation of the discontinued process would be ineffective or counterproductive.

Conference agreement.—The conference agreement generally follows the House bill in allowing production from a project to qualify only so long as the tertiary process affects that production and the project is in effect. Generally, qualification would be retained for the period which is specified, in accordance with sound engineering principles, in the project's certified plans. This period normally would be determined on a case-by-case basis, depending upon such factors as the size of the project, the characteristics of the reservoir, and the particular process involved. For instance, some steam injection processes, *e.g.*, cyclic steam injection, are interrupted periodically to produce oil (together with condensed steam) from the same well or wells which are used for the injections. Under the conference agreement, each oil producing interval of such a process would have to be scheduled in light of sound engineering principles and of the transitory effect of the injections. Therefore, if the injections were terminated, production no longer would qualify as incremental tertiary oil after the last injection could no longer reasonably be expected to affect the reservoir. Similarly, some recovery processes, *e.g.*, miscible (carbon dioxide) fluid-displacement, microemulsion flooding, or polymer augmented flooding, may not require continuous or sustained injections of tertiary gases or liquids to have the process affect production from the reservoir. For example, some carbon dioxide injection processes may result in the creation of artificial pressure in a reservoir. Such artificial pressure may allow oil displacement for a period beyond the time during which there are injections. Assuming that an adequate amount of carbon dioxide, as determined in accordance with the plan and sound engineering principles, was pumped into the reservoir, the production could qualify as incremental tertiary oil in the absence of contemporaneous injections.

11. Tertiary decline curve

House bill.—Incremental tertiary oil is the amount of production from a property, on which a producer uses a qualified tertiary recovery method, in excess of a statutory base level amount for that property. The base level is the average daily amount of oil removed from the property during the 6-month period ending March 31, 1979, reduced by the sum of (1) 1 percent of that average for each month beginning after 1978, and before the beginning date of the project, and (2) 2½ percent for each month thereafter. However, special rules apply in connection with DOE-certified projects which have an incremental production level for price controls in excess of the statutory decline curve in the House bill, and also for project certifications obtained from DOE prior to 1979.

A project's beginning date, after which the 2½-percent decline rate commences, is that point at which the tertiary method significantly affects the reservoir. Incremental tertiary oil comes pro rata from oil which would have been in either tier one or tier two but for the implementation of the project.

Senate amendment.—Incremental tertiary is defined in a manner similar to that in the House bill. However, the base level is reduced by the sum of: (1) the greater of (i) 1 percent of the average amount for each month beginning after 1978, and for the month of the begin-

ning date of the project, or (ii) the actual average monthly decline rate for the project area for each month specified in (i), multiplied by the number of months after 1978, including the month of the project's beginning date, and (2) 2½ percent for each month thereafter.

The project's beginning date, *i.e.*, the time after which production may qualify as incremental tertiary oil, is the later of (1) the date of submission to the Secretary of the producer's regulatory certification or self-certification, or (2) the date on which the tertiary injectant initially is introduced into the reservoir. Incremental tertiary oil comes pro rata from oil which would have been in tiers one, two, or three but for the implementation of the project.

Conference agreement.—The conference agreement follows the House bill in using a 1-percent decline rate before the project beginning date, and it follows the Senate amendment in defining the project beginning date and providing a 1-percent decline for the month of the project beginning date.

In the case of a pilot project, tertiary injections in the area of the pilot project would determine the beginning date of the pilot project but not the beginning date of any subsequent full scale project affecting a larger area.

12. Definition of heavy oil

House bill.—No provision.

Senate amendment.—The Senate amendment defines heavy oil as (1) oil from a property which had a weighted average gravity of 16.0 degrees API or less for the last month of production prior to July 1979 or (2) oil from a property with a weighted average gravity of 16 degrees API or less for the taxable period. Because the weighted average gravity of the oil is determined for particular taxable periods, production from a property may qualify as heavy oil for one taxable period but not for another taxable period. Similarly, if production can satisfy the requirements of the energy regulations pertaining to production from a single well with multiple completions which constitute separate properties (FEA Ruls. 75-42, 77-2), oil from one of the completion locations which satisfies the gravity requirements could be treated as heavy oil for any relevant taxable period.

Conference agreement.—The conference agreement follows the Senate amendment.

13. Exempt Alaskan oil

House bill.—The House bill exempts from tax all oil produced from wells north of the Arctic Circle other than oil from the Sadlerochit reservoir at Prudhoe Bay (Sadlerochit oil).

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 by exempting from tax oil produced from wells located north of the Arctic Circle (including production from the Lisburne and Kuparuk formations in the Prudhoe Bay oil field) other than Sadlerochit oil; however, it expands this exemp-

tion to include additional oil. Alaskan oil, other than Sadlerochit oil, is exempt if it is from a well that produces oil from a reservoir that has been commercially exploited by a well located north of the Arctic Circle. Also, Alaskan oil south of the Arctic Circle, but north of the divide of the Alaska-Aleutian mountain range, is exempt from the windfall profit tax if it is produced from a well at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

The exemption of Alaskan oil production for the designated locations reflects the concern of the conferees that taxation of this production would discourage exploration and development of reservoirs in areas of extreme climatic conditions.

14. Computation of tax on Sadlerochit oil

House bill.—The House bill taxes Sadlerochit oil at the rate of 50 percent on the difference between the average monthly wellhead selling price of the oil and $7.50 a barrel, adjusted for inflation and for declines in the real value of the Trans-Alaska Pipeline System (TAPS) tariff. The inflation adjustment is made for inflation after June 30, 1979. The TAPS adjustment is the excess, if any, of $6.26, adjusted for inflation after June 30, 1978, over the actual TAPS tariff. The House bill does not permit a deduction for State severance taxes imposed on Sadlerochit oil.

Senate amendment.—Sadlerochit oil is taxed in tier two like other upper tier oil with two variations on the general rules for upper tier oil. First, the adjusted base price for Sadlerochit oil may be increased to reflect any decrease in the TAPS tariff below $6.26 a barrel. The $6.26 is not adjusted for inflation as it is under the House bill. Second, the tax on Sadlerochit oil is calculated on the basis of monthly average removal prices for each producer, as in the House bill.

Conference agreement.—The conference agreement follows the Senate amendment and includes Sadlerochit oil in the merged tier one.

15. Property transfers

House bill.—Oil produced from a portion of a property transferred after 1978 is not to constitute stripper or newly discovered oil if the oil would not have qualified as stripper or newly discovered oil had the property not been transferred. In addition, in the case of post-1978 transfers of any portion of a property, the bill requires allocation of the base production control level among the portions of the divided property.

Senate amendment.—The property transfer rule in the House bill is extended to marginal, heavy and high water-cut oil, in addition to stripper and newly discovered oil.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment with respect to property transfers in defining stripper, newly discovered and heavy oil.

16. Inflation adjustment

House bill.—The inflation adjustments required by the bill are to be computed quarterly by using the first revision of the GNP deflator. The inflation adjustment for lower tier and upper tier oil adjusts for

inflation after December 31, 1978. The adjustment for other oil is for inflation after June 30, 1979. However, in each case the adjustments are lagged by two quarters; i.e., the inflation adjustment for lower and upper tier oil for the first quarter of 1980 equals the inflation between the fourth quarter of 1978 and the third quarter of 1979.

Senate amendment.—All inflation adjustments are calculated quarterly on the basis of inflation after December 31, 1978, using the GNP deflator, with the same two-quarter lag that is in the House bill.

The Senate amendment also provides that the Secretary may make appropriate modifications to the inflation adjustment to reconcile it to that used for pricing purposes.

Conference agreement.—The conference agreement provides that all base prices are adjusted for inflation after June 30, 1979, with the two-quarter lag. Therefore, the inflation adjustment for the first quarter of 1980 equals the inflation between the second and third quarters of 1979, and the adjustment for the second quarter of 1980 equals the inflation between the second and fourth quarters of 1979. The Secretary may not make modifications to the inflation adjustment to conform it to DOE adjustments.

17. Treatment of State severance taxes

House bill.—There is a deduction in computing the taxable windfall profit for the State severance tax imposed on the windfall profit element of the price of a barrel of oil. The deduction equals the difference between the actual severance tax and the tax which would have been imposed had the oil been sold at its adjusted base price. This deduction is limited to the amount of severance tax that would have been imposed on the windfall profit at the rate of tax in effect on March 31, 1979. Also, the deduction is not available for the first $9 of windfall profit on newly discovered or incremental tertiary oil, nor for any windfall profit on Sadlerochit oil.

Senate amendment.—The severance tax deduction applies to all taxable oil. Post-March 31, 1979, increases in the rate of severance tax are taken into account if the increase applies to the entire removal price of the barrel. The fact that a State severance tax does not apply to a particular type of oil, such as royalty oil paid to the Federal or State Government or newly discovered oil, does not affect the availability of severance tax adjustment, as long as the severance tax applies to the entire price of those barrels which are subject to tax.

The Senate amendment also provides that severance taxes properly imposed by Federally recognized Indian tribes are treated in the same manner as State severance taxes.

Conference agreement.—The conference agreement follows the Senate amendment except that a severance tax may not be taken into account to the extent the total rate of severance tax imposed by a State exceeds 15 percent, and no deduction is allowed for Indian severance taxes. The conversion of a severance tax levied as a fixed fee per barrel into a tax levied as a percentage of the gross value of oil removed constitutes an increase in the severance tax on the windfall profit element of the selling price. Thus, such a conversion would have to satisfy the

limits on post-March 1979 increases in State severance taxes before a severance tax adjustment would be available with respect to such a converted tax.

For purposes of the windfall profit tax, a State severance tax is a tax on the removal of crude oil from the ground, levied by a State, but not by a political subdivision of a State, as a percentage of the gross value of the crude oil removed. Any State tax that meets this definition, regardless of its official name or title, is treated as a severance tax. A tax levied on the value of reserves or on the basis of net proceeds from production is not a severance tax. Although a tax on the removal of crude oil from the ground levied as a fixed fee per barrel generally is considered a severance tax, the formula for calculating the severance tax adjustment in the House bill, the Senate amendment and the conference agreement would not allow an adjustment for such a tax because the amount of that tax would be the same whether levied on the adjusted base price or on the removal price of a barrel of oil. Thus, a tax levied as a fixed fee per barrel is not considered a severance tax for purposes of the windfall profit tax.

18. Removal of oil

House bill.—Generally, the tax is imposed when the oil is removed from the premises. If the manufacture or conversion of crude oil into refined products begins before actual removal, the oil is treated as removed on the day the manufacture or conversion begins.

Oil returned to the property from which it was produced, either by reinjection or through the powering of production processes or equipment, is not considered sold or removed from the premises for windfall profit tax purposes. Therefore, no tax is imposed on the on-site use of oil to generate power for an artificial lift device, or a water flood project, or a tertiary injection process. However, powerhouse oil removed from the property prior to its use or oil used to power refining or manufacturing process on the property is subject to tax.

For purposes of computing the tax, the removal price means the amount for which the barrel is sold. In the case of related parties (as defined in section 103(b)(6)(C)), the removal price is not less than the constructive sales price for purposes of determining gross income from the property under section 613. This constructive sales price also applies where removal occurs before sale, including where refining is begun on the premises.

Senate amendment.—The Senate amendment follows the House bill. In addition, under the Senate amendment, the Secretary may make appropriate adjustments in transactions between unrelated parties so that the removal price properly reflects the fair market value of the oil.

Conference agreement.—The conference agreement is the same as the Senate amendment. However, the conferees recognize that due to differences in the definition of the word "property," a producer could have a single, undivided piece of land which constitutes many DOE "properties," even though they are contiguous and not even divided by a public road. The conferees wish to clarify that, in such a case, "powerhouse" fuel produced on one section of a single

undivided piece of land is not taxable if it is used on another section of the same piece of land as powerhouse fuel and never leaves the piece of land on which it is produced. The windfall profit tax treatment of such oil is to have no implication for its treatment for various income tax purposes.

19. Taxable income limitation

House bill.—The taxable windfall profit on a barrel of oil may not exceed the net income attributable to the barrel. In applying this limitation, net income attributable to a barrel generally is determined on the basis of taxable income; however, special rules are provided for the treatment of depletion and of intangible drilling and development costs to recompute these items on the basis of cost depletion for all periods. The bill provides a special rule for determining the taxable income limit in the case of certain transfers of proven oil or gas properties after 1978.

Senate amendment.—The Senate amendment basically is the same as the House bill except that the taxable windfall profit is limited to 90 percent of net income. In addition, the amendment provides that a transferee of a proven property may take into account amounts which the transferor could have taken into account for purposes of determining the imputed cost depletion deduction.

Conference agreement.—The conference agreement follows the Senate amendment and, in addition, provides that for purposes of the 90-percent net income limitation, the producer may elect to treat qualified tertiary injectant costs as if they had been capitalized and recovered through cost depletion. This election would be made in the year injections are first made on a property.

20. Taxable person—general rule

House bill.—The windfall profit tax is imposed upon the removal of taxable crude oil on the producer of the oil, defined as the person who owns the economic interest in the oil.

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 with two changes.

First, it provides specifically that no persons are exempt from the windfall profit tax (or treated specially) unless an exemption for them is provided explicitly in the Crude Oil Windfall Profit Tax Act of 1980 or future legislation. The conferees are unaware of any treaties which would provide an exemption from this tax in the absence of this provision. However, in the event that the legislation does conflict with any treaty obligations of the United States, the conferees intend that the legislation prevail.

Second, in the case of oil owned by partnerships, the tax is imposed directly on the partners on their proportionate share of the partnership's production. For purposes of applying Subchapter K, the windfall profit tax is not to be treated as a partnership deduction, but any amount withheld from the partnership by a purchaser shall be treated as a distribution of money by the partnership to the partner.

21. Federal, State and local governments

House bill.—The House bill provides that if an economic interest in crude oil is held by a State or political subdivision thereof, or by an educational institution which is an agency or instrumentality of any of the foregoing, and under the applicable State or local law all of the net income received pursuant to such interest is dedicated to public education or to a permanent fund the income from which is dedicated to public education, then the windfall profit tax would not be imposed with respect to crude oil properly allocable to such interest. The exemption would not apply to the extent another party had an economic interest in the production.

Federal royalty oil, including oil production from a National Petroleum Reserve and royalties from Federal leases, is subject to tax under the House bill.

Senate amendment.—The Senate amendment extends the House bill's exemption to oil used for any public purpose.

The Senate amendment also exempts from tax oil production owned by the Federal government.

Conference agreement.—The conference agreement follows the Senate amendment with respect to oil owned by State and local governments, and the House bill with respect to oil owned by the Federal government.

22. Medical and educational charities

House bill.—No provision.

Senate amendment.—The Senate amendment provides that oil produced from properties owned by medical facilities and educational institutions is exempt from the windfall profit tax if the properties were owned by the medical facility or educational institution on October 24, 1979, or if the medical facility or educational institution receives the property as a bequest after October 24, 1979.

The exemption also applies to oil produced from interests held by a church on October 24, 1979, if the net proceeds from production of such oil were dedicated, by appropriate official action of the church prior to October 25, 1979, to the support of a medical facility or educational institution. Other organizations which are not educational institutions or medical facilities are not entitled to the exemption even though the proceeds from oil produced by them may be used entirely to support a medical facility or educational institution.

A technical error in the Senate amendment limits the exemption to educational institutions and medical facilities that are neither publicly supported organizations within the meaning of section 509(a)(2) nor organizations operated exclusively for the benefit of, or controlled by, a publicly supported organization. By reason of the same technical error, the amendment is not limited to charitable organizations.

Conference agreement.—The conference agreement follows the intent of the Senate amendment and exempts oil production by a charitable educational institution or a charitable medical facility from inter-

ests held by the qualified charities on January 21, 1980. In addition, oil produced from interests held by a church on January 21, 1980, is exempt from the tax only if prior to January 22, 1980, the net proceeds from production of such oil were dedicated to the support of a medical facility or educational institution. Production from an interest in oil received, as a bequest or otherwise, after January 21, 1980, is not eligible for the exemption.

23. Indian oil production

House bill.—No provision.

Senate amendment.—The Senate amendment exempts from tax oil production owned or received by Indian tribes, tribal organizations, and individual Indians over whom the United States exercises trust responsibilities. It also exempts from tax oil production owned by Alaska Native Corporations.

Conference agreement.—The conference agreement generally follows the Senate amendment except that the exemption is available only with respect to production from mineral interests held by, or on behalf of, Indian tribes or individual Indians on January 21, 1980. The exemption also applies to the oil production of any Alaska Native Corporation organized under the Alaska Native Claims Settlement Act from interests received pursuant to that Act if the oil is produced prior to 1992, when the stock of such corporations may be traded. The exemption applies when the proceeds from the sale of oil are paid into the U.S. Treasury to the credit of tribal or native trust funds pursuant to provisions of law in effect before January 22, 1980.

24. Production payments

House bill.—The only case in which the House bill imposes the tax on a person other than the holder of the economic interest in the oil is that of a production payment which involves payment of oil to someone until such time as the total cumulative payment has added up to a fixed number of dollars (as opposed to a fixed number of barrels). In these cases, the bill shifts the tax burden to the holder of the residual interest.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the Senate amendment.

25. Independent producers

House bill.—No provision.

Senate amendment.—The Senate amendment provides an exemption from the tax for the first 1,000 barrels a day of otherwise taxable oil produced by independent producers and certain royalty owners after September 30, 1980. Independent producers are working interest owners eligible for percentage depletion under section 613A(c). Royalty owners also are eligible for the exemption, but only to the extent the working interest in their properties is owned by independent producers.

The Senate amendment also provides that Members of the Ninety-sixth Congress and their families are not eligible for the exemption.

In the case of a partnership, the qualified production of the partnership is reduced to reflect the proportion of non-eligible partners' (*i.e.*, integrated companies') interest in the production. The reduced amount is then allocated proportionately to the eligible partners. Each partner's exemption then is limited to 1,000 barrels a day from all sources.

Oil is not eligible for the exemption if the taxpayer's interest in the oil was held by an integrated oil company on October 24, 1979.

Conference agreement.—Independent producers are allowed a reduced rate on up to 1,000 barrels per day of qualifying tier one and tier two oil. The rate is 50 percent (instead of 70 percent) for tier one and 30 percent (instead of 60 percent) for tier two. To be eligible, a producer must not be an oil or gas retailer or an oil refiner in the taxable period. Also, royalty and similar interests (whether payable in kind or otherwise) and certain transferred properties are ineligible for the reduced rates. Related parties must allocate one 1,000-barrel amount. If an independent producer's daily production of qualifying tier one and tier two oil exceeds 1,000 barrels, the 1,000 barrels eligible for the reduced rates come ratably from the producer's tier one and tier two oil.

Transferred properties.—As a general rule, properties transferred from one person to another will not qualify for the reduced rates if the transfer would disqualify the transferee from claiming percentage depletion on the property. However, there are some major differences between the transfer rule under the windfall profit tax and the rule used for depletion. First, transfers between an individual and a controlled corporation do not disqualify a property for the reduced rates because under the windfall profit tax, these persons must share one 1,000-barrel amount. Second, a more flexible rule applies to transfers between small independent producers.

Under the conference agreement, the general transfer rule does not apply if a producer establishes that at no time after 1979, and before that producer acquired his interest in the property, was held by a person who, for any quarter after the third quarter of 1979 and before the quarter in which that person transferred the interest to another, was a major oil company or an independent producer with more than 1,000 barrels per day of production (with the 1,000-barrel figure reduced by application of the related party rule, described below). In the case of transfers from a trust or a partnership, the oil transferred is deemed to be owned proportionately by the beneficiaries or partners for purposes of determining whether the transferor is a person whose ownership would make the property ineligible for the reduced rates.

The Secretary is to set up a mechanism by which producers would be able to demonstrate that their transferred properties are eligible for the reduced rates.

Also, transfers between related parties who have to allocate one 1,000-barrel amount are exempt from the general transfer rule so long as the parties continue to be related.

Royalties.—To be eligible for the reduced rates, an interest in oil must not be a royalty or similar interest and must not have been one on

January 1, 1980 (i.e., royalty interests cannot be converted into working interests). An exception to this rule allows reduced rates for a qualifying overriding royalty interest which converts into an operating mineral interest pursuant to a binding contract or agreement which was in effect on February 20, 1980. This exception would include an interest which was an overriding royalty interest on January 1, 1980, and converted to a working interest between January 1, 1980, and February 20, 1980. After the qualifying overriding royalty interest converts to an operating mineral interest, production attributable to the converted interest qualifies for reduced rates.

Related parties.—All related parties must share one 1,000 barrel amount. Generally, the persons who must be aggregated for purposes of this allocation are the same parties who must share one depletable quantity for percentage depletion purposes. However, a producer and a controlled corporation must share one 1,000-barrel amount. When related parties must allocate one 1,000-barrel amount, the number of barrels of production eligible for reduced rates as to any member of the related parties is reduced for each member by allocating the one 1,000-barrel amount among them in proportion to their respective production of tier one and tier two oil for the quarter.

If a person is a member of more than one related group required to share an allocation during a quarter, that person's allocation must be made by reference to the related group which results in the smallest daily barrel allocation to that person.

26. Percentage depletion

House bill.—In determining the percentage depletion allowance, gross income is reduced by the difference between the selling price and the adjusted base price of taxable oil (*i.e.*, the windfall profit without regard to the severance tax adjustment). Also, for purposes of determining the 50-percent and 65-percent of-taxable-income limitations on percentage depletion, taxable income is increased by the windfall profit tax.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the Senate amendment.

27. Administrative provisions

House bill.—The tax generally is imposed on each party with an economic interest in taxable production. First purchasers generally are required to deposit the tax, after withholding it from the purchase price, and to file quarterly tax returns. Under existing Treasury regulations, tax deposits generally would be made on a semi-monthly basis. The operator of a property must certify to the purchaser all of the information necessary for the purchaser to file the applicable returns and make the tax deposits.

Generally, the House bill requires the first purchaser to provide producers with monthly information statements, due by the beginning of the second month after the end of the month for which the information is being furnished, with respect to their oil production. Estates, trusts, and partnerships which produce crude oil are required to pro-

vide quarterly information statements to each beneficiary or partner by the beginning of the third month after the end of the quarter for which the information is being furnished.

The Secretary is granted the authority to require additional information returns.

Senate amendment.—The Senate amendment eliminates many of the required information exchanges and returns necessitated under the House bill. In lieu of such mandatory returns and exchanges, the Senate amendment grants the Secretary authority to require any appropriate returns or exchanges.

The Senate amendment also provides that no tax withholding is necessary if the operator certifies to the first purchaser that the production is exempt from tax. It also allows the operator and the first purchaser to elect to have the operator make the tax deposits and file the quarterly returns.

Under the Senate amendment, integrated oil companies who are not independent refiners must make estimated semi-monthly tax deposits. Independent refiners who purchase oil under delayed payment contracts must make tax deposits within 60 days after the end of the month of purchase. Other taxpayers must make tax deposits within 45 days after the end of the month of purchase.

The Senate amendment provides that tax overpayments in excess of $1,000 that are attributable to the net income limitation or to a tax exemption are refundable annually on an expedited basis. In addition, the Senate amendment provides that no interest is due on a tax refund which is made within 45 days of the date for filing the income tax return.

Conference agreement.—For administrative purposes, there are two general categories into which crude oil falls: oil subject to withholding and oil not subject to withholding. Except as otherwise provided in Treasury regulations, the first purchaser of domestic crude is required to withhold the windfall profit tax from amounts payable to the producer of the oil and deposit those amounts with the Treasury. Where withholding is not required, the producer is required to pay the tax with respect to its own production.

Responsibilities of operator.—In the case of oil subject to withholding, the operator normally must certify to the first purchaser the information which the purchaser needs to compute the tax. This includes the tier in which the oil is taxed, the adjusted base price of the oil, the amount of oil, any certification furnished to the operator by the producer with respect to whether such oil is exempt oil or oil subject to reduced rates for independent producers, and any other information required by regulations.

For windfall profit tax purposes, the operator is the person primarily responsible for the management and operation of the crude oil production. However, persons holding the operating mineral interests in the property can designate another person (or persons) as the operator.

Except as otherwise provided in regulations limiting the election, the operator and the first purchaser may elect to have the operator assume the purchaser's responsibilities under the tax. If such an election is made, unless the operator is a major oil company, the operator would

have to deposit the withheld tax (or estimated tax) at the same time the purchaser would have had to make deposits or estimated tax payments. Thus, if the purchaser is an integrated oil company, the deposit and estimated tax rules for integrated companies will apply to the operator.

In the case of oil not subject to withholding, the operator is required to certify to the producer the tier in which the oil is taxed, the adjusted base price for the oil, the amount of oil, and any other information required under regulations. The operator and producer may elect, in accordance with regulations, to relieve the operator of this obligation.

Responsibilities of purchaser.—In the case of oil subject to withholding, the first purchaser must withhold the windfall profit tax from the amount payable by such purchaser to the producer of the oil. The purchaser is liable to the IRS for the payment of the amount required to be withheld and is not liable to the producer for that amount. The amount withheld is to be determined on the basis of the certification provided by the operator (including any certification that part or all of the production is eligible for the reduced rates for oil produced by independent producers), and the purchaser is not responsible for errors in withholding resulting from improper certification unless it has reason to believe the certification is improper. If no certification is provided or if the first purchaser has reason to believe that the information contained in the certification is incorrect, then the amount withheld must be determined under regulations prescribed by the Secretary. To encourage the furnishing of information, these regulations may require withholding of the maximum possible tax on any particular oil even though such tax exceeds the amount that would have been due if a proper certification had been made.

The first purchaser is required to file quarterly returns showing the amount of tax withheld, together with any other information required under regulations. It is anticipated that the first purchaser's quarterly return for the fourth calendar quarter will provide a producer-by-producer summary of the amount of oil purchased for the year, the windfall profit tax withheld thereon, and the amounts of tax deposited. The first purchaser's quarterly return for the fourth quarter is to be filed before March 1 of the following year. The first purchaser's information statement will provide each producer with information indicating the amounts of oil purchased and the tax withheld thereon. In the case of oil purchased from a partnership, the purchaser will provide information with respect to the partnership's. The partnership's return will provide information with respect to each partner's share of the production.

As in the Senate amendment, the timing of the obligation of any first purchaser to deposit amounts withheld depends upon the identity of the first purchaser. Integrated oil companies other than independent refiners are required to make semimonthly estimated deposits of the withholding tax. All other first purchasers are required to make withholding deposits not later than 45 days after the close of the month in which the oil is removed from the premises, except that independent refiners who purchase oil under delayed payment contracts are required to make deposits by the first day of the third month

beginning after the month of the removal. Failure to make timely deposits will result in the generally applicable penalties. However, estimated tax deposits which meet "safe harbor" levels, similar to those contained in Treasury regulation § 48.6302(c)-1 (relating to deposits of excise taxes generally), would prevent the imposition of penalties.

If the first purchaser withholds an incorrect amount of tax on any oil, adjustments in withholding are required to correct the aggregate amount withheld on all oil purchased by that purchaser from the producer on oil removed during that calendar year. The amount of any mandatory withholding adjustment may not exceed the amount of the windfall profit on any barrel of oil removed.

Required withholding adjustments apply only with respect to transactions between the same purchaser and producer. However, a producer may voluntarily authorize any purchaser to withhold with respect to oil removed later in the calendar year to correct earlier withholding errors. Such an amount is to be treated as an amount required to be withheld such that the deposit and return filing rules will apply. In addition, the Secretary may allow, under regulations, withholding adjustments after the close of the calendar year.

Increases in posted prices after the determination of the removal price also increase the windfall profit, and hence the tax. In such a case, the tax attributable to the price increase must be withheld.

Responsibilities of producer.—Generally, there is no requirement that producers of oil that is subject to withholding file a windfall profit tax return if the correct amount of tax is withheld for the year.

In the case of withheld oil, the producer is deemed to have paid, on the last day of February of the year following that in which the oil was removed, the amount of tax withheld by the purchaser.

Producers are required to deposit the tax due on their own production not subject to withholding in the same manner they would deposit tax withheld by them if they were first purchasers. In other words, integrated oil companies make deposits of their estimated tax liability twice a month and all other producers deposit the tax within 45 days after the month of removal.

Oil produced by producers who are entirely exempt from the windfall profit tax by virtue of the provisions exempting certain State, Indian, or charity's oil is not subject to withholding if an appropriate certification is given to the first purchaser.

Producers exempt from all or a portion of the tax by virtue of the net income limitation may file for a refund after the close of the year. They are not entitled to file a withholding tax exemption certificate, or use the withholding adjustments to take the 90-percent limit into account.

Statute of limitations.—In the case of oil subject to withholding for which no windfall profit tax return is required from the producer, the statute of limitations for purposes of claiming a refund or assessing a deficiency runs with respect to the producer's annual income tax return for the taxable year in which calendar year of the oil's removal ends. In the case of a Federally registered partnership, the Secretary may prescribe limitation rules similar to the rules applicable to income tax returns.

If the Department of Energy makes a final determination reclassifying oil for pricing purposes under the June 1979 Energy regulations, then the statute of limitations for assessing any deficiency or for filing a claim for a windfall profit tax refund attributable to such DOE reclassification will not expire before one year after the redetermination becomes final.

The conference agreement further provides the Secretary with authority to prescribe administrative regulations consistent with the specific provisions of the tax, including any pertaining to information exchanges and returns (e.g., reporting windfall profit tax items on existing excise tax, income tax, and information returns).

Interest.—Interest on the overpayment of tax by a producer with respect to withheld oil will run from the last day of February of the year following the removal year. However, if the IRS refunds the windfall profit tax overpayment within 45 days after the later of (1) the unextended due date of the windfall profit tax (or if no return is required, the income tax return for the taxable year in which the removal year ends) or (2) the date the return is filed, then no interest shall be allowed.

28. Incorporation of energy regulations

House bill.—Various definitions and categories of crude oil are fixed by reference to regulations prescribed under the Emergency Petroleum Allocation Act of 1973, as amended. For this purpose, the regulations are treated as continuing in their March 31, 1979, and June 1, 1979, form without regard to subsequent amendment or modification.

Senate amendment.—The Senate amendment generally follows the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment. Thus, the definition of crude oil for windfall profit tax purposes is fixed by the June 1979 energy regulations. Therefore, the term "crude oil" means a mixture of hydrocarbons which exists as liquids in underground reservoirs and which remain liquid at atmospheric pressure after passing through surface separating facilities. The term also includes condensate recovered in associated or nonassociated production by mechanical separators located at any point at or before the inlet side of a gas processing plant, and natural gas liquid treated as crude oil under the June 1979 energy regulations. The term "crude oil," however, does not apply to synthetic petroleum such as oil production from shale or tar sands.

The conference agreement also provides that the Secretary of the Treasury may make, for windfall profit tax purposes, appropriate modifications to the energy regulations to carry out the purposes of the tax and to facilitate administration of the tax. Such action may include, for example, a correlation of tax and price control terms. For instance, price control base prices generally are determined with regard to the price for which the oil is "produced and sold," while the tax is imposed on the difference between the "removal price" and the adjusted base price. Essentially, the terms "produced and sold" and "removal price" refer to the same transaction, and the Secretary may want to clarify this in regulations.

29. Deductibility under income tax

House bill.—A deduction from Federal income taxes for windfall profit tax is allowable for the taxable year with respect to which the tax is paid or accrued.

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.

30. Court jurisdiction

House bill.—The House bill contains no provision relating to jurisdiction over controversies involving the windfall profit tax. Thus, such controversies come within the jurisdiction of the District Courts of the United States and of the Court of Claims. The United States Tax Court has no jurisdiction to hear these cases.

Senate amendment.—Under the Senate amendment, the U.S. Tax Court is granted exclusive trial court jurisdiction over all civil controversies relating to the windfall profit tax, including suits for tax refunds.

The Senate amendment also increases the number of judges on the Tax Court by three.

Conference agreement.—Under the conference agreement, the respective courts will exercise jurisdiction over cases involving the windfall profit tax in the same manner that jurisdiction is exercised with respect to the income, estate and gift taxes. Thus, the Tax Court will have prepayment jurisdiction over deficiences asserted by the IRS and the U.S. District Courts, and the Court of Claims will have jurisdiction over refund suits.

Because the tax is imposed with respect to a producer's crude oil removed during a calendar quarter, the scope of a deficiency suit or refund suit will be with respect to the tax for the entire quarter. Thus, a second suit may not be brought with respect to the same quarter, and in the case of a refund suit, the entire tax assessed with respect to that quarter must be paid.

Jurisdiction with respect to liability under the withholding provisions will be in the U.S. District Courts and Court of Claims.

The conference agreement deletes the Senate amendment adding three Tax Court judges.

31. Effective date

House bill.—The windfall profit tax applies to oil removed on or after January 1, 1980.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—Under the conference agreement, the windfall profit tax applies to oil removed after February 29, 1980. For the period ending June 30, 1980, the Secretary may prescribe rules relating to the administration of the tax which may supplement or supplant the rules in the bill.

32. Termination of tax

House bill.—The House bill terminates the tax on newly discovered oil and incremental tertiary oil after 1990. All other taxable oil is subject to a permanent tax in tier three after 1990.

Senate amendment.—The tax imposed by the Senate amendment would phase out after the net revenue received by the Treasury, or for which taxpayers are liable totals $189 billion. The net revenue is the gross amount of windfall profit tax reduced by the reduction in individual and corporate income tax receipts caused by the imposition of the windfall profit tax. The phase out would be accomplished by exempting 3 percent of production in each succeeding month starting with the month after the $189 billion figure is reached.

The Senate amendment also provides that the President must notify Congress 30 days in advance of any decision to slow down the rate at which price controls are scheduled to phase out.

Conference agreement.—Under the conference agreement, the tax phases out during a 33-month period by reducing each producer's tax by 3 percent for each month starting with the later of January 1988 or the first month (but not later than January 1991) after that for which the Secretary estimates that the aggregate net windfall profit tax revenue will permanently exceed $227.3 billion (excluding tax on oil owned by the United States).

For purposes of estimating the amount of tax received by the Treasury, the Secretary first must estimate the gross windfall profit tax receipts, minus any revenue attributable to economic interests in crude oil held by the United States. This figure then is reduced by windfall profit tax refunds, but not by administrative costs or deficiencies attributable to the windfall profit tax. It is reduced further by estimated Federal income tax reductions for producers that result from deductibility of the windfall profit tax and any other change in income taxes arising from the windfall profit tax. In estimating the reduction for windfall profit tax refunds and income tax deductions, the Secretary is to take into account those items which properly are attributable to preceding taxable periods even though they actually have not been refunded, or used to reduce income taxes, at the time of the estimate.

Starting with January 1987, the Secretary must make monthly estimates of the aggregate net windfall profit tax revenue raised.

The conference agreement deletes the provision of the Senate amendment which requires the President to notify Congress 30 days in advance of any decision to slow down the rate at which price controls are scheduled to phase out.

33. Study of decontrol and tax

House bill.—The President is required to submit a report to the Congress no later than January 1, 1983, on the effect of decontrol and the windfall profit tax on (1) domestic oil production (2) oil imports; (3) oil company profits; (4) inflation; (5) employment; (6) economic growth; (7) Federal revenues; and (8) national security. This report is to be accomplished by such further energy related legislative recommendations as the President may care to make.

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.

34. Trust funds and disposition of windfall profit tax revenues

House bill.—All gross revenues from the windfall profit tax are deposited in an Energy Trust Fund created by the bill and structured in a manner similar to existing trust funds administered by the Secretary of the Treasury. The purposes for which money may be spent from the trust fund would be specified in future legislation.

Senate amendment.—The Senate amendment establishes a Taxpayer Trust Fund to receive deposits from general revenues equal to the increase in income tax receipts which results from the decontrol of oil prices. The deposits are limited to the amount of the increase in social security taxes presently scheduled for 1981.

The Senate amendment also provides that $1 billion of the receipts from the windfall profit tax through September 30, 1980 be reserved for railroad improvement and assistance programs until Congress authorizes or appropriates funds for that purpose.

Conference agreement.—In place of the trust funds and reservation in the House bill and Senate amendment, the conference agreement provides that the net revenues from the windfall profit tax are allocated only for the specific purposes described below to a separate account at the Treasury (for accounting purposes only). They shall not be earmarked or invested separately from general revenues, however. Net revenues from the windfall profit tax are equal to the gross amount of windfall profit tax collected (other than from oil owned by the United States) minus the reduction in income tax receipts resulting from imposition of the windfall tax.

The net revenues projected under current assumptions from 1981 through 1990, as shown in table 4 in the appendix, are allocated for the following specific purposes—

(a) *Aid to lower income households.*—25 percent of net revenues. For fiscal year 1982 and subsequent years, these funds would be divided equally between a program to assist AFDC and SSI recipients under the Social Security Act and a program of emergency energy assistance.

(b) *Individual and corporate income tax reductions.*—60 percent of net revenues. This would include tax cuts to help taxpayers cope with higher energy prices.

(c) *Energy and transportation spending programs.*—15 percent of net revenues.

Of the net revenues in excess of what is projected under current price assumptions (and shown in table 4), one-third is allocated for aid to lower income households, without specification of type of program, and two-thirds is allocated for income tax reductions. Any outlays by the proposed Synthetic Fuels Corporation would be financed from increases in general revenues resulting from decontrol. There is no specific allocation for the Corporation because its outlays will be very uncertain in timing and amount.

The President is required to propose, for each fiscal year after fiscal year 1980, allocation of net revenues from the windfall profit tax among the purposes specified above. For fiscal year 1981, the proposal must be submitted within 90 days after enactment; for succeeding fiscal years, the proposal must be contained in the annual budget. The Secretary of the Treasury will report annually to Congress, beginning in fiscal year 1982, on the net revenue derived from the windfall profit tax for the preceding fiscal year and the actual disposition of these revenues among the purposes specified above.

Further legislation is needed to use the money raised by the tax for any of the purposes specified above. Failure to enact such legislation, of course, would mean that the revenue from the tax would have the effect of reducing the Federal deficit.

II. RESIDENTIAL ENERGY TAX CREDITS

35. General provisions relating to residential energy credits

House bill.—No provision.

Senate amendment.—Under present law, the residential energy credits are available to a taxpayer for qualified installations only with respect to a principal residence. In addition, the Secretary has the authority to add qualifying items to the lists of equipment eligible for the residential energy credits.

The Senate amendment deletes the principal residence requirement, and makes the credits available for expenditures on vacation and second homes and to landlords.

The energy conservation credit for landlords is 10 percent, instead of 15 percent, and the renewable energy source credit is 40 percent, instead of 50 percent.

The amendment also clarifies that joint owners of qualified property are eligible to take the maximum credit for the expenditure made by each one for their own dwelling.

The Senate amendment also contains two provisions relating to the Secretary's discretionary authority to add items to the lists of equipment qualified to receive the energy conservation and renewable energy source tax credits. The first provision, which was in the bill reported by the Committee on Finance, deletes the discretionary authority from present law. The second provision, a Senate floor amendment, retains the discretionary authority.

Conference agreement.—The conference agreement retains the principal residence requirement. The credits will not be made available to vacation and second homes, and landlords will not be eligible for the residential credits, although they will continue to be eligible for the available business energy credits.

Joint ownership.—The conference agreement includes the Senate amendment with respect to joint ownership of qualified property by 2 or more individuals with respect to 2 or more dwelling units used as a principal residence by such individuals. Each owner is entitled to a separate limit on the expenditures for energy conservation or renewable energy source property.

Standards for Secretarial determination.—The conference agreement retains the Secretary's discretionary authority but establishes standards to limit the exercise of the authority in evaluating whether items should be added to the list of qualified equipment. The Secretary must use the following criteria in making a determination on the specification of an item as eligible for the energy conservation credit or the renewable energy source credit. First, the Secretary cannot make such a specification unless he determines that it would result in a reduction in total national consumption of oil and natural gas and

that this reduction would be sufficient to justify the resulting decrease in Federal revenues. Second, a conservation component or renewable energy source cannot be specified unless the Secretary finds that such a specification would not result in an increased use of any item when this item, or its increased use, is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety. Third, such a specification cannot be made unless the Secretary finds that available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

In making a determination under the first criterion, the Secretary, after consultation with the Secretary of Energy, is required to make an estimate of the amount by which the specification of the energy conservation or renewable energy source property would cause a reduction in national oil and natural gas consumption. In making this estimate, the Secretary is required to take into account at least the following factors: (a) the extent to which the use of the property to be specified would be increased as a result of the specification, (b) whether sufficient capacity is available to increase production to meet increases in any demand for the property or associated fuels and materials which might be caused by such specification, (c) the amount of oil or natural gas used directly or indirectly in the manufacture of the property and items necessary for its use, and (d) the estimated useful life of the item or associated equipment necessary for its use. The Secretary would also take into account the extent additional use of the property leads, directly or indirectly, to the reduced use of oil or natural gas. Indirect use of oil or natural gas includes use of electricity derived from oil or natural gas.

In making a determination under the first criterion above, which involves the comparison of the reduction of oil and natural gas consumption and the revenue loss, the Secretary must also determine, after consultation with the Secretary of Energy, whether the specification of the property compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost (including revenue loss) to the Federal Government, with other Federal programs in existence or being proposed.

The Secretary is required to make a final determination with respect to any request by an applicant for specifying a conservation item or renewable energy source within one year after the filing of the request, together with any information required to be filed with the request. Each month the Secretary is required to publish a report of any request denied during the preceding month and the reasons for the denial.

In the case of any property which the Secretary specifies as eligible for the credit, the credits are allowed for expenditures made on or after the date on which final notice of the specification is published in the Federal Register. The Secretary may prescribe by regulations that such expenditures made before the close of the taxable year in which the date occurs shall be taken into account in the following taxable year.

Rules to prevent double benefits.—The conference agreement also provides rules to coordinate the residential energy credits with other government subsidies for energy-related expenditures. The conferees

are concerned that if no such rules were adopted, the compound effect of various subsidized loan and grant programs could lead to a situation in which the taxpayer could purchase this property with very little expenditure of his own funds. A potential result could be the encouragement of efficiency through expenditures for equipment the production of which would require diverting substantial resources from more effective uses. The effect of the rule provided in the conference agreement, in conjunction with the present treatment of nontaxable grants, is that the purchaser of the eligible equipment must choose between the tax credit, on the one hand, and subsidized energy loans and nontaxable grants, on the other hand. Grants which are taxable are not taken into account under these rules because their taxation serves as a partial offset; similarly, credits against State and local income taxes are not taken into account because the deductibility of these taxes under the Federal income tax implies that the effect of these credits is equivalent to the effect of a taxable grant.

Under current law, expenditures financed by Federal, State, or local grants which are exempt from Federal income tax are not eligible for a residential tax credit. In addition, under the conference agreement, the portion of the expenditures which is provided by subsidized energy financing is not to be eligible for a tax credit. Further, the expenditure limits on energy conservation and renewable energy source property for a particular dwelling are reduced by the portion of expenditures financed by subsidized energy financing, as well as by the amount of nontaxable Federal, State or local government grants used to purchase the energy conservation or renewable energy source property.

Subsidized energy financing means financing provided under a Federal, State or local government program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. The term includes, but is not limited to, the direct or indirect use of tax-exempt bonds for providing funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

The reductions in the amount of qualified expenditures and in the expenditure limits will apply to taxable years which begin after December 31, 1980, with respect to financing or grants made after that date.

In addition, the Secretary is given the authority to require persons having control of a program which provides subsidized energy financing or an energy grant program to make a return containing the name and address of each individual receiving the financing or grant and the amount of financing or grant received under the program.

36. Insulation and other energy-conserving items

House bill.—No provision.

Senate amendment.—Under present law, a 15-percent credit is available on the first $2,000 of qualifying expenditures, for a maximum credit of $300. It is available for installation of specifically enumerated property after April 19, 1977, and before January 1, 1986, with respect to a taxpayer's principal residence (whether a homeowner or a renter), if the residence was substantially completed before

April 20, 1977. The credit is allowed for expenditures to install (1) insulation, (2) a replacement burner for oil and gas-fired furnaces, (3) a device to modify flue openings, (4) an electrical or mechanical furnace ignition system, (5) an exterior storm or thermal door or window, (6) an automatic energy-saving thermostat, (7) caulking or weatherstripping for an exterior door or window, and (8) an energy usage display meter.

The Senate amendment makes the following items eligible for the current energy conservation credits, as of October 1, 1979: (1) heat pumps; (2) airtight woodburning stoves; (3) replacement oil or gas furnaces; (4) replacement coal furnaces and boilers; (5) replacement woodburning furnaces or boilers; and (6) infrared radiant heating panels.

Conference agreement.—The conference agreement does not add any new items to the list of qualified energy conservation property. The six items that would have been added to the list in the Senate amendment are to be evaluated by the Secretary using the standards, specified in item 35 above, when the information required for the evaluation has been filed.

37. Renewable energy source equipment

House bill.—No provision.

Senate amendment.—Under present law, a credit is allowed on 30 percent on the first $2,000 and 20 percent on the next $8,000 of expenditures, for a maximum credit of $2,200, for installations of solar, wind, or geothermal energy equipment in connection with a principal residence. The credits apply to expenditures made after April 19, 1977, and before January 1, 1986, for both existing and new residences. The credit is available to homeowners and renters. Eligible equipment includes solar and geothermal property to heat, cool or provide hot water to a dwelling or to use wind energy for residential purposes.

The Senate amendment increases the credit for renewable source energy expenditures from the present two-step structure to 50 percent on the first $10,000 of qualified expenditures, and the credit is extended through 1999. In addition, the following additions are made to the equipment eligible for this credit:

(1) Equipment to produce electrical energy from renewable energy source property installed with respect to a residence;

(2) Expenditures for on-site drilling costs and expenditures for labor costs properly allocable to the onsite preparation, assembly or original installation of renewable energy source property eligible for the credit, unless the deduction for intangible drilling costs has been claimed for any portion of these expenditures; and

(3) The cost of a solar roof panel installed as a roof (or a portion of a roof) qualifies for the credit although it is a structural component.

Conference agreement.—The conference agreement generally follows the Senate amendment with modifications.

The credit rate for renewable energy source property is increased to 40 percent of the first $10,000 of expenditures, and the conference agreement retains the present 1985 termination date for the credit.

The conference agreement includes the Senate provision that renewable energy source property includes the costs incurred to install solar panels as a roof or as part of a roof.

As under current law, renewable energy source property shall not include other structural components of a residence even though they also may play an ancillary role related to renewable energy source property.

The increased tax credit for renewable energy source property shall apply to expenditures made in taxable years that begin after December 31, 1979. The amendments made with respect to electrical energy from renewable energy sources, the credit for geothermal intangible drilling costs and solar roof panels shall apply to expenditures made after December 31, 1979, in taxable years ending after such date.

III. BUSINESS TAX INCENTIVES

A. Business Energy Investment Tax Credits

38. Solar and wind energy property

House bill.—No provision.

Senate amendment.—Under present law, equipment which uses solar or wind energy property to generate electricity or to heat, cool or provide hot water for a structure qualifies for a 10-percent refundable business energy credit through December 31, 1982.

The Senate amendment increases the rate of this energy credit to 20 percent and extends the effective period for the credit through December 31, 1990. In addition, the Senate amendment allows the energy credit for equipment which utilizes solar energy to provide process heat for industrial, agricultural or commercial purposes. These provisions are effective for qualifying investments after December 31, 1979.

The Senate amendment also repeals the refundable feature of the the solar and wind energy credits, effective for taxable years which begin after December 31, 1979.

Conference agreement.—The conference agreement follows the Senate amendment except that the rate of the energy credit is increased to 15 percent instead of 20 percent and the effective period for this credit is extended only through December 31, 1985. Also, the effective date for repeal of the refundability feature for the energy credit on solar or wind energy property is clarified so that energy credits attributable to qualified investment on or after the January 1, 1980, effective date for this provision will not be refundable where they are carried back to taxable years which begin before January 1, 1980. In addition, the conference agreement adopts the Senate provision which allows the energy credit for equipment which utilizes solar energy to provide process heat for industrial, agricultural, or commercial applications.

39. Geothermal equipment

House bill.—No provision.

Senate amendment.—Under present law, equipment used to produce, distribute, or use geothermal energy generally qualifies for a 10-percent nonrefundable energy credit through December 31, 1982. The Senate amendment increases the rate of this credit to 20 percent and extends the effective period for this credit through December 31, 1990. These provisions are effective for qualifying investments made after December 31, 1979.

Conference agreement.—The conference agreement modifies the Senate amendment by increasing the rate of the energy credit for geothermal equipment to 15 percent and by extending the credit only through December 31, 1985.

40. Ocean thermal equipment

House bill.—No provision.

Senate amendment.—Under present law, no energy credit is allowed for equipment which utilizes the thermal differences in ocean water for the production of usable energy. The Senate amendment provides a 20-percent nonrefundable energy credit for equipment used to convert ocean thermal energy into electrical energy or another form of usable energy. Qualifying ocean thermal equipment includes turbines, generators and related equipment (such as pumps, piping and heat exchangers) up to, but not including, the transmission stage (i.e., transformers and transmission lines, etc., are excluded) and also specially designed vessels and structures used to support, house and service this equipment. These provisions are effective for qualifying investments after December 31, 1979, and before January 1, 1991.

Conference agreement.—The conference agreement modifies the Senate amendment by reducing the rate of the credit to 15 percent and by allowing the credit through December 31, 1985, only for qualifying equipment at two locations designated by the Secretary of the Treasury after consultation with the Secretary of Energy.

A technical amendment is made under the conference agreement to provide an exception from the investment credit rule of general application which requires that qualifying property be used predominantly within the United States. This technical amendment provides that the generally applicable United States use limitation will not apply to qualifying ocean thermal equipment which is owned by a United States person (as defined in Code sec. 7701(a)(30)) and which is used in international or territorial waters to generate energy for use in the United States. (The term United States is defined in Code section 7701(a)(9) to include only the 50 States and the District of Columbia)

41. Qualifying hydroelectric generating property

House bill.—No provision.

Senate amendment.—Under present law, the regular investment credit and accelerated methods of depreciation are generally available for hydroelectric generating facilities, including those classified as public utility property, if these tax incentives are reflected for ratemaking purposes under a normalization method of accounting. No energy credits or other energy related tax incentives are provided for hydroelectric generating facilities. Also, the asset depreciation range (ADR) system in effect under present law provides that hydroelectric facilities generally qualify for a 50-year guideline life and a 1.5 percent annual repair allowance for purposes of tax depreciation.

The Senate amendment provides a 10-percent nonrefundable energy credit for property used in the generation of electricity by hydroelectric power, if the generating equipment has an installed capacity of 25 megawatts or less. This credit is available for qualifying property at dams in existence on October 18, 1979, and also for qualifying property at sites of water flows, such as irrigation ditches and rivers, where there is no dam to create a water impoundment. Qualifying property for purposes of this energy credit includes generating equip-

ment (up to, but not including, the electrical transmission stage), powerhouses, penstocks, and fish passageways and related equipment (such as fish counters) to facilitate the movement of fish above and below the generating site. In addition, capital costs for rehabilitating (through repairs or reconstruction, but not enlargement or new construction) an existing dam in connection with the installation of qualifying generating equipment are also qualifying property for purposes of this credit.

The Senate amendment also liberalizes depreciation allowances for this small scale hydroelectric generating property by providing a 20-year guideline life (with a lower limit of 16 years and an upper limit of 24 years) and a 4 percent annual repair allowance under the ADR system for qualifying small scale hydroelectric generating property. In addition, these facilities will qualify for accelerated methods of depreciation regardless of whether the small scale hydroelectric facilities are treated as public utility property.

These provisions are effective for qualifying investments after December 31, 1979.

Conference agreement.—The conference agreement provides an 11-percent business energy credit for investments in qualifying hydroelectric property. This credit is generally available for the period from January 1, 1980, through December 31, 1985. In addition, the effective period is extended for three additional years, through December 31, 1988, for qualifying investments which arise from a hydroelectric project for which an application was docketed by the Federal Energy Regulatory Commission before January 1, 1986. This 11-percent energy credit is available both at sites where there is no existing generating capacity and at sites where there is existing capacity. Public utility property is also eligible for this credit if the normalization requirements concerning investment credits for public utility property (under Code section 46(f)) are satisfied. The conference agreement also makes public utility property which is qualifying hydroelectric energy property eligible for the energy credit and allows the regular investment credit for fish passageways which qualify as hydroelectric energy property, effective for qualifying investments after December 31, 1979.

Under the conference agreement, qualifying hydroelectric generating property includes hydroelectric generating equipment (such as turbines and generators), powerhouses and similar structures to house the generating equipment, penstocks to carry water from the impoundment to the turbine, and fish passageways (and related equipment, such as fish counters). Capital costs for repairing or restoring existing nonfunctional generating equipment are also covered. Generating equipment is covered up to, but not including, the electrical transmission stage. Qualifying property also includes capital costs of reconstruction or rehabilitation (but not enlargement) of a dam which impounds water for use by the generating equipment. As a result, qualifying costs exclude those for extending or increasing the height of the dam for purposes of increasing the water level or impoundment; however, they include costs for increasing the existing water level or impoundment by strengthening the dam and eliminat-

ing leakage. Hydroelectric generating property other than generating equipment will qualify only if it is required by reason of the installation of qualifying generating equipment.

Qualifying hydroelectric property is eligible for this energy credit only where it is installed either at an existing dam which was completed before October 18, 1979 (and which was not significantly enlarged after that date) or at a new or existing, natural or manmade water flow (such as a river, a water conduit or an irrigation ditch) which is not at the site of a dam. Water flows from pumped storage facilities tidal action are not intended to be covered by this provision. In addition, the installed capacity of all hydroelectric generating equipment at the site must be less than 125 megawatts in order for qualifying property to be eligible for this credit. The total capacity of generating equipment at the site includes all functional generating equipment at the site as well as new equipment installed during the current taxable year and the three following taxable years.

For purposes of this section, the construction of penstocks, powerhouses, fish passageways and similar structures does not constitute construction or enlargement of the impoundment structure. The term "existing dam" includes dams which are currently being used in connection with the generation of electricity, dams which have been used in connection with the generation of electricity in the past, and dams which have never been used in connection with the generation of electricity. The term "dam rehabilitation property" includes property for the reconstruction of breached structures and renovation of machinery and structural elements which have been left in place. Furthermore, in the case of an impoundment which does not meet state or federal spillway capacity or other requirements, the term "dam rehabilitation property" includes the replacement of the entire impoundment structure. A dam site or other impoundment site includes any water passageways that are from the water behind the dam or other impoundment, if the primary purpose of the water passageways is from the generation of electricity.

The energy credit is phased out as the total capacity of electric generating equipment installed at the site increases from 25 to 125 megawatts. Increases in generating capacity attributable to qualifying costs for restoring existing nonfunctional equipment, and increases which occur during the three following years, are also taken into consideration for purposes of this phase-out. Between 25 to 100 megawatts, qualified investment is reduced by a fraction equal to 25 divided by the total installed capacity. As total capacity rises from 100 to 125 megawatts, the energy credit is phased out entirely. For example, assume that in each of the years 1975, 1980 and 1983, the taxpayer installs, at an existing dam, electric generating equipment with an installed capacity of 25 megawatts. Thus, at the end of 1983, the total installed capacity is 75 megawatts. For each of the years 1980 and 1983, the 11-percent credit will be computed on the basis of 25/75ths of qualified investment.

The conference agreement deletes the Senate provisions concerning depreciation treatment of small scale hydroelectric generating property. The conferees understand that the rates for the sale of electricity produced by hydroelectric facilities owned by taxpayers

other than electric utilities are generally not regulated on a rate of return basis, and it is intended that this qualifying hydroelectric generating property will consequently not generally be classified as public utility property which is subject to the Code section 167(I) limitations on the use of accelerated methods of depreciation.

42. Cogeneration equipment

House bill.—No provision.

Senate amendment.—Under present law, no energy credits are provided for congeneration equipment.

The Senate amendment provides a 10-percent nonrefundable energy credit from January 1, 1980, through December 31, 1982, for equipment which enables a boiler or burner at an existing facility to both produce steam, heat or other useful energy and also produce electricity. To qualify, the equipment must result in an increase in the facility's cogenerating capacity, including the start of cogenerating activity. In general, this credit would be allowed only for installations of cogeneration equipment at facilities which do not use oil as a fuel. If the facility uses natural gas as a fuel, it generally must have been using natural gas on January 1, 1980, in order for the cogeneration equipment to qualify. However, use of up to 25 percent oil or natural gas (for example, as a flame stabilization, backup, or startup fuel) would be allowed.

In addition, the credit is allowed for cogeneration equipment installed at existing major fuel burning installations which use oil as a fuel, where the net savings in the use of oil by installing cogeneration equipment is at least 30 percent.

These amendments are generally effective for qualifying investments after December 31, 1979. The amendment which allows the use of oil at major fuel burning installations is effective after September 30, 1980.

Conference agreement.—The conference agreement generally follows the provisions of the Senate amendment which allow a 10-percent energy credit from January 1, 1980, through December 31, 1982, for qualifying investments in cogenerating equipment where a limited amount of oil or natural gas is used as a fuel. The conference agreement does not include the provisions of the Senate amendment which would have included cogeneration equipment used in a facility which burned natural gas as a primary fuel on January 1, 1980, or where installed in major fuel-burning installations with oil as a primary fuel.

The credit is allowed under the conference agreement where qualifying equipment is installed in an existing (as of January 1, 1980) industrial or commercial facility as part of an energy-using system which does not use oil, natural gas, or a product of oil or natural gas, as a fuel or where these fuels are used only for startup, backup or flame stabilization purposes and comprise not more than 20 percent of the fuel consumed by the system, determined on the basis of Btu's consumed each year. For this purpose, agricultural and water purification and desalinization facilities are considered to be industrial facilities. Cogeneration equipment includes qualifying equipment added to an

energy using system to either begin cogenerating activity or expand existing cogenerating capacity. Where existing cogenerating equipment is replaced, the credit under this provision is available for the replacement cogeneration equipment to the extent attributable to incremental cogenerating capacity. As under existing law, if the property ceases to be qualifying energy property, recapture of the energy credit may occur.

The conference agreement also clarifies the Senate amendment regarding increases in the capacity to cogenerate. Under the conference agreement, equipment would not be eligible if it merely increases the capacity of the system to produce the primary energy product of the system. For example, if a facility is presently producing steam for process use as its primary energy product and electricity as its secondary energy product, a boiler that merely increases the facility's steam capacity would not qualify. (However, the boiler may otherwise be eligible for an energy credit as alternative energy property if it primarily uses an alternate fuel, including fuel derived from biomass.)

It is expected that the determination of primary and secondary energy product within an energy using system will be made on the basis of the relative amounts of energy used by these two functions. In the case of an energy using system where the primary energy product is steam, heat or other useful energy (such as shaft power) for process or space heating purposes, qualifying cogeneration equipment includes a turbine and generator to produce electricity, and also any other equipment up to the electrical transmission stage. Where electricity is the primary product, qualifying equipment includes that necessary to recover and distribute, but not to use, excess energy after the electrical generation function.

43. Specially defined energy property

House bill.—No provision.

Senate amendment.—Present law provides a 10-percent nonrefundable energy credit through December 31, 1982, for specified items of property (such as recuperators, heat wheels, heat exchangers and automatic energy control systems) used to increase energy efficiency or to reduce the amount of energy consumed in existing processes at existing facilities. In addition, the Secretary is authorized (but has not yet exercised this authority) to specify additional items of qualifying property.

The Senate amendment adds, as additional specified items of qualifying specially defined energy property, industrial heat pumps, energy saving modifications to alumina electrolytic cells, and certain low density infrared heating panels. In addition, the Senate bill repeals the Secretarial authority to specify additional items of qualifying property. However, under a separate provision, the Secretarial authority to specify additional items of qualifying property is reinstated.

The Senate amendments are generally effective for qualifying investments after December 31, 1979. The provision concerning modifications to alumina electrolytic cells is effective for qualifying investments after September 30, 1978.

Conference agreement.—The conference agreement contains the provision of the Senate amendment which adds modifications to alumina electrolytic cells as a specified item of specially defined energy property, but it does not include the provisions of the Senate amendment relating to industrial heat pumps and certain low-density infrared heating panels.

Qualifying modifications to alumina cells are intended to mean either a substitution or a substantial change in technology and not periodic cleaning, repairs, or replacement of these cells or their components. For example, qualifying modifications include energy saving additions to, or substitutions of, components of the electrolytic reduction cell or "pot," such as changes to anode or cathode configurations and the addition of thermal insulation.

The conference agreement also continues the present law provisions which authorize the Secretary of the Treasury to specify additional items of qualifying property. In addition, standards are provided for the exercise of this authority. The standards provided by the conference agreement for purposes of the business energy credit are the same standards set forth for purposes of identifying additional items of energy conservation property or renewable energy source property eligible for a residential energy credit under Code section 44C (see item 35 above).

44. Petroleum coke and petroleum pitch

House bill.—No provision.

Senate amendment.—Under present law, facilities which use oil or natural gas for their products, as a primary fuel or to produce a feedstock are generally not eligible for the 10-percent energy investment credit. In addition, the 10-percent regular investment credit and accelerated methods of depreciation are denied for certain boilers which use oil or natural gas or their products as a fuel. As a result, the energy investment credit as well as the regular investment credit and accelerated methods of depreciation are not available for these facilities and certain boilers where petroleum coke or petroleum pitch (bottom of the barrel by-products of petroleum refining) is used as a fuel or used to produce a feedstock for the manufacture of chemicals or other products.

The Senate amendment allows a 10-percent energy investment credit for equipment which uses petroleum coke or petroleum pitch as a fuel or uses these substances to produce a feedstock. The Senate amendment also allows the regular investment credit (if the equipment otherwise qualifies for this credit under section 48(a)) and accelerated methods of depreciation for boilers which use these petroleum byproducts as a fuel.

In addition, the Senate amendment specifies that the energy credit extends to equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products which are the same as, or essentially the same in nature and function as, chemicals or other products derived from petroleum or natural gas.

These provisions would be effective for qualifying investments after December 31, 1979.

Conference agreement.—The conference agreement follows the Senate amendment with respect to the provisions which allow the regu-

lar credit and accelerated methods of depreciation for certain boilers which use petroleum coke or pitch as a fuel, but deletes the provisions which allow an energy credit for equipment which uses petroleum coke or petroleum pitch as a fuel or to produce a feedstock. In addition, the conference agreement follows the Senate provisions concerning the business energy credit for equipment to produce feedstocks from coal.

The conference agreement clarifies the Senate amendment to provide that where coal (including lignite) is used to produce a feedstock for the manufacture of chemicals and other products, qualifying equipment would generally qualify only to the point where either a marketable substance or a substitute for a petroleum or natural gas derived feedstock is produced. A marketable substance is one that is regularly offered for commercial sale. However, the production of small (either in quantity or value) amounts of marketable byproducts incident to the manufacture of the primary product shall not render the equipment ineligible. The conference agreement also provides that qualifying equipment to produce a feedstock from coal (including lignite) includes equipment to treat intermediate products derived from this coal, for example, equipment to upgrade a coal-derived low-Btu gas to a medium or high Btu gas, to produce methanol or ammonia for use as a feedstock from coal-derived gases or liquids, and to produce hydroprocessed liquids or solids from coal for use as feedstocks in the production of chemicals and other products. Equipment to convert coal into feedstocks for the manufacture of chemicals or other products does not include equipment, such as an oxygen plant, which is not directly involved in the treatment of coal or a coal product, but produces a substance which is, like coal, a basic feedstock or catalyst used in a coal conversion process. Also, qualifying equipment in an integrated process shall not become ineligible merely because parts of the process are owned by different taxpayers.

45. Coke and coke gas equipment

House bill.—No provision.

Senate amendment.—Under present law, equipment used to produce coke or coke gas is not eligible for an energy credit. Under the Senate amendment, the 10-percent energy credit would be provided through December 31, 1982, under the category of alternative energy property, for new coke ovens and for costs incurred in the reconstruction or rehabilitation of existing coke ovens to produce coke and coke gas for use as a fuel or feedstock. Qualifying equipment under the Senate amendment also includes required pollution control equipment and related on-site equipment to handle, store and prepare coal for use in coke ovens. This provision is effective after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment, but is effective for qualifying investment after December 31, 1979.

46. Biomass property

House bill.—No provision.

Senate amendment.—Under present law, boilers, burners and related pollution control and fuel handling equipment which primarily use fuels (such as biomass) other than oil or natural gas are provided the 10-percent nonrefundable energy credit through December 31,

1982. Equipment which converts these alternate substances into a synthetic solid, liquid, or gaseous fuel is also eligible for this credit.

The Senate bill increases the energy investment credit to 20-percent and extends the effective period through December 31, 1990, for qualifying alternative energy property used to convert nonwood biomass into a synthetic solid fuel or to burn this fuel or nonwood biomass. In addition, the Senate bill extends the present 10-percent energy investment credit through 1990 for equipment used to produce a synthetic solid fuel from wood biomass, or to burn wood biomass or a synthetic solid fuel derived from wood biomass. These expanded and extended credits would cover alternative energy property, as defined under present law, used in connection with the categories of biomass consumption which are set forth above. These amendments would be effective for qualifying investments after December 31, 1979.

Under the Senate amendments, the energy credit is also increased to a 20-percent rate from October 1, 1980, through September 30, 1984, for equipment used to convert biomass into an alcohol fuel.

Conference agreement.—The conference agreement replaces the Senate amendment with a provision that extends, from January 1, 1983, through December 31, 1985, the 10-percent energy investment credit for biomass property; that is, property to convert biomass into a synthetic solid fuel, or to burn this fuel or biomass. Qualified investment for equipment that converts biomass to alcohol for fuel purposes is also eligible for the 10-percent energy investment credit from 1983 through 1985, but only if the equipment producing the alcohol uses a primary energy source (i.e., more than 50-percent of the full energy requirement) other than oil, natural gas, or a product of oil or natural gas.

Under these provisions, biomass is generally any organic substance other than oil, natural gas, or coal, or a product of oil or natural gas or coal. For this purpose, biomass includes waste, sewage, sludge, grain, wood, oceanic and terrestrial crops and crop residues and includes waste products which have a market value. The conferees also intend that the definition of biomass does not exclude waste materials, such as municipal and industrial waste, which include such processed products of oil, natural gas or coal such as used plastic containers and asphalt shingles.

Biomass fuel or feedstock handling, storage, and preparation equipment and pollution control equipment as defined under Code secs. 48(l)(3)(A)(vi) and (vii) are also eligible for the extended 10-percent energy credit under the conference agreement.

The extended credit period for alcohol fuel equipment applies where the primary source of energy is an energy resource (such as coal or geothermal or solar energy) other than oil or natural gas substances. In addition, property that uses oil or natural gas substances as its primary energy source and that is constructed by the taxpayer and placed in service after 1982 is allowed the energy credit under the rules of Code secs. 48(a)(1)(i)(I) and 48(m) only to the extent of costs attributable to construction before 1983. Such property acquired by the taxpayer and placed in service after 1982 is not allowed an energy credit under Code secs. 48(a)(1)(i)(I) or 48(a)(1)(i)

(VI). As under existing law, if the property ceases to be qualifying energy property, recapture of the energy credit may occur.

The conference agreement also adds a 10-percent energy credit for equipment that stores fuel derived from garbage (i.e., refuse derived fuel) at the site where the fuel is produced. This equipment, which is not eligible for the energy credit under present law, is eligible for the 10-percent energy credit from January 1, 1980, through December 31, 1985.

47. Regular investment credit for energy property

House bill.—No provision.

Senate amendment.—Under present law, not all property which qualifies for the energy investment credit is eligible for the 10-percent regular investment credit. The Senate amendment specifically makes property which is eligible for an energy credit also eligible for the regular credit, effective for qualifying investments after December 31, 1979, and during the period such property qualifies for an energy credit.

Conference agreement.—The conference agreement does not include the Senate provision.

48. Public utility property

House bill.—No provision.

Senate amendment.—Under present law public utility property is not eligible for the 10-percent energy investment credit for alternative energy property, specially defined energy property, solar or wind energy property and recycling equipment. The Senate amendment allows the energy credit for public utility property which is solar, wind, geothermal, ocean thermal, small scale hydroelectric, biomass, or cogeneration property. These provisions are effective for qualifying investments after December 31, 1979.

Conference agreement.—The conference agreement retains the present law exclusions and makes public utility property ineligible for the energy credit on new types of property added in the bill except qualifying hydroelectric energy property. This provision is effective for qualifying investments after December 31, 1979.

49. Vanpooling

House bill.—No provision.

Senate amendment.—Under present law, a full investment credit is generally not available unless the estimated useful life of qualified property is seven years or more. However, employer-owned vans which are used for vanpooling purposes are eligible for a full 10-percent regular investment credit if these vans have estimated useful lives of three years or more. The Senate amendment extends the full regular credit to vans used for vanpooling purposes and owned by employees or third parties, as well as employers, where the van has an estimated useful life of three years or more. These amendments are effective after December 31, 1979.

Conference agreement.—The conference agreement does not include the Senate provision.

50. Intercity buses

House bill.—No provision.

Senate amendment.—Under present law, buses do not qualify for an energy investment credit. The Senate amendment treats, as energy property eligible for a 10-percent energy investment credit, certain intercity buses used by a common carrier which is engaged in providing passenger or charter intercity bus transportation and is regulated by the Interstate Commerce Commission or a similar State regulatory authority. The credit applies to qualifying intercity buses to the extent an operator's fleet seating capacity is increased over that for the preceding year taking into account those buses which travel at least 10,000 miles each year. In the case of a new operator, the prior year's seating capacity is zero and all acquisitions in the first year of operation are considered as increased capacity. The determination of incremental fleet size is made by comparing the operator's fleet size at the end of the taxable year during which qualifying buses were placed in service with the operator's fleet size at the end of the immediately preceding taxable year, taking into consideration the total operating seating capacity (including qualifying buses either owned by or leased to the taxpayer-operator) of the taxpayer's intercity bus fleet.

Qualifying intercity buses are defined as automobile buses owned and operated by the taxpayer, the chassis and body of which are exempt (under Code sec. 4063(a)(6)) from the 10-percent excise tax generally imposed under Code section 4061(a) on trucks and buses. In order to distinguish intercity buses from local transit buses for purposes of this provision, qualified buses must also have seating capacity for at least 36 passengers (in addition to the driver) and one or more baggage compartments, separate from the passenger area, with a capacity of at least 200 cubic feet.

The energy credit for intercity buses applies to qualifying buses acquired and placed in service by the operator after December 31, 1979, and before January 1, 1986.

Conference agreement.—The conference agreement follows the Senate amendment. However, several modifications are made to the Senate provision relating to total operating seating capacity. In addition the conference agreement adds a related taxpayer rule under which buses owned by a person related to the taxpayer will be considered in determining the taxpayers total operating seating capacity. It is expected that rules similar to those contained in Code section 52 (a) and (b) will apply.

The conference agreement clarifies the Senate amendment to indicate that the credit applies only to qualified investment attributable to an increase in operating seating capacity. For example, a bus that increases the taxayer's total operating seating capacity by one seat is eligible only to the extent of the cost attributable to the addition of that one seat.

The conference agreement substitutes for the 10,000 mile rule in the Senate amendment a provision giving the Secretary authority to determine the circumstances under which a bus will be considered to be used on a full-time basis for purposes of total operating seating capacity. It is expected that the Secretary will include buses acquired

at the end of the taxable year and used on a full-time basis for the remainder of the year (or, if acquired on the last day of the year, will be used on a full-time basis), even if the buses are not used for any specified number of miles.

51. Affirmative commitments

House bill.—No provision.

Senate amendment.—Under present law, the 10-percent business energy credits generally expire for property placed in service and for expenditures incurred after December 31, 1982. The Senate amendment extends the expiration date through December 31, 1990, for energy credits which otherwise expire at the end of 1982, if certain conditions are satisfied. Under the Senate amendment, the effective date for energy credits on energy property constructed or installed in connection with long-term projects with a normal construction period of two years or more (as this term is defined under Code section 46(d)(2), relating to qualified progress expenditures) is extended through 1990, if (1) before January 1, 1983, all engineering studies necessary for commencement of construction of the project have been completed by or for the taxpayer and the taxpayer has also, by January 1, 1983, applied for all environmental and construction permits required under Federal, State or local law in connection with commencement of construction of the project; and (2) the taxpayer has before January 1, 1986, entered into binding contracts to acquire or construct at least 50 percent of the total estimated value of all equipment which is specially designed to become part of this project. It is expected that this provision will cover such energy property as large boiler systems, coal gasification and liquefaction projects and coke ovens, where the normal construction period for this property is two years or more.

Conference agreement.—The conference agreement follows the Senate amendment.

52. Tax credit for purchase of electric motor vehicles

House bill.—No provision.

Senate amendment.—Under present law, no energy credits are provided for electric motor vehicles. However, electric motor vehicles which are depreciable with useful lives of three years or more qualify for the 10-percent regular investment credit. The Senate amendment provides a nonrefundable energy-related income tax credit for 10-percent of the cost of acquiring a qualified electric motor vehicle or for converting a vehicle powered by an internal combustion engine to the use of electrical power. The credit is available for costs of acquiring or converting a qualified motor vehicle regardless of whether the motor vehicle is used for personal purposes or is depreciable property used in a trade or business. The credit is limited to a maximum of $1,000 per qualified motor vehicle.

Qualifying motor vehicles are defined as any new vehicles (including automobiles, buses and trucks) manufactured primarily for use on public streets or highways and powered primarily by an electric motor which use rechargeable storage batteries or other portable sources of electricity as a power source. In addition, the motor vehicle must be

acquired (or converted) after December 31, 1979, and before January 1, 1987.

Conference agreement.—The conference agreement does not include the Senate provision.

53. Fuel efficient aerodynamic equipment for trucks

House bill.—No provision.

Senate amendment.—Present law does not allow an energy investment credit for energy-efficient transportation equipment. The Senate amendment provides a 10-percent nonrefundable energy investment credit for certain new fuel-efficient aerodynamic equipment, with a useful life of three years or more, acquired and placed in service by a taxpayer after December 31, 1979, and before January 1, 1983. Qualifying fuel-efficient aerodynamic equipment for purposes of this credit is defined as equipment, such as wind deflectors and other items specifically designed to reduce energy consumption, which are added to the top of the cab or the side of the cargo compartment of an existing truck primarily used in the commercial transportation of property. An existing truck is one which was placed in service before January 1, 1980. The Director of the Joint Government-Industry Voluntary Truck and Bus Fuel Economy Improvement Program must be consulted to set standards of fuel efficiency for qualifying equipment.

Conference agreement.—The conference agreement does not include the Senate provision.

54. Double-dipping provisions

House bill.—No provision.

Senate amendment.—The Senate amendment broadens the applicability of the business energy credit and generally extends the credit beyond the present law termination date of December 31, 1982.

Conference agreement.—The conference agreement provides rules to coordinate the business energy credits with other government subsidies for energy-related expenditures. The conferees are concerned that if no such rules were adopted, the compound effect of various subsidized loan and grant programs could lead to a situation in which the taxpayer could purchase this property with very little expenditure of his own funds. A potential result could be the encouragement of inefficiency through expenditures for equipment the production of which would require diverting substantial resources from more effective uses. The effect of the rule provided in the conference agreement, in conjunction with the present treatment of nontaxable grants, is that the purchaser of the eligible equipment must choose between the tax credit, on the one hand, and subsidized energy loans and nontaxable grants, on the other hand. Grants which are taxable are not taken into account under these rules because their taxation serves as a partial offset; similarly, credits against State and local income taxes are not taken into account because the deductibility of these taxes under the Federal income tax implies that the effect of these credits is equivalent to the effect of a taxable grant.

Under present law, in general, if property is financed with nontaxable government grants, the tax basis in the property, for such pur-

poses as depreciation and investment credits (including energy investment credits), is reduced to the extent that the property is financed with such grants; these rules, which partially offset the benefit of these grants, are not changed under the conference agreement. The conference agreement provides a similar rule, but only for purposes of the energy credit, to the extent that property is financed with tax-exempt industrial development bonds or certain other government subsidized financing.

Under the conference agreement, in the case in which qualified investment is financed in whole or in part by the proceeds of tax-exempt industrial development bonds or by subsidized energy financing, the amount taken into account for purposes of applying the energy percentage would be qualified investment multiplied by a fraction. The fraction is determined by dividing that portion of qualified investment in the property which is allocable to this financing or proceeds by qualified investment in the property and subtracting this quotient from one.

Subsidized energy financing means financing provided under a Federal, State, or local program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. Subsidized financing includes, but is not limited to, the direct or indirect use of tax-exempt bonds for providing funds under such a program. Subsidized financing does not include, however, loan guarantees.

Under current law, one-half of the energy percentage is allowed for property financed in whole or in part by industrial development bonds. Under this rule, when energy property is installed in conjunction with other property that is allowed to be financed by industrial development bonds because such other property is described in section 103(b)(4), the energy property is not considered to be financed in whole or in part by industrial development bonds. The rule provided in this bill replaces the current law rule and will generally be effective for periods after December 31, 1982. However, in the case of property which is allowed the energy percentage for the first time under this bill, this rule would apply to periods after December 31, 1979. This additional property includes qualified hydroelectric generating property, cogeneration equipment, certain intercity buses, ocean thermal property, certain property which produces coke or coke gas or uses coal to produce certain chemicals, property which generates process heat from solar energy, alumina electrolytic cells, and storage equipment for fuel derived from garbage. In the case of property financed by subsidized energy financing other than financing provided from the proceeds of any tax-exempt industrial development bond, no financing made before January 1, 1980, will be taken into account.

B. Alternative Fuel Production Credit

55. Alternative fuel production credit

House bill.—No provision.

Senate amendment.—The Senate amendment provides a tax credit for the domestic production of energy from certain alternative sources. The credit is nontaxable and nonrefundable. It is equal to $3 for the production of an amount of energy equivalent to that contained in a barrel of oil, and all energy equivalent measurements would be made

on the basis of Btu content. Therefore, a $3 credit would be allowed for the production of 5.8 million Btus.

Eligible sources.—The credit is available for the following forms of energy production:

(1) oil from shale;

(2) oil from tar sands;

(3) natural gas from geopressured brine, coal seams, Devonian shale, or tight sands;

(4) liquid, gaseous, or solid synthetic fuel, including petrochemical feedstocks, (other than alcohol) from coal liquefaction or gasification facilities;

(5) gas from biomass (including wood);

(6) steam from solid agricultural by-products; and

(7) qualifying processed solid wood fuels.

For purposes of the credit, the definition of natural gas from geopressured brine, coal seams, and Devonian shale is the same as that determined by the Federal Energy Regulatory Commission (FERC) under the Natural Gas Policy Act of 1978 (NGPA). Until FERC defines the term "tight formation" under section 107(c)(5) of the NGPA, tight sands gas is defined in terms of average matrix permeability to gas.

Solid synthetic fuel, including feedstocks, produced from coal liquefaction or gasification includes solvent refined coal.

Qualifying processed solid wood includes raw wood products derived from timber and trees, including timber waste and wood-based industrial waste. However, it does not include wood-based products contained in municipal and other waste (such as paper). Biomass includes organic waste, municipal and industrial waste, sewage, sludge, and oceanic and terrestrial crops (including by-products and residues).

Solid fuels produced by wood would qualify for the credit only if the energy content, per unit of volume or weight, of the processed wood exceeded that of the unprocessed wood by at least 40 percent.

Eligible uses.—Generally, the credit is available only for energy produced for sale to other persons. However, in the case of steam produced from solid agricultural by-products, the credit is allowed for energy production used in the taxpayer's trade or business.

Amount of credit.—Except for tight sands gas, the credit is $3 for the production of 5.8 million Btu's and is adjusted for post-1979 inflation, as measured by changes in the GNP deflator for nonresidential structures from its average level in 1979.

The amount of the credit available for production is reduced in proportion to tax-exempt financing and Federal grants used to construct or acquire the facility or its equipment.

Generally, the credit would phase out as the average price of oil rises from $23.50 to $29.50, adjusted for inflation. However, the phase-out of the credit for gas from tight sands, geopressured brine, Devonian shale and coal seams is based on the price of gas.

Taxpayers would be entitled to the credit in proportion to their ownership interest in the facility or the production.

Effective date.—Generally, the credit would be available for fuels produced after December 31, 1979, from facilities placed in service after September 30, 1979, and before January 1, 1990.

Qualifying processed wood.—In the case of qualifying processed wood fuels, the credit would be available for three years of production without regard to the phaseout. It would be available for facilities placed in service after April 20, 1977, and before January 1, 1982, and for production from those facilities sold after September 30, 1980, and before the later of October 1, 1983, or three years following the date on which the facility was placed in service.

Biomass steam.—The credit would be available for steam from solid agricultural byproducts sold after December 31, 1979, and before January 1, 1985, from facilities placed in service after September 30, 1978. The phaseout would not apply for the first three years of production for each facility (or, if later, for the three years after September 30, 1980). The credit also would be available for steam sold after September 30, 1980, which is attributable to increases in a facility's production capacity, or replacement of equipment, after September 30, 1980.

Natural gas.—The credit for the production of natural gas would be available for production after September 30, 1980, from a property (as defined in the NGPA) from which gas was not produced prior to the date of enactment of the Crude Oil Windfall Profit Tax Act of 1980.

Termination.—The credit would terminate at the end of year 2000. In the case of gas produced from tight sands, the credit would terminate if its price is deregulated.

Conference agreement.—The conference agreement adopts a modified version of the Senate amendment. This provision is intended to provide producers of alternative fuels with protection against significant decreases in the average wellhead price for the uncontrolled domestic oil, with which alternative fuels frequently compete. The credit generally is to act only as a guaranteed price floor when the price of oil is in excess of $29.50, but the credit would become available if, at any time prior to its expiration, the price of oil falls to below $29.50, adjusted for inflation. Special rules are provided, however, for production of gas from Devonian shale, qualifying processed wood, and steam from solid agricultural byproducts to allow a credit when the price of oil is above $29.50.

Generally, under the conference agreement, a $3 credit is available for the production and sale of alternative fuels to unrelated persons after December 31, 1979, and before January 1, 2001, from facilities placed in service after December 31, 1979, and before January 1, 1990, or from wells drilled after December 31, 1979, and before January 1, 1990, on properties which first began production after January 1, 1980. The credit is based on an eligible fuel's barrel-of-oil equivalence, and phases out as the average wellhead price of uncontrolled domestic oil rises from $23.50 to $29.50. The credit for tight sands gas terminates if that gas is deregulated. Both the credit (except in the case of tight sands gas production) and the phase out range are adjusted for post-1979 changes in the GNP deflator.

The credit does not apply to gas production from any property on which a well is located which is subject to an election under section 107(d) of the NPGA. Therefore, an election to receive an incentive price for gas from any well precludes the application of the credit as to all production from the property on which the well is located.

The credit is $3 for the production of each unit of 5.8 million Btus of energy, the equivalent of one barrel of oil. All Btu measurements are made without taking into account any Btus attributable to material other than the eligible source.

Sources eligible for the credit, and the definitions of those sources, generally are the same as those in the Senate amendment. Natural gas produced from a tight formation, however, has the same definition as that determined by FERC under the NGPA except that the credit is allowed only with respect to gas entitled to at least 150 percent of the gas ceiling price set under section 103 of the NGPA. The conference agreement also adds alcohol produced from coal as an eligible fuel.

Under the conference agreement the price to which the phase out is linked is the annual average price of uncontrolled domestic oil (except in the case of gas produced and sold from Devonian shale during 1980, 1981, or 1982). This price is to be estimated by the Secretary and published, together with the inflation adjustment factor, by April of the year following that for which the credit is being computed.

Credit offsets.—To the extent that the credit is available for the production and sale of any of the eligible sources, it is reduced in proportion to Federal, State, and local grants, subsidized energy loans, and tax-exempt financing provided in connection with the construction or acquisition of the facility or its equipment. For this purpose, all tax-exempt financing, and all Federal, State, and local grants (whether or not taxable or energy related), but only subsidized loans which are energy related, are taken into account. Loan guarantees are not taken into account. The proportion of a facility deemed to be financed by subsidized financing equals the sum of the grants, subsidized energy loans and tax-exempt financing divided by the sum of the gross additions to capital account attributable to the project.

The production credit also is reduced, dollar-for-dollar, in proportion to energy investment credits allowed in respect of the property used to produce the alternative fuels eligible for the credit. All energy investment credits allowed to any party (including parties to a lease of the property and to predecessors) with respect to the fuel production property are taken into account.

Generally, the credit offset computation is made on an annual basis. The energy investment credit offset applies only up to the point at which the full energy investment credit has been recaptured.

Devonian shale gas.—For production and sales in calendar years 1980, 1981, and 1982, the phase out of the credit for gas produced from Devonian shale is based on the price of deregulated natural gas, not deregulated oil. For sales during these years, the credit phases out as the average price of high cost natural gas (as determined under section 107(c)(2), (c)(3), and (c)(4) of the NGPA) rises from $4.05 to $5.08 per thousand cubic feet (mcf). For sales after 1982, the generally applicable credit phaseout based on the price of oil applies.

Qualifying processed wood fuel.—The definition of qualifying processed wood fuel under the conference agreement generally is the same as that contained in the Senate amendment. The conference agreement clarifies, however, that qualifying processed wood fuel does not include charcoal, fireplace products, or wood products used for ornamental or recreational purposes. This exclusion encompasses fireplace products marketed in the form of "convenience logs," and similar residential compressed products which are wood based. In addition, the

conference agreement clarifies that any Btu content of the processed wood that is attributable to nonwood additives, e.g., oil, gas, wax, plastic, glue, etc., is not taken into account in determining whether the Btu content of the processed wood has been increased by at least 40 percent over the Btu content of the wood immediately prior to the processing. (Under the general rule, Btus attributable to such additives are not taken into account in determining the amount of the credit for the year.)

The credit for qualifying processed wood is available only as to production and sales from facilities first placed in service in calendar years 1980 and 1981. As to production from those facilities, it is available for production and sales before either October 1, 1983, or three years from the date that the facility first is placed in service, whichever comes later. In addition, the phaseout based on the price of oil does not apply to production and sales during the first three years from the date the facility first was placed in service.

Steam from solid agricultural byproducts.—The definition of solid agricultural byproducts under the conference agreement generally is the same as that contained in the Senate amendment. As such, the term includes only solid byproducts of farming or agriculture, and does not include timber byproducts or other forms of biomass generally.

The credit for steam from solid agricultural byproducts is available only for production and use before January 1, 1985, in facilities placed in service after December 31, 1979. However, the phaseout based on the price of oil does not apply to production and use of such steam during the first three years from the date that the facility first is placed in service. In addition, a special rule applies to post-1979 increases in the production capacity or replacement of facilities first placed in service before 1980. Such production capacity increases or replacements basically are treated as facilities first placed in service after 1979. Therefore, production of steam attributable to these increases is eligible for the credit.

C. Alcohol Fuels Provisions

56. Excise tax exemption for gasohol and other alcohol fuels

House bill.—No provision.

Senate amendment.—Under present law, if motor fuel is a blend of gasoline, or other motor fuel, and alcohol and the fuel is at least 10 percent alcohol (other than alcohol derived from petroleum, natural gas, or coal), it is exempted from the 4-cent-per-gallon Federal excise taxes on motor fuels on or after January 1, 1979, and before October 1, 1984.

The Senate amendment would extend the current excise tax exemption for fuels which are at least 10 percent alcohol until January 1, 2000 (and make certain technical amendments).

Conference agreement.—The conference agreement extends this excise tax exemption through December 31, 1992 (and makes essentially the same technical amendments as in the Senate bill).

One of the major underlying issues pervading the entire conference was the question of the Highway Trust Fund. All conferees are aware of projections indicating that in the near future there

will be a sizable reduction in the estimated tax receipts dedicated to the Highway Trust Fund. This includes the reduction due to the gasohol exemption contained in this conference report. The conferees are convinced that it is essential that hearings begin as rapidly as possible in the remainder of this session to consider the question of finding ways and means to restore the Highway Trust Fund to the level required to carry out its future purposes. For this reason the conferees would propose that not only should hearings be scheduled as soon as possible after the passage of the windfall profit tax legislation but also that all agencies concerned with the future of the Highway Trust Fund be allowed to provide whatever information is needed by Congress to give proper consideration to proposals for a restoration of the Highway Trust Fund to its full capabilities. The conferees are aware that there is a definite need to continue and extend the life of the Highway Trust Fund not only because proper funding is needed for the repair, rehabilitation and reconstruction of our major federal arteries but also because there is need to keep our systems in proper order so that the mass transportation system of the future, which is largely dependent on the Federal Aid system, will continue in full force.

The conferees also intend that the exemption for alcohol fuels should not apply to any future increases in the taxes on gasoline or other motor fuels to the extent that such increases result in the taxes being imposed at a rate in excess of 4 cents per gallon.

57. Credit for certain alcohol fuels

House bill.—No provision.

Senate amendment.—Where alcohol (other than alcohol produced from petroleum or natural gas) is used as a fuel (either blended or straight) of a type suitable for use in an internal combustion engine and the excise tax exemption for alcohol fuels does not apply, a credit would be provided. In general, the credit is available to the blender in the case of blended fuels and the user in the case of straight fuels, and the amount is 40 cents per gallon for most alcohol of at least 190 proof and 30 cents per gallon for alcohol between 150 and 190 proof. For alcohol made from coal, a credit of 20 cents per gallon is available to the producer. The credits (which apply to taxable years beginning after September 30, 1980) are nonrefundable, and no advance payment is provided. The credits allowed for the prior taxable year would be includible in income.

Conference agreement.—The conference agreement generally follows the Senate amendment except that (1) no credit is provided for alcohol produced from coal; (2) several amendments are made to integrate the credit and the excise tax exemption so that an incentive is provided to encourage the use of fuels containing more than 10 percent alcohol; (3) the credit generally is available only to a person who blends or uses alcohol in a trade or business and must be included in income in the taxable year it is earned (rather than in the taxable year following the year for which it is allowed); (4) a seven-year carry-forward of any unused credit is provided; and (5) the credit applies only to sales or uses after September 30, 1980, and on or before

December 31, 1992. Although no credit may be claimed for any sale or use of alcohol which occurs after December 31, 1992, credits unused as of such date may be carried forward to taxable years beginning in 1993 and 1994.

Under the Senate amendment, if a fuel is at least 10 percent alcohol and it would have been subject to the Federal excise taxes on motor fuels but for the gasohol exemption, the exemption would apply, but no additional benefit would be allowable if more than 10 percent alcohol were used. Thus, the tax benefit on a per-gallon-of-alcohol basis would be less for a fuel which is 20 percent alcohol than for a fuel which is 10 percent alcohol. Under the conference agreement, a fuel which is more than 10 percent alcohol [1] is not only eligible for the excise tax exemption (assuming the excise taxes would otherwise be applicable) but also qualifies for a credit based on the volume and proof of alcohol in the fuel. The credit would be reduced by the amount of excise tax exemption applicable to the fuel.[2]

For example, if a taxpayer blends 7,000 gallons of gasoline and 3,000 gallons of 190 proof alcohol and sells the mixture to a service station, the amount of credit allowable would be $800, computed as follows: 3,000 gallons × $0.40 = $1,200, reduced by $400 (10,000 gallons × $0.04).

The conference agreement also modifies the rules relating to the credit for alcohol which is used as a fuel without being blended or mixed with another liquid. Under the conference agreement the credit would generally be available to the user of such fuel. However, if such fuel is sold at retail and placed in the fuel tank of a vehicle, the credit (with appropriate reduction for the amount of excise tax exemption applicable to the fuel) is to be claimed by the retail seller, rather than by the user.

58. Tax-paid gasoline

House bill.—No provision.

Senate amendment.—Under present law, gasoline may be sold free of tax (under certain circumstances) if it is to be used in the production of tax-exempt alcohol fuels, but no provision is made for a credit or refund of the tax on gasoline if tax-paid gasoline is mixed with alcohol to produce tax-exempt alcohol fuels.

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[1] As under the excise tax exemption in present law, the term "alcohol" does not include alcohol produced from petroleum, natural gas, or coal. This means that alcohol produced from such substances, or from any derivative or product of such substances, may not be treated as alcohol which is eligible for the credit (or as alcohol for purposes of the "at least 10 percent alcohol" requirement in the excise tax exemption).

[2] If no excise tax would apply to the fuel because of an exemption (or credit or refund) provision other than the exemption for alcohol fuels, the credit would not be reduced. Thus, if a taxpayer blends 90 gallons of gasoline and 10 gallons of 190 proof alcohol and sells the mixture to a unit of local government, the sale of the fuel would be tax-free by reason of sec. 4221(a)(4)) and the taxpayer could claim the credit on the 10 gallons of alcohol without any reduction. Similarly, if the taxpayer were to sell the alcohol fuel to a farmer for on-farm use, the taxpayer may claim the credit without reduction even though the alcohol fuel was sold free of tax to the farmer. (The basis for the result in the preceding sentence is that if a tax had been imposed on the fuel sold to the farmer, the farmer could have claimed a credit or refund of such tax (see secs. 39 and 6420).)

The Senate amendment provides that if a person purchases tax-paid gasoline which is used in the production of tax-exempt alcohol fuels (including gasohol), the person may obtain a refundable income tax credit (or a payment if the amount is $200 or more during any of the first 3 quarters of the taxable year) in an amount equal to the taxes paid on such gasoline.

Conference agreement.—The conference agreement generally follows the Senate amendment with minor technical modifications and a change in the expiration date to reflect the revision in the expiration date of the excise tax exemption for alcohol fuels.

59. Regulation of alcohol production

House bill.—No provision.

Senate amendment.—The Senate amendment provides special rules for distilled spirits plants used to produce alcohol for fuel. The Secretary of the Treasury is provided with broad authority to waive or reduce existing regulatory requirements for these new types of plants, such as by allowing simplified application and recordkeeping procedures and providing reduced control and bonding requirements.

The Senate amendment provides an expedited permit application procedure (and no bond) for small producers of alcohol for fuel use. This procedure requires Treasury action within 60 days of the submission of a completed application and provides for automatic approval of applications if Treasury action is delayed. A small producer means a plant that produces no more than 10,000 proof gallons of alcohol per year.

Conference agreement.—The conference agreement follows the Senate amendment except for minor language changes.

The conferees intend that these provisions of the conference report not be interpreted as affecting the Treasury Department's authority, under present law, to revoke or suspend permits for distilled spirits plants.[1]

60. Study of imported alcohol

House bill.—No provision.

Senate amendment.—The Senate amendment directs the Secretary of the Treasury to recommend to Congress, within 180 days after the date of enactment, ways in which the excise tax exemption and the credit can be denied to fuels containing imported alcohol.

Conference agreement.—The conference agreement follows the Senate amendment.

61. Reports

House bill.—No provision.

Senate amendment.—Under the Senate amendment, the annual reports currently required to be made by the Secretary of Energy through 1984 on the use of alcohol in fuels are to be made from 1981 through 2000 and are to contain information on the effect of the reduction in excise tax receipts due to the excise tax exemption for alcohol

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[1] See Code secs. 5171 and 5271.

fuels on the Highway Trust Fund (as well as the information currently required).

Conference agreement.—The conference agreement follows the Senate amendment except that the reports are to be made only through 1992.

D. Industrial Development Bond Provisions

62. Income tax exemption for bonds for solid waste disposal facilities

House bill.—No provision.

Senate amendment.—Under present law, tax exempt industrial development bonds (IDBs) may be used to provide solid waste disposal facilities. The Senate amendment contains three provisions which expand the definition of solid-waste disposal facilities. The first provision provides that solid waste disposal facilities would include property which is used primarily to convert solid waste or fuel derived from solid waste into steam or into alcohol. The second provision provides that facilities which produce electric energy from solid waste and which are owned and operated by or on behalf of a State or local government would be treated as solid waste disposal facilities where all the electric energy and steam produced by the facility is sold to a governmental unit and is not resold. Under this provision, an obligation used to provide such a facility will be treated as a tax-exempt State or local government obligation notwithstanding the fact that the Federal Government purchases all or a portion of the electric energy or steam. Both the first and second provision of the Senate amendment apply with respect to obligations issued after October 18, 1979.

The third provision of the Senate amendment deletes the requirement of the second provision (i.e., the provision relating to facilities that produce electric energy from solid waste) that all the electric energy produced from a qualified facility be sold to a governmental unit. Under the third provision, the electric energy could be sold to any person. In addition, the third provision provides that a facility would be a qualified facility only if it was owned by, and operated by or for a State or a political subdivision of a State. The third provision would apply with respect to obligations issued after September 30, 1980.

Conference agreement—The conference agreement, in general, follows the first and second provision of the Senate amendment (with certain modifications) and deletes the third provision of the Senate amendment.

Under the conference agreement, the term "solid waste disposal facility" is defined to include a "qualified steam-generating facility" and a "qualified alcohol producing facility." As a consequence, tax exempt IDBs may be used to finance such facilities. In addition, the conference agreement allows tax-exempt bonds to be issued for certain solid waste-energy producing facilities. The conferees intend that, wherever there is a requirement that a particular person own facilities for purposes of the IDB provisions of this section of the bill, the requirement means the facilities are owned for tax purposes by that person. The conferees also want to make it clear that the amount of

solid waste disposal facilities that can be financed by tax-exempt IDBs under the provisions of this bill or under present law is not to be reduced by the value of any product created by the solid waste disposal facilities.

(a) *Qualified steam-generating facilities.*—The term "qualified steam-generating facility", in general, is defined to mean a steam-generating facility which meets two requirements. A steam generating facility includes incinerators, boilers, smokestacks, and precipitators and other property used in the generation of steam. However, a steam-generating facility would not include property used in the transmission of steam.

The first requirement provides that more than half of the fuel (determined on a Btu basis) used in the generation of steam must be solid waste or solid waste derived fuel. The second requirement provides that substantially all of the solid waste derived fuel which is used at the steam-generating facility must be produced at a facility which is located at or adjacent to the site of the steam-generating facility. The facility for producing solid waste derived fuel also must be owned and operated by the same person who owns and operates the steam-generating facility.

The conference agreement also provides a special rule for steam generating facilities owned by a State or political subdivision of a State. Under the special rule, the second requirement will be treated as being satisfied if substantially all the solid waste derived fuel used at the steam generating facility is produced at a facility which is owned and operated by or for the same State or same political subdivision or subdivisions of a State which owns the steam generating facility, and if substantially all the solid waste processed in the facility for producing solid waste derived fuel is collected from the area in which the steam generating facility is located. For example, in the case of a county solid waste authority which owns and operates a steam generating facility, substantially all the solid waste processed at the facility for producing solid waste derived fuel must be collected from within the county in which the steam generating facility is located. Further, in the case of a solid waste authority having jurisdiction with respect to a metropolitan area lying in two contiguous States which owns a steam generating facility located in that metropolitan area substantially all the solid waste processed in the facility for producing solid waste derived fuel must be collected from within that metropolitan area.

(b) *Qualified alcohol producing facility.*—The term "qualified alcohol producing facility," in general, means a facility for the production of alcohol which meets certain requirements. Such a facility will include property required to convert cellulose fiber into sugar and property required in the fermentation of the sugar whether those processes occur in one or more steps. It will also include property used in the distillation of the fermented solution.

In order for a facility for the production of alcohol to be a qualified facility, three requirements must be satisfied. The first requirement provides that the primary product obtained from the facility must be alcohol. The second requirement provides that more than half the feed-

stock (determined on a reasonable basis, e.g. sugar content) used in the production of alcohol must be solid waste or a feedstock derived from solid waste. The third requirement provides that substantially all the solid waste derived feedstock used at the alcohol producing facility must be produced at a facility located at or adjacent to the site of the alcohol producing facility and the solid waste derived feedstock production facility must be owned and operated by the same person who owns and operates the alcohol producing facility.

The conference agreement also provides a special rule for certain alcohol facilities. A facility for the production of alcohol from solid waste which satisfies is special rule will not be required to meet the third requirement for a "qualified alcohol producing facility". A facility will satisfy the special rule where two conditions are satisfied. First, substantially all the solid waste derived feedstock for the facility must be produced at a facility which (i) went into full production during 1977, (ii) is located within the limits of a city, and (iii) is located in the same metropolitan area as the alcohol-producing facility. The second condition provides that prior to March 1, 1980 there have been negotiations between a governmental body (e.g., a governmental authority) and an organization described in section 501(c)(3) of the Code with respect to the utilization of a special process for the production of alcohol at the facility.

The special rule applies only in the case where the aggregate amount of obligations issued (by reason of this special rule) with respect to a project do not exceed $30 million, and such obligations are issued prior to January 1, 1986.

(c) *Solid waste-energy producing facility.*—The conference agreement also provides that an obligation issued by an authority for two or more political subdivisions of a State which is part of an issue substantially all the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as a tax-exempt obligation of a political subdivision of a State which meets the requirements of an exempt activity of section 103(b)(4)(E) of the Code. For purposes of this provision the phrase "substantially all the proceeds of which are to be used to provide" is intended to have the same meaning as that phrase has under section 103(b)(4) of the Code.

A solid waste-energy producing facility means a solid waste disposal facility and a facility for the production of steam and electric energy where three requirements are met. First, substantially all the fuel for the steam and electric energy facility must be derived from solid waste processed in the solid waste disposal facility. Second, both the solid waste disposal facility and the steam and electric energy facility must be owned and operated by the authority which issues the obligations.

For this purpose, a facility will be considered operated by the authority where the authority enters into a management agreement with a private concern under which the private concern will operate the facility so long as the duration of the management contract (including any options) does not exceed one year. Third, all the steam and electric energy produced at the facility (and not used by the facility) must be sold for purposes other than for resale to an agency or instrumentality of the U.S. Government.

For purposes of this provision, a steam and electric energy facility includes incinerators, boilers, precipitators, smokestacks, internal steam distribution lines, turbines, generators and other equipment for generating steam and electric energy, and structures for housing such equipment. However, a steam and electric energy facility would only include equipment up to the transmission stage.

The conferees also want to make clear that nothing in this provision or in the additional rules relating to Federal guarantees and federally subsidized loans is intended to affect the question under present law as to whether interest on an obligation issued by a State or local government is tax-exempt where repayment of the principal and interest on such obligation is secured or guaranteed by the Federal Government or where the Federal Government use part or all of the financed facility. Furthermore, under the conference agreement nothing in this provision is to be construed to override the arbitrage limitations of section 103(c) of the Code.

(d) *Additional rules.*—The conference agreement provides that all IDBs issued pursuant to the provisions of this bill are required to be issued in registered form as to principal and interest for the entire life of the obligation. Any such obligation which is not issued in registered form will not be tax-exempt.

In addition, the conference agreement provides an additional rule in the case of IDBs used to provide qualified steam generating facilities and qualified alcohol producing facilities. Under this rule, any such obligation will not be tax-exempt where (1) the payment of principal or interest is guaranteed (in whole or part) directly or indirectly by the United States government or any agency or instrumentality thereof under a program, a principal purpose of which is to encourage the conservation or production of energy, or (2) any part of the payment of principal or interest is to be made (in whole or part) directly or indirectly with funds provided under a Federal, State or local program, a principal purpose of which is to encourage the conservation or production of energy.

63. Income tax exemption for bonds for hydroelectric generating facilities

House bill.—No provision.

Senate amendment.—Under present law, industrial development bonds (IDBs) used to finance hydroelectric facilities are not, in general, tax exempt. The Senate amendment provides that interest on IDBs used to provide hydroelectric facilities at existing or new dam sites will be exempt from Federal income tax. Hydroelectric facilities qualifying under the amendment are facilities for which the installed generating capacity will be 25 megawatts or less. In addition, tax-exempt IDBs may be used to provide hydroelectric facilities (including pumped storage facilities owned and operated by a public power authority or public utility district) which will have an installed generating capacity of more than 25 megawatts, but only in the case of facilities which are installed in conjunction with the construction of a new dam. Also, in the case of a new dam construction of the hydroelectric facility must have commenced after October 24, 1979. These provisions apply to obligations issued after October 24, 1979.

The Senate amendment also provides that certain existing dams in Grant County, Washington, shall be treated as new dams. This provision applies to obligations issued after September 30, 1980.

Property qualifying for tax-exempt financing under the amendment includes electrical generation equipment, powerhouses, electrical transmission lines, and fish passageways. New dam structures also qualify, if the primary function of the dam is for the generation of hydroelectric power. However, the portions of a hydroelectric dam which are used for the collection, treatment, or distribution of water are eligible for tax-exempt financing only if they qualify as facilities for the furnishing of water. (Code section 103(b)(4)(G).)

Conference agreement.—The conference agreement does not include the Senate amendments relating to pumped storage projects, dams under construction and new dams. Subject to the following modifications, the conference agreement follows the Senate amendment with respect to existing dams and sites which do not involve the impoundment of water.

The conference agreement provides that interest on an IDB, substantially all the proceeds of which are to be used to provide qualified hydroelectric facilities is exempt from Federal income taxation provided that the "public use" test of present law is satisfied. The provision only applies to such facilities which are located on a natural water course or constructed water flow and which generate electric energy from the flow or fall of water. The term "existing dam" means any dam or barrier built across a watercourse or other manmade structure for the impoundment of water, which was completed on or before October 18, 1979, and which does not require any construction or enlargement of the impoundment structure (other than repairs or reconstruction) in connection with the installation of the hydroelectric power project. For purposes of this section, the construction of penstocks, powerhouses, fish passageways and similar structures does not constitute construction or enlargement of the impoundment structure. The term "existing dam" includes dams which are currently being used in connection with the generation of electricity, dams which have been used in connection with the generation of electricity of the past, and dams which have never been used in connection with the generation of electricity. The provision does not apply to pumped storage facilities, ocean thermal facilities or ocean tidal facilities.

A qualified hydroelectric facility is defined as qualified hydroelectric generating property which is owned for tax purposes by a State, a political subdivision of a State, or an agency or instrumentality of a State or political subdivision of a State ("a governmental body"), and is installed at a qualified hydroelectric site.

Under the conference agreement, qualified hydroelectric generating property means equipment for generating electric energy from water, and structures for housing such equipment, fish passageways, and dam rehabilitation property, required by reason of the installation of electrical generation equipment at the qualified hydroelectric site. Equipment for generating electricity by water includes turbines and generators. Such equipment only includes equipment up to the transmission stage. The term "dam rehabilitation property" includes property for the reconstruction of breached structures and renovation of ma-

chinery and structural elements which have been left in place. Furthermore, in the case of an impoundment which does not meet state or federal spillway capacity or other requirements, the term "dam rehabilitation property" includes the replacement of the entire impoundment structure.

A qualified hydroelectric site, in general, means any site which has an installed capacity of less than 125 megawatts (1) at which there is a dam the construction of which was completed prior to October 18, 1979, and which is not significantly enlarged after such date or (2) at which electricity is to be generated without any dam or other impoundment of water. Any site at which there is a dam will not, however, be a qualified hydroelectric site unless the dam is owned for tax purposes by a governmental body on October 18, 1979, and during the period the obligations are outstanding. A dam site or other impoundment site includes any water passage ways that are fed from the water behind the dam or other impoundment, if the primary purpose of the water passage ways is for the generation of electricity.

Under the conference agreement, the entire qualified hydroelectric generating facility may be provided with tax-exempt IDBs where the total installed capacity of the site does not exceed 25 megawatts. However, only a portion of a qualified hydroelectric generating facility with an installed capacity in excess of 25 megawatts, but less than 125 megawatts, may be provided with tax-exempt IDBs. The portion may not exceed the eligible cost of the facilities being provided (in whole or in part) from the proceeds of the bond issue (i.e., the qualified hydroelectric generating property and the functionally related and subordinate property to be installed) multiplied by a fraction the numerator of which is 25 reduced by 1 for each whole megawatt by which the installed capacity exceeds 100 megawatts, and the denominator of which is the number of megawatts of installed capacity (but not in excess of 100). The eligible cost of the facilities being provided is the portion of the total cost of the facilities which may be reasonably expected to be the cost to the governmental body and is, in general, attributable to periods after October 18, 1979, and before January 1, 1986. However, in the case of an application which has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, eligible costs include the portion attributable to periods after October 18, 1979, and before January 1, 1989.

The limitation may be illustrated by the following example. Assume that a municipality enters into a joint venture with a private concern to install 40 additional megawatts of generating capacity at an existing dam owned by the municipality, at which 10 megawatts of generating capacity now exist. The cost of the entire project is $30 million of which $20 million is qualified hydroelectric generating property and functionally related and subordinate equipment. The municipality and the private concern are equal joint venturors, and the municipalities share of the cost of the qualified hydroelectric generating facilities is $10 million. Under the limitation provided in the conference agreement, the maximum amount of bond proceeds that can be used for qualified hydroelectric generating property is $5 million (i.e., 25 divided by 50 multiplied by $10 million) plus an insubstantial amount.

The conference agreement also follows the Senate amendment in providing that tax exempt IDBs may be used to provide qualified hydroelectric generating facilities at two existing dams in Grant County, Washington, the installed capacity of which is more than 125 megawatts. Under this provision, the entire qualified hydroelectric generating facility may be provided with tax exempt IDBs.

Finally, the conference agreement provides two additional rules (relating to registration, and quaranteed or subsidized loans) with respect to IDB's used to provide qualified hydroelectric generating facilities. (See Item 62(d).)

64. Income tax exemption for bonds for renewable energy property

House bill.—No provision.

Senate amendment.—The Senate amendment provides that interest on industrial development bonds (IDBs) which are part of an issue substantially all the proceeds of which are used to provide renewable energy property will be exempt from Federal income taxation where two conditions are satisfied. First, the obligations must be general obligations of a State. Second, the State constitutional or legislative authority granting a State the power to issue such obligations must require that taxes be levied in sufficient amount to provide for payment of principal and interest on such obligations. In order to satisfy this requirement, such taxes must be the type of tax for which a deduction would be allowed under section 164 of the Code. The amendment also provides that renewable energy property means any property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy resources (such as wind, solar, geothermal, biomass, waste heat, or water). The Senate amendment is effective for bonds issued after the date of enactment of the bill.

Conference agreement.—The conference agreement generally follows the Senate amendment, but imposes two additional limitations with respect to State obligations for renewable energy property. The first limitation provides that the amount of all obligations (whether or not IDB's) under the program for renewable energy property issued by a State which are outstanding at any time may not exceed the smaller of $500 million or one-half of one-percent of the value of all property within the State. The second limitation provides that the exemption for interest on State obligations for renewable energy property shall not apply to obligations issued pursuant to a State program to provide financing for renewable energy property in a State whose legislature approved before October 18, 1979, a constitutional amendment which specifically allowed general obligation bonds of the State to be used to finance renewable energy property. The requirements of the second limitation will be satisfied even if a State program to provide financing for renewable energy property is in fact established pursuant to a constitutional amendment approved subsequent to October 18, 1979, so long as the legislature in the State authorizing such program had approved before October 18, 1979, a constitutional amendment which specifically allowed general obligation bonds of the State to be used to finance renewable energy property.

The conferees also intend that for purposes of this provision, the phrase "substantially are the proceeds of which are to be used to provide" is to have the same meaning as this phrase has under sec. 103 (b)(4) of the Code. Finally, the conference agreement provides two additional rules (relating to registration, and guaranteed or subsidized loans) with respect to obligations used to provide renewable energy property. (See Item 62(d)).

65. Income tax exemption for bonds for cogeneration property

House bill.—No provision.

Senate amendment.—The Senate amendment provides that interest on industrial development bonds (IDBs) issued as part of an issue from which substantially all the proceeds are to provide equipment and facilities of which the primary function is the cogeneration of electric energy and steam, heat or other form of energy (other than electric energy) is tax-exempt. This provision only applies where the electric energy and steam or heat is to be used for industrial, agricultural, commercial or space heating purposes. Further, this provision applies to property installed at new and existing locations.

This provision applies to obligations issued after October 24, 1979.

Conference agreement.—The conference agreement omits the Senate amendment.

E. Other Business Tax Incentives

66. Deduction for tertiary injectants

House bill.—No provision.

Senate amendment.—The Senate amendment provides that expenditures for certain tertiary injectants generally are deductible in the taxable year in which the tertiary substance is injected into the reservoir.

The clarification of the income tax treatment of the cost of tertiary injectants is not intended to create an inference as to the proper categorization of those expenditures prior to the effective date of the provision. Also, qualification of a project as a qualified tertiary recovery project under the windfall profit tax creates no inference about whether the costs involved may be expensed under this provision.

The provisions of the amendment would be effective for expenditures deducted for injectants injected after December 31, 1979.

Conference agreement.—The conference agreement generally follows the Senate amendment.

Under the conference agreement, the income tax treatment of qualifying tertiary injectants is not elective. However, for purposes of the windfall profit tax's 90 percent net income limitation, tertiary injectant expenses may be treated as having been capitalized.

67. Residential energy efficiency program

House bill.—No provision.

Senate amendment.—A public utility would be allowed an income tax credit equal to the net revenue loss for the taxable year which is attributable to a qualified residential energy efficiency program.

Conference agreement.—The conference agreement does not include the Senate provision.

IV. LOWER INCOME ENERGY ASSISTANCE

68. Low income energy assistance

House bill.—No provision.

Senate amendment.—The Senate amendment authorizes for fiscal years 1981, 1982 (and 1983, unless rescinded by a vote of either House), a program of block grants to the States to provide assistance to low-income families for heating and cooling costs. The total amount of appropriations authorized is $3.025 billion for fiscal year 1981 and $4.025 billion for fiscal years 1982 and 1983.

Eligibility is limited to households with income less than the Bureau of Labor Statistics lower living standard, and to households who receive food stamps, AFDC, income-tested Veterans' pensions, and with certain exceptions, SSI.

Funds are allotted by formula to the States and territories. The basic formula includes a State's residential energy expenditures and the square of its heating degree days. However, the allotment of any State otherwise entitled to less than $100 million would be increased under an alternative allotment percentage by an amount necessary to provide at least $120 per year to each AFDC, SSI, and food stamp household in the State. Further, no State would receive less than the lower of the amounts it would have received under either of two alternative formulas. Increases in allotments which result from either the minimum or from the alternative formulas would result in pro rata reductions in the allotments of other States, except that up to $25 million is authorized to meet the additional costs resulting from the application of the minimum benefit provision to certain States.

Each State receiving funds is required to submit an energy assistance plan which meets certain conditions and which is subject to approval by the Secretary of Health, Education, and Welfare. Assistance could be given directly to eligible households; to suppliers of energy to these households, in the form of either cash or tax credits; and to operators of subsidized housing projects.

Conference agreement.—The conference agreement generally follows the Senate amendment, with the following modifications:

1. The conference agreement provides an authorization effective only for fiscal year 1981;
2. An additional authorization of $90 million is provided for any States, the allotment of which would otherwise be equal to or greater than $100 million, for increases in such States' allotments through the use of the alternative allotment percentage.
3. If the amount appropriated for fiscal year 1981 is less than the present $3 billion primary authorization and the amounts necessary under the separate $25 million and $90 million authorizations, then each State's allotment shall be determined as if this sum had been appropriated and shall be reduced on a pro rata basis as necessary.

4. Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this program, the Secretary may waive compliance with any of the State plan requirements. The conferees also wish to make clear that a State is not required, under its plan, to provide a benefit to every household defined as an eligible household under this title. The funds authorized in this part may not be used to provide benefits, however, to households not included in this definition.

5. The conferees wish to make clear that the regulations which are required to be issued within sixty days after enactment may be interim regulations.

6. The conference agreement requires that fuel assistance payments or allowances provided under this title will not be considered income or resources of an eligible household for any purpose under a Federal or State law. The conferees wish to emphasize that this provision applies regardless of whether the fuel assistance is paid directly to the household or to the supplier of energy to the household. Thus, under any law, such as the Food Stamp Act of 1977, which provides that benefits may depend on the expenditures of the household for fuel, any portion of these expenditures which may be paid by the fuel assistance program authorized in this conference agreement will not be considered a resource available to this household, even if the payment is made directly to the energy supplier. Thus, under such a law, benefits will be computed as if the total cost of the fuel, including the amount of assistance provided, had been paid by the household.

7. The amendment in the Senate provsion to the Food Stamp Act is effective only for fiscal year 1981.

8. With regard to SSI recipients, the conference agreement provides the States with an option whereby they may have the Secretary retain any portion of their energy allotment for the purpose of making direct Federal payments to SSI recipients. The conferees recognize that time requirements to design and test the computerized programs needed to administer the direct Federal payments will require the Secretary to establish an early date for States to indicate interest in Federal issuance of energy payments to SSI recipients. The conferees are also aware that constraints in computer process capacity will require the Secretary to establish, in cooperation with the States, nationwide criteria and standards to which the States must adhere when submitting specifications for such direct Federal payments.

9. Various technical amendments are made in the Senate amendment to clarify the language.

69. Tax credit for users of residential energy

House bill.—No provision.

Senate amendment.—The Senate amendment provides a nonrefundable tax credit equal to a percentage of the amount spent during the year for heating a principal residence. The percentage is different for each heating source and is determined by the Secretary of the Treasury according to a formula which reflects the extent by which the increase in the price of the heating source since 1978 exceeds the over-

all rate of inflation. The credit is subject to a minimum of $30 per household ($20 in 1979).

Special allocation rules are provided for renters and for those who also use a heating source for purposes other than heating.

The maximum amount of the credit is $200 per household. The maximum is reduced by 10 cents for each dollar by which adjusted gross income exceeds $20,000 ($18,000 for 1979), so that no credit is allowed for taxpayers with income of $22,000 or more ($20,000 or more in 1979).

The credit is available for 1979, 1980 and 1981.

Conference agreement.—The conference agreement omits the Senate provision.

V. OTHER INCOME TAX PROVISIONS

70. Repeal of carryover basis

House bill.—No provision.

Senate amendment.—Under the Tax Reform Act of 1976 the basis of property passing or acquired from a decedent dying after December 31, 1976, was to be "carried over" from the decedent, with certain adjustments, to the estate or beneficiaries for purposes of determining gain or loss on sales and exchanges by the estate or beneficiaries. Under prior law, the basis of inherited property was generally stepped up or down to its value on the date of the decedent's death. The Revenue Act of 1978 postponed the effective date of the carryover basis provisions for 3 years. As postponed, the provisions were to apply to property passing or acquired from decedents dying after December 31, 1979.

The Senate amendment repeals the carryover basis provisions. For property passing or acquired from a decedent (within the meaning of Code sec. 1014(b)), the basis of property generally will be its fair market value at the date of the decedent's death or at the applicable valuation date if the alternate valuation provision is elected for estate tax purposes.

With respect to property passing or acquired from decedents dying after 1976 and before November 7, 1978 (the date after the date of enactment of the Revenue Act of 1978), the carryover basis provisions may be elected by the executor of an estate. If elected, the basis of all carryover basis property considered to pass from the decedent, including jointly owned property passing by survivorship, is to be determined under these provisions. The election is to be irrevocably made no later than 120 days after the date of enactment of the bill and in such manner as prescribed by the Secretary of the Treasury.

The amendments are to take effect as if included in the Tax Reform Act of 1976. Thus, the repeal applies to property passing or acquired from a decedent dying after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

71. Partial exclusion of dividends and interest received by individuals

House bill.—No provision.

Senate amendment.—Under present law, there is an exclusion for $100 of dividends received by an individual. A married couple filing a joint return may exclude $200, if each spouse has at least $100 of dividends.

The Senate amendment, in general, increases the amount of the present exclusion for dividends to $201 in the case of an individual. The amendment also provides a $400 exclusion in the case of a joint

return, regardless of whether the dividend is received by one or both spouses.

In addition, the Senate amendment broadens the exclusion to apply to certain types of interest received by individuals from domestic sources. Interest eligible for the exclusion includes: (1) interest on deposits received from a bank; (2) interest (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares by a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, credit union, or other savings or thrift institution chartered and supervised under Federal or State law if the deposits or accounts of the institution are insured under Federal or State law, or protected and guaranteed under State law; (3) interest on bonds, debentures, notes, certificates or other evidences of indebtedness of a domestic corporation which are in registered form; (4) interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public to the extent provided in regulations issued by the Secretary of the Treasury; (5) interest on obligations of the United States, a State or local government which is not already excluded from gross income; and (6) interest attributable to a participation share in a trust established and maintained by a corporation established pursuant to Federal law (for example, interest attributable to a participation share in a trust established and maintained by the Government National Mortgage Association).

In the case of distributions received by individuals from conduit type entities (such as trusts, regulated investment companies, and real estate investment trusts), the distributions generally qualify for the exclusion to the same extent that the gross income of the entity consists of eligible dividends or eligible interest.

In addition, special rules are provided in regard to interest expenses incurred in order to purchase or to carry obligations or shares or to make deposits or other investments with respect to which the interest would be excludable from gross income under this provision.

Conference agreement.—The conference agreement adopts the Senate amendment with several modifications. First, the conference agreement restricts the exclusion to taxable years beginning after December 31, 1980, and before January 1, 1983. Second, the conference agreement reduces the exclusion in the case of taxpayers not filing a joint return from $201 to $200.

Third, the conference agreement makes several technical amendments to the treatment of distributions from regulated investment companies (mutual funds) and real estate investment trusts. Under the conference agreement, qualified interest of a regulated investment company that is distributed to its shareholders is eligible for the exclusion in the hands of its individual shareholders. However, the conference agreement clarifies that the amount of interest received by a regulated investment company that will be eligible for the exclusion when it is distributed to shareholders is the net amount of qualifying interest (i.e., qualifying interest less interest expense). Under the conference agreement, if a regulated investment company has at least 75 percent of its gross income from either qualified dividends or from

qualified interest, then the entire amount of the dividend (other than capital gain dividend) that it pays will be a qualified dividend in the hands of an individual shareholder. If neither qualifying dividends nor qualifying interest equals or exceeds 75 percent of the gross income, then the percentage of each dividend it pays that qualifies for the exclusion is the proportion of that dividend that the sum of the qualifying dividends and qualifying interest of the regulated investment company for the taxable year bears to the gross income of the regulated investment company for the taxable year. For this purpose, gross income and aggregate interest are to be reduced by any interest expense to the extent of any qualified interest. For example, if a regulated investment company has 40 percent of its gross income from qualified dividends and 40 percent of its gross income from qualified interest, then 80 percent of its dividend (other than its capital gain dividend) will be a qualified dividend in the hands of an individual shareholder.

In the case of a real estate investment trust, conduit treatment is extended to qualifying interest but not to dividends. Under the conference agreement, if a real estate investment trust has at least 75 percent of its gross income from qualifying interest, then the entire amount of a noncapital gain dividend from the real estate investment trust will be a qualified dividend in the hand of an individual shareholder. If qualifying interest does not equal or exceed 75 percent of the gross income, then the percentage of its noncapital gain dividend that qualifies for the exclusion is the proportion of that dividend that the qualifying interest of the real estate investment trust for the taxable years bears to the gross income of the real estate investment trust for the taxable year. As in the case of regulated investment companies, only the net amount of the qualifying interest (i.e., qualifying interest less interest expense) is eligible for the exclusion. However, in the case of a real estate investment trust, the amount of qualified interest is not reduced by any interest paid by the real estate investment trust on mortgages on real property that is owned by the real estate investment trust. In addition, gross income is to be reduced by any taxes imposed on income from foreclosure property (section 857(b)(4)), on the failure to meet certain requirements (section 857(b)(5)), or on income from prohibited transactions (section 857(b)(6)). The amount that qualifies for the exclusion shall not exceed the amount designated by the real estate investment trust in a notice to its shareholders sent within 45 days after the close of its taxable year.

72. Qualified liquidations of LIFO inventories

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer who liquidates part or all of his inventory (i.e., his beginning inventory is greater than his ending inventory) in the ordinary course of his trade or business will recognize the gain or loss realized as a result of the liquidation. The taxpayer will recognize this gain or loss even if the liquidation of the inventory is due to circumstances beyond his control, e.g., reduced supply due to government regulation or the interruption of foreign trade. In the case of inventories accounted for on the last-in, first-out ("LIFO") basis, a significant portion of the gain on such liquidation

will be attributable to the excess of the replacement cost of such inventory over its LIFO basis (referred to as "LIFO inventory profit").

In certain narrowly defined circumstances, the Senate amendment allows a taxpayer to claim a refund for taxes paid on LIFO inventory profits resulting from the liquidation of LIFO inventories, if the taxpayer purchases replacement inventory within a defined replacement period. A taxpayer can elect to have the provisions of this section apply if there is a liquidation of his LIFO inventory for a taxable year (referred to as the "liquidation year") and he established to the satisfaction of the Secretary that the liquidation is a qualifying involuntary liquidation. For this purpose, a qualifying involuntary liquidation is defined as a taxpayer's failure to replace his LIFO inventory in the liquidation year due, directly and exclusively, to any Department of Energy regulation or request with respect to energy supplies, or to any foreign trade interruption, but only if the Secretary, after consultation with the appropriate Federal officer, publishes a notice in the Federal Register that this section would apply in the case of such regulation, request or interruption.

If a qualifying taxpayer acquires a replacement for part or all of the liquidated LIFO inventory in a replacement year, then the taxpayer's taxable income for the liquidation year is (i) decreased by the excess of the cost of the replacement inventory over the LIFO basis of the liquidated inventory which it replaced, or (ii) increased by the excess of the LIFO basis of the liquidated inventory which is replaced over the cost of the replacement inventory. A replacement year is defined as any of the three taxable years following the liquidation year or any taxable year ending within such earlier period as the Secretary may prescribe. A taxpayer is considered to have acquired a replacement for the liquidated LIFO inventory if the taxpayer's closing LIFO inventory (with respect to the liquidated goods) for any replacement year reflects an increase over the opening inventory for such year and the liquidated LIFO inventory has not been completely replaced before such replacement year. The replacement inventory is considered, in the order of its acquisition, as replacing the most recently liquidated inventory (whether or not the liquidation is an involuntary liquidation subject to the provisions of this section) not previously replaced. If the replacement inventory replaces LIFO inventory which was subject to a qualifying involuntary liquidation, it is to be taken into purchases and included in the closing inventory for the replacement year at the LIFO basis of the inventory which it replaced.

If an adjustment in a taxpayer's taxable income is made for any liquidation year as a result of the replacement of LIFO inventories under this section, the tax imposed for the liquidation year and any other taxable year would be redetermined to take into account that adjustment. Any increase or decrease in the amount of the tax resulting from the redetermination would be assessed as a deficiency or allowed as a credit or refund (as the case may be) without interest. The assessment of a deficiency or the allowance of a credit or refund attributable to the adjustment may, if otherwise prevented by the operation of any law or rule of law (other than section 7122), be made within the time allowed for the assessment of a deficiency or the allowance of a credit or refund (as the case may be) with respect to the replacement year in which the adjustment arose.

An election to have the provisions of this section apply would be made in the manner and form, and at the time, prescribed by the Secretary in regulations. The election is irrevocable and binding for the liquidation year and for all determinations made for taxable years prior and subsequent to the liquidation year insofar as such determinations are affected by the adjustments made under this section.

Conference agreement.—The conference agreement follows the Senate amendment but makes certain technical and clarifying amendments.

The conference agreement clarifies the concept of an involuntary liquidation of LIFO inventories and in so doing substitutes the terms "qualified liquidation" and "qualified inventory interruption" for the term "involuntary liquidation" as used in the Senate amendment. A qualified liquidation is defined as a decrease in a taxpayer's closing LIFO inventory for a liquidation year over his opening inventory for that year, but only if the taxpayer establishes to the satisfaction of the Secretary that the decrease is directly and primarily attributable to a qualified inventory interruption. A qualified inventory interruption is defined as any Department of Energy regulation or request made with respect to energy supplies or any embargo, international boycott, or other major foreign trade interruption, with respect to either of which the Secretary publishes a notice in the Federal Register designating those situations to which the provisions of this section will be available. The notice will be published in the Federal Register if the Secretary determines, after consultation with the appropriate Federal officers, that such regulation, request or interruption has made the replacement of any class of goods for any class of taxpayers difficult or impossible in the liquidation year, and the application of this provision to that class of goods and taxpayers is necessary to carry out the purposes of this section.

The conference agreement revises the Senate amendment with respect to the "replacement period." The replacement period encompasses the same replacement years designated in the Senate amendment except that the replacement period may be shortened by the Secretary in a subsequent notice published in the Federal Register. A replacement year is defined in terms of any taxable year in the replacement period. This will involve a change in the definition of a replacement year from the Senate amendment only when the Secretary subsequently shortens the replacement period. Additionally, the conference agreement definition of replacement year does not include a taxable year after the taxable year in which replacement of the liquidated inventory is completed.

The conference agreement changes the Senate amendment by allowing interest on deficiencies or refunds. Solely for purposes of determining interest on overpayments or underpayments of tax attributable to adjustments made under this provision, the overpayment or underpayments shall be treated as arising in the replacement year.

Where there is more than one reduction in a taxpayer's LIFO inventory and these reductions are due to different causes, the reduction in the closing inventory will be presumed to occur first as a result of qualified liquidations, if any, under this provision. For example, if a taxpayer's closing inventory has been reduced by a total of 300 units

and the taxpayer had a fire during the year which destroyed 275 units and a qualified liquidation which accounted for 225 units, the reduction in the closing inventory will be attributable to the 225 units from the qualified liquidation and the 75 units from the fire.

It is expected that the Secretary will issue regulations regarding how this section is to be applied in the case of a taxpayer using the "dollar-value" method of LIFO inventory, consistent with the "dollar-value" regulations under section 472.

This provision is effective for taxable years ending after October 31, 1979.

73. Recognition of gain on certain dispositions of LIFO inventories

House bill.—No provision.

Senate amendment.—Under present law, a liquidating corporation will not recognize any gain or loss on the transfer of its inventory to its shareholders as part of the liquidation. Similarly, a corporation which sells its assets during a 12-month liquidation (section 337) will not recognize any gain or loss on the bulk sale of its inventory. In either situation, if the liquidating corporation accounts for its inventory on the last-in, first-out ("LIFO") method of accounting for inventories, any gain attributable to the excess (referred to as the "LIFO recapture amount") of the adjusted basis of the inventory under the first-in, first-out ("FIFO") method of accounting for inventories over its LIFO adjusted basis will not be subject to corporate tax. (This amount is presently taxed at the corporate level on a nonliquidating distribution (sec. 311(b)).) However, if a subsidiary corporation liquidates into a parent corporation and the adjusted basis of the subsidiary's assets carry over to the parent corporation, the LIFO recapture amount will be subject to corporate taxation when the inventory is disposed of in a taxable sale or exchange.

Under the Senate amendment, a corporation which distributes its LIFO inventory in a partial or complete liquidation of the corporation must recognize the inventory's LIFO recapture amount as ordinary income. Also, a corporation that sells its LIFO inventory in the course of a 12-month liquidation (section 337) must recognize the inventory's LIFO recapture amount as ordinary income. The Senate amendment does not require the recognition of the LIFO recapture amount on corporate liquidations where the adjusted basis of the LIFO inventory in the hands of the acquiring corporation is carried over from the liquidating corporation.

Conference agreement.—The conference agreement follows the Senate amendment but makes certain technical and clarifying amendments.

The conference agreement postpones the effective date of this provision to distributions and dispositions which are made pursuant to plans of liquidation adopted after December 31, 1981. The effective date was postponed to allow time for Congressional hearings on this provision. Also, the delayed effective date will permit transactions in the planning stage to be completed. During this time period it was intended that there would be no change in the present law treatment of the LIFO recapture amount with respect to corporate liquidations and sales pursuant to 12-month corporate liquidations.

VI. MISCELLANEOUS PROVISIONS

74. Oil import restrictions

House bill.—No provision.

Senate amendment.—Under section 232(b) of the Trade Expansion Act of 1962, the President may restrict oil imports.

The Senate amendment amends the Energy Policy and Conservation Act (P.L. 94–163) to grant Congress the power to disapprove, by joint resolution, any presidential rule or regulation establishing oil import fees, duties or tariffs, or setting import quotas on crude oil, residual fuel oil or refined petroleum products. Congress would have 30 days after the submission of any such rule to disapprove it by a joint resolution, which could be vetoed (subject to a Congressional override).

No such presidential action would be effective prior to the end of this 30-day period. This is the same procedure which was adopted in the Emergency Energy Conservation Act of 1979 (P.L. 96–102).

Conference agreement.—The conference agreement amends the Trade Expansion Act of 1962 to eliminate the President's authority under that Act to impose oil import quotas whenever a Joint Resolution is enacted which disapproves such executive action. Such a Joint Resolution is to be considered under normal legislative procedures, rather than under those applicable to Trade Act matters, and is not to be amendable. A presidential veto of such a resolution could be overridden by a ⅔ vote of each House.

Under the conference agreement, presidential action with respect to oil imports would not have to be preceded by Congressional review prior to becoming effective.

75. Oil import information reports

House bill.—No provision.

Senate amendment.—Monthly reports are required to be filed with the Energy Information Administration of DOE by any person who imported 200,000 barrels of oil in the corresponding quarter of the prior year. These reports must contain specific information relating to the person's worldwide sales and imports.

Conference agreement.—The conference agreement does not contain this provision.

76. National Academy of Sciences report

House bill.—No provision.

Senate amendment.—The Secretary of Energy is directed to enter into an agreement with the National Academy of Sciences for annual reviews of DOE's research and development programs for fiscal years 1980–1989. Review areas are to be selected for relevance to alternative energy systems and to research and development opportunities under DOE programs. The first report is to be completed by the end of fiscal year 1980.

Conference agreement.—The conference agreement does not contain this provision.

APPENDIX: BUDGET EFFECTS

Table 1 summarizes the revenue effect of the conference agreement for calendar years 1979 to 1990. In 1980, the windfall profit tax will raise $6.3 billion, and the various tax reductions in the bill will reduce revenues by $0.2 billion. The overall revenue gain, then, will be $6.1 billion. Over the entire 12-year period 1979 to 1990, the tax will raise $227.7 billion, and the tax reductions will be $15.5 billion, for a net revenue gain of $212.2 billion.

Table 2 summarizes the revenue effects of the conference agreement for fiscal years 1980 to 1990. In fiscal year 1980, the windfall profit tax raises $3.2 billion, and the tax reductions will be $0.1 billion. Thus, the net tax increase in fiscal year 1980 will be $3.1 billion.

Tables 3 and 4 present the gross and net revenues raised by the windfall profit tax for calendar years 1980–90 and fiscal years 1980–90, respectively. The gross revenue is the actual receipts from the tax. However, the imposition of the tax affects corporate and individual income tax receipts because it is deductible, because it reduces deductible State income taxes, and because it affects oil drilling. The net revenue is the gross revenue minus the reduction in corporate and individual income taxes expected to result from imposition of the windfall profit tax. Revenue from oil owned by the U.S. Government is not included in these estimates.

These revenue estimates assume that the price of uncontrolled oil equals $30 per barrel in the fourth quarter of 1979 and grows at the rate of inflation plus two percent per year.

Tables 5 and 6 show the revenue effects of the residential energy tax credits for calendar and fiscal years 1980–90, respectively.

Tables 7 and 8 show the revenue effects of the various business tax incentives for calendar and fiscal years 1980–90, respectively.

Up to $3.115 billion is authorized to be appropriated in fiscal year 1981 for the low-income energy assistance program contained in this bill.

Table 1.—Summary of Estimated Revenue Effects of the Crude Oil Windfall Profit Tax Act of 1980 as Agreed to by the Conference Committee, Calendar Years 1979–90

[In millions of dollars]

Item	Calendar year liabilities						
	1979	1980	1981	1982	1983	1984	1985
Net gain from windfall profit tax	36 [1]	6, 306	14, 719	18, 875	20, 147	21, 312	22, 267
Residential energy tax credits		−42	−53	−69	−97	−138	−201
Business energy tax incentives	−3	−146	−232	−329	−864	−1, 182	−1, 541
Repeal carryover basis		([2])	−36	−95	−163	−238	−330
Interest and dividend exclusion			−2, 095	−2, 210			
Involuntary liquidation of LIFO inventories [4]			−85	−85	−80		
Taxing inventory profits at corporate liquidations [5]				250	250	250	250
Total	**33**	**6, 118**	**12, 218**	**16, 337**	**19, 193**	**20, 004**	**20, 445**

Footnotes at end of table.

Table 1.—Summary of Estimated Revenue Effects of the Crude Oil Windfall Profit Tax Act of 1980 as Agreed to by the Conference Committee, Calendar Years 1979–90—Continued

In millions of dollars]

Item	Calendar year liabilities					
	1986	1987	1988	1989	1990	Total 1979–90
Net gain from windfall profit tax	22, 907	23, 778	24, 588	25, 771	27, 017	227, 723
Residential energy tax credits						−600
Business energy tax incentives	−824	−887	−1, 044	−626	−616	−8, 297 [3]
Repeal carryover basis	−440	−560	−680	−810	−950	−4, 302
Interest and dividend exclusion						−4, 305
Involuntary liquidation of LIFO inventories [4]						−250
Taxing inventory profits at corporate liquidations [5]	250	250	250	250	250	2, 250
Total	**21, 893**	**22, 581**	**23, 114**	**24, 585**	**25, 701**	**212, 219** [3]

[1] The conference agreement would raise a small amount of income tax revenue in 1979 because the estimates assume that the tax on newly discovered oil reduces intangible drilling deductions in that year.

[2] Less than $1 million.

[3] This total includes $3 million in calendar year 1978 reductions.

[4] These estimates are based on the assumption that the Secretary will invoke this provision for disruptions of oil shipments during 1980.

[5] These estimates are based on information obtained from a selected number of cases known to the Treasury and the figures are intended to provide representative averages during the forecast period.

Table 2.—Summary of Estimated Revenue Effects of the Crude Oil Windfall Profit Tax Act of 1980 as Agreed to by the Conference Committee, Fiscal Years 1980–90

[In millions of dollars]

Item	Fiscal year receipts					
	1980	1981	1982	1983	1984	1985
Net gain from windfall profit tax	3, 172	13, 436	19, 543	19, 958	21, 144	22, 227
Residential energy tax credits	−7	−44	−55	−74	−105	−148
Business energy tax incentives	−50	−206	−274	−567	−985	−1, 426
Repeal carryover basis		([1])	−36	−95	−163	−238
Interest and dividend exclusion		−314	−2, 278	−1, 713		
Involuntary liquidation of LIFO inventories [2]			−85	−85	−80	
Taxing inventory profits at corporate liquidations [3]			112	250	250	250
Total	**3, 115**	**12, 872**	**16, 927**	**17, 674**	**20, 061**	**20, 665**

Footnotes at end of table.

Table 2.—Summary of Estimated Revenue Effects of the Crude Oil Windfall Profit Tax Act of 1980 as Agreed to by the Conference Committee, Fiscal Years 1980–90—Continued

[In millions of dollars]

Item	Fiscal year receipts					
	1986	1987	1988	1989	1990	Total 1980–90
Net gain from windfall profit tax	22, 776	23, 601	24, 423	25, 593	26, 772	222, 646
Residential energy tax credits	−167					−600
Business energy tax incentives	−1, 233	−866	−972	−870	−637	−8, 086
Repeal carryover basis	−330	−440	−560	−680	−810	−3, 352
Interest and dividend exclusion						−4, 305
Involuntary liquidation of LIFO inventories [2]						−250
Taxing inventory profits at corporate liquidations [3]	250	250	250	250	250	2, 112
Total	**21, 296**	**22, 545**	**23, 141**	**24, 293**	**25, 575**	**208, 165**

[1] Less than $1 million.

[2] These estimates are based on the assumption that the Secretary will invoke this provision for disruptions of oil shipments during 1980.

Note:—Details may not add to totals because of rounding.

[3] These estimates are based on information obtained from a selected number of cases known to the Treasury and the figures are intended to provide representative averages during the forecast period.

Table 3.—Estimated Revenue Effect of the Crude Oil Windfall Profit Tax as Agreed to by the Conference Committee, Calendar Years 1980–90

[In millions of dollars]

Item	Calendar year liabilities					
	1980	1981	1982	1983	1984	1985
Gross windfall profit tax	10, 876	25, 952	33, 534	35, 952	38, 202	40, 104
Change in income taxes	−4, 570	−11, 234	−14, 659	−15, 805	−16, 890	−17, 837
Net windfall profit tax	**6, 306**	**14, 719**	**18, 875**	**20, 147**	**21, 312**	**22, 267**

Item	Calendar year liabilities					
	1986	1987	1988	1989	1990	Total 1979–90 [1]
Gross windfall profit tax	41, 445	43, 185	44, 789	47, 049	49, 399	410, 486
Change in income taxes	−18, 538	−19, 407	−20, 200	−21, 278	−22, 382	−182, 763
Net windfall profit tax	**22, 907**	**23, 778**	**24, 588**	**25, 771**	**27, 017**	**227, 723**

[1] The conference agreement would raise a small amount of income tax revenue in 1979 because the estimates assume that the tax on newly discovered oil reduces intangible drilling deductions in that year.

Note: Details may not add to totals because of rounding.

Table 4.—Estimated Revenue Effect of the Crude Oil Windfall Profit Tax as Agreed to by the Conference Committee, Fiscal Years 1980–90

[In millions of dollars]

Item	Fiscal year receipts										
	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	Total 1980–90
Gross windfall profit tax	5, 159	20, 955	32, 293	35, 124	37, 429	39, 535	40, 923	42, 524	44, 181	46, 270	48, 538	392, 931
Change in income taxes	−1, 987	−7, 518	−12, 749	−15, 166	−16, 285	−17, 309	−18, 147	−18, 923	−19, 758	−20, 677	−21, 766	−170, 285
Net windfall profit tax	**3, 172**	**13, 436**	**19, 543**	**19, 958**	**21, 144**	**22, 227**	**22, 776**	**23, 601**	**24, 423**	**25, 593**	**26, 772**	**222, 646**

Note: Details may not add to totals because of rounding.

Table 5.—Estimated Budget Effect of Residential Energy Tax Credits as Agreed to by the Conference Committee, Calendar Years 1980–90

Provision	1980	1981	1982	1983	1984	1985
Solar, wind and geothermal credit, 40 percent	−40	−50	−65	−82	−119	−177
Business energy tax credit to landlords, 15 percent	−2	−3	−4	−15	−19	−24
Total	**−42**	**−53**	**−69**	**−97**	**−138**	**−201**

Provision	1986	1987	1988	1989	1990	1980–90
Solar, wind and geothermal credit, 40 percent						−533
Business energy tax credit to landlords, 15 percent						−67
Total						**−600**

Table 6.—Estimated Budget Effect of Residential Energy Tax Credits as Agreed to by the Conference Committee, Fiscal Years 1980–90

Provision	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1980–90
Solar, wind, and geothermal credit, 40 percent	−6	−42	−52	−67	−88	−128	−150					−533
Business energy tax credit to landlords, 15 percent	−1	−2	−3	−7	−17	−20	−17					−67
Total	**−7**	**−44**	**−55**	**−74**	**−105**	**−148**	**−167**					**−600**

Table 7.—Estimated Budget Effect of Business Energy Tax Incentives as Agreed to by the Conference Committee, Calendar Years 1980–85

Provision	1980	1981	1982	1983	1984	1985
Business energy investment credits:						
Solar and wind property, including solar process heat equipment, 15% energy credit	−10	−19	−34	−108	−282	−497
Geothermal equipment, 15% energy credit	−1	−2	−2	−5	−8	−11
Ocean thermal energy conversion equipment, 15% energy credit	[2]	[2]	[2]	[2]	−2	−2
Small-scale hydroelectric facilities, 11% energy credit	−7	−13	−17	−21	−81	−144
Cogeneration equipment, 10% energy credit	−31	−53	−78	−82	−65	−36
Petroleum coke and pitch, regular investment credit and accelerated depreciation	−25	−30	−34	−38	−43	−47
Certain equipment for producing feedstocks			[1]	−22	−29	−28
Alumina electrolytic cells, 10% energy credit	−1	−1	−1	−1	−1	−1
Coke ovens, 10% energy credit	−37	−46	−56	−59	−45	−23
Biomass equipment, 10% energy credit	[2]	−4	−4	−18	−160	−352
Intercity buses, 10% energy credit	−5	−5	−6	−6	−7	−7
Affirmative commitments, special transition rule			[1]	−448	−358	−202
Total, energy investment credits	**−117**	**−173**	**−232**	**−808**	**−1,081**	**−1,350**

Alternative fuel production credit: [4]						
Devonian shale gas, special rule	−9	−26	−45	(4)	(4)	(4)
Qualifying processed wood, phaseout suspension	−2	−13	−25	−21	−8	
Steam from agricultural byproducts, phase-out suspension	−1	−2	−2	−3	−3	
Total, production credits	**−12**	**−41**	**−72**	**−24**	**−11**	(4)
Alcohol fuels provisions [5]	**−3**	**−4**	**−5**	**−7**	**−59**	**−158**
Industrial development bonds:						
Solid waste disposal facilities	(2)	−3	−5	−5	−5	−5
Alcohol from solid waste facilities			(2)	(2)	−1	−1
Small-scale hydroelectric facilities	(2)	(2)	−2	−2	−4	−6
Additions to certain existing hydroelectric facilities			−3	−7	−8	−8
State renewable resource programs	−1	−1	−2	−4	−7	−8
Total, bonds	**−1**	**−4**	**−12**	**−18**	**−25**	**−28**
Tertiary injectants	**−13**	**−10**	**−8**	**−7**	**−6**	**−5**
Total, Business Tax Incentives	**−146**	**−232**	**−329**	**−864**	**−1, 182**	**−1, 541**

See footnotes at end of table.

Table 7.—Estimated Budget Effect of Business Energy Tax Incentives as Agreed to by the Conference Committee, Calendar Years 1986–90—Continued

Provision	1986	1987	1988	1989	1990	1980–90
Business energy investment credits:						
Solar and wind property, including solar process heat equipment, 15% energy credit	−78	−30	(1)			−1, 058
Geothermal equipment, 15% energy credit	(1)					−29
Ocean thermal energy conversion equipment, 15% energy credit	−1					−5
Small-scale hydroelectric facilities, 11% energy credit	−284	−427	−582	−137	−84	−1, 797
Cogeneration equipment, 10% energy credit	−11	(1)				−356
Petroleum coke and pitch, regular investment credit and accelerated depreciation	−52	−58	−63	−68	−74	−532
Certain equipment for producing feedstocks	−22	−9	(2)			−110
Alumina electrolytic cells, 10% energy credit						−12 [3]
Coke ovens, 10% energy credit	−7	−3	−1			−277
Biomass equipment, 10% energy credit	−55	−32	−23	(1)		−648
Intercity buses, 10% energy credit						−36
Affirmative commitments, special transition rule	−90	−42	−12	(1)	(2)	−1, 152
Total, energy investment credits	**−600**	**−601**	**−681**	**−205**	**−158**	**−6, 012 [3]**

Alternative fuel production credit: [4]						
Devonian shale gas, special rule	(4)	(4)	(4)	(4)	(4)	−80
Qualifying processed wood, phaseout suspension						−69
Steam from agricultural byproducts, phase-out suspension						−11
Total, production credits	(4)	(4)	(4)	(4)	(4)	**−160**
Alcohol fuels provision [5]	**−188**	**−228**	**−268**	**−307**	**−347**	**−1,574**
Industrial development bonds:						
Solid waste disposal facilities	−5	−5	−5	−5	−5	−48
Alcohol from solid waste facilities	−1	−1	−1	−1	−1	−7
Small-scale hydroelectric facilities	−8	−29	−66	−85	−81	−283
Additions to certain existing hydroelectric facilities	−8	−8	−8	−8	−8	−66
State renewable resource programs	−9	−9	−9	−9	−9	−68
Total, bonds	**−31**	**−52**	**−89**	**−108**	**−104**	**−472**
Tertiary injectants	**−5**	**−6**	**−6**	**−6**	**−7**	**−79**
Total, Business Tax Incentives	**−824**	**−887**	**−1,044**	**−626**	**−616**	**−8,297** [3]

[1] Less than $5 million.
[2] Less than $1 million.
[3] This total includes $6 million in calendar year liability reductions from 1978 and 1979.
[4] It is assumed that the applicable reference price will be in excess of the credit phase-out range for oil from shale or tar sands, liquid, gaseous or synthetic solid fuel from coal, geopressured brine gas, coal seam methane gas, tight formation gas, biomass gas, steam from agricultural by-products and processed wood.
[5] The estimates for calendar years 1984–1990 assume that the Federal excise taxes on gasoline, diesel fuel, and other motor fuels will continue at the present rate of 4 cents per gallon. Under present law, these taxes are scheduled to be reduced to 1½ cents per gallon on October 1, 1984, when the Highway Trust Fund is scheduled to expire.

Table 8.—Estimated Budget Effect of Business Energy Tax Incentives as Agreed to by the Conference Committee, Fiscal Years 1980–85

Provision	1980	1981	1982	1983	1984	1985
Business energy investment credits:						
Solar and wind property, including solar process heat equipment, 15% energy credit	−3	−15	−26	−67	−185	−377
Geothermal equipment, 15% energy credit	([2])	−2	−2	−3	−7	−9
Ocean thermal energy conversion equipment 15% energy credit	([2])	([2])	([2])	([2])	−1	−2
Small-scale hydroelectric facilities, 11% energy credit	−2	−11	−15	−19	−48	−109
Cogeneration equipment, 10% energy credit	−9	−46	−64	−80	−74	−52
Petroleum coke and pitch, regular investment credit and accelerated depreciation	−8	−31	−32	−36	−40	−44
Certain equipment for producing feed stocks			([1])	−7	−28	−29
Alumina electrolytic cells, 10% energy credit	−6	−1	−1	−1	−1	−1
Coke ovens, 10% energy credit	−11	−47	−51	−57	−53	−35
Biomass equipment, 10% energy credit	([2])	−2	−4	−10	−82	−246
Intercity buses, 10% energy credit	−2	−5	−6	−6	−6	−7
Affirmative commitments, special transition rule			([1])	−202	−407	−288
Total, energy investment credits	**−41**	**−160**	**−201**	**−488**	**−932**	**−1, 199**

Alternative fuel production credit: [1]						
Devonian shale gas, special rule	−3	−18	−34	−25	([3])	([3])
Qualifying processed wood, phaseout suspension	−1	−7	−18	−23	−15	−5
Steam from agricultural by-products, phase-out suspension	([2])	−1	−2	−2	−3	−3
Total, production credits	**−4**	**−26**	**−54**	**−50**	**−18**	**−8**
Alcohol fuels provisions	**−1**	**−4**	**−4**	**−6**	**−8**	**−187**
Industrial development bonds:						
Solid waste disposal facilities	([2])	−1	−4	−5	−5	−5
Alcohol from solid waste facilities			([2])	([2])	([2])	−1
Small-scale hydroelectric facilities	([2])	([2])	([2])	−2	−3	−5
Additions to certain existing hydroelectric facilities			−1	−5	−7	−8
State renewable resource programs	([2])	−1	−1	−3	−5	−7
Total, bonds	**([2])**	**−2**	**−6**	**−15**	**−20**	**−26**
Tertiary injectants	**−4**	**−14**	**−9**	**−8**	**−7**	**−6**
Total, Business Tax Incentives	**−50**	**−206**	**−274**	**−567**	**−985**	**−1, 426**

Footnotes at end of table.

Table 8.—Estimated Budget Effect of Business Energy Tax Incentives as Agreed to by the Conference Committee, Fiscal Years 1986–90—Continued

Provision	1986	1987	1988	1989	1990	1980–90
Business energy investment credits:						
Solar and wind property, including solar process heat equipment, 15% energy credit	−311	−57	−17	([1])		−1, 058
Geothermal equipment 15% energy credit	−6	([2])				−29
Ocean thermal energy conversion equipment, 15% energy credit	−2	([2])	([2])			−5
Small-scale hydroelectric facilities, 11% energy credit	−207	−348	−497	−382	−113	−1, 751
Cogeneration equipment, 10% credit	−25	−6	([2])			−356
Petroleum coke and pitch, regular investment credit and accelerated depreciation	−49	−55	−60	−65	−71	−491
Certain equipment for producing feed stocks	−25	−16	−5	([2])		−110
Alumina electrolytic cells, 10% energy credit	−1					−12
Coke ovens, 10% energy credit	−16	−5	−2	([2])	([1])	−277
Biomass equipment, 10% energy credit	−218	−45	−28	−13	([1])	−648
Intercity buses, 10% energy credit	−4					−36
Affirmative commitments, special transition rule	−152	−68	−28	−7	([1])	−1, 152
Total, energy investment credits	**−1, 016**	**−600**	**−637**	**−467**	**−184**	**−5, 925**

Alternative fuel production credit: [3]						
Devonian shale gas, special rule	([3])	([3])	([3])	([3])	([3])	−80
Qualifying processed wood, phase-out suspension						−69
Steam from agricultural by-products, phase-out suspension						−11
Total, production credits	([3])	([3])	([3])	([3])	([3])	**−160**
Alcohol fuels provisions	**−183**	**−221**	**−261**	**−300**	**−340**	**−1, 515**
Industrial development bonds:						
Solid waste disposal facilities	−5	−5	−5	−5	−5	−45
Alcohol from solid waste facilities	−1	−1	−1	−1	−1	−6
Small-scale hydroelectric facilities	−7	−17	−45	−74	−84	−237
Additions to certain existing hydroelectric facilities	−8	−8	−8	−8	−8	−61
State renewable resource programs	−8	−9	−9	−9	−9	−61
Total, bonds	**−29**	**−40**	**−68**	**−97**	**−107**	**−410**
Tertiary injectants	**−5**	**−5**	**−6**	**−6**	**−6**	**−76**
Total Business Tax Incentives	**−1, 233**	**− 866**	**−972**	**−870**	**−637**	**−8, 086**

[1] Less than $5,000,000.

[2] Less than $1,000,000.

[3] It is assumed that the applicable reference price will be in excess of the credit phase-out range for oil from shale or tar sands, liquid, gaseous or synthetic solid fuel from coal, geopressured brine gas, coal seam methane gas, tight formation gas, biomass gas, steam from agricultural by-products and processed wood.

[4] The estimates for calendar years 1984–90 assume that the Federal excise taxes on gasoline, diesel fuel, and other motor fuels will continue at the present rate of 4 cents per gallon. Under present law, these taxes are scheduled to be reduced to 1½ cents per gallon on Oct. 1, 1984, when the Highway Trust Fund is scheduled to expire.

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