RENEWABLE ENERGY TAX CREDITS

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

OF THE

COMMITTEE ON FINANCE UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

DECEMBER 11, 1981

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

89-318 O WASHINGTON : 1982 HG 97-69

COMMITTEE ON FINANCE

ROBERT J. DOLE, Kansas, *Chairman*

BOB PACKWOOD, Oregon
WILLIAM V. ROTH, Jr., Delaware
JOHN C. DANFORTH, Missouri
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania
MALCOLM WALLOP, Wyoming
DAVID DURENBERGER, Minnesota
WILLIAM L. ARMSTRONG, Colorado
STEVEN D. SYMMS, Idaho
CHARLES E. GRASSLEY, Iowa

RUSSELL B. LONG, Louisiana
HARRY F. BYRD, Jr., Virginia
LLOYD BENTSEN, Texas
SPARK M. MATSUNAGA, Hawaii
DANIEL PATRICK MOYNIHAN, New York
MAX BAUCUS, Montana
DAVID L. BOREN, Oklahoma
BILL BRADLEY, New Jersey
GEORGE J. MITCHELL, Maine

Robert E. Lighthizer, *Chief Counsel*
Michael Stern, *Minority Staff Director*

Subcommittee on Energy and Agricultural Taxation

MALCOLM WALLOP, Wyoming, *Chairman*

STEVEN D. SYMMS, Idaho
DAVID DURENBERGER, Minnesota

BILL BRADLEY, New Jersey
GEORGE J. MITCHELL, Maine
LLOYD BENTSEN, Texas

CONTENTS

ADMINISTRATION WITNESS

	Page
Hon. David G. Glickman, Deputy Assistant Secretary for Tax Policy, Department of the Treasury	39

PUBLIC WITNESSES

Frank, Lynn, director of the Oregon Department of Energy, on behalf of the National Governors' Association	15
Loope, R. Nicholas, AIA, president of the Solar Energy Industries Association.	60
National Governors' Association, Lynn Frank	15
Tapper, Suzette, the Solar Lobby	62

ADDITIONAL INFORMATION

Committee press release	2
Description of S. 1449, prepared by the staff of the Joint Committee on Taxation	3
Text of S. 1449	11
Prepared statement of:	
Senator Malcolm Wallop	14
Lynn Frank, director of Oregon Department of Energy on behalf of the National Governors' Association	17
Prepared statement of David G. Glickman	41
Solar Energy Industries Association, R. Nicholas Loope, AIA, president	51
Suzette Tapper, legislative representative, Solar Lobby	64
Letter from Edward J. Carlough, general president, Sheet Metal Workers' International Association	70
Prepared statement of Professional Solar Contractors	72
Letter from Alan Beals, executive director, National League of Cities	80

RENEWABLE ENERGY TAX CREDITS

FRIDAY, DECEMBER 11, 1981

U.S. SENATE, SUBCOMMITTEES ON ENERGY AND AGRICULTURAL TAXATION, AND TAXATION AND DEBT MANAGEMENT OF THE SENATE FINANCE COMMITTEE

Washington, D.C.

The hearing was convened, pursuant to notice, at 9:30 a.m., in room 2221, Dirksen Senate Office Building, Hon. Bob Packwood and Hon. Malcolm Wallop (chairmen) presiding.

Present: Senators Packwood, Wallop, and Danforth.

[The press release announcing this hearing, background information relating to the topic of this hearing, the text of S. 1449, and the prepared statement of Senator Wallop follow:]

Press Release No. 81-185

P R E S S R E L E A S E

FOR IMMEDIATE RELEASE
November 25, 1981

COMMITTEE ON FINANCE
UNITED STATES SENATE
Subcommittee on Energy
and Agricultural Taxation
Subcommittee on Taxation
and Debt Management
2227 Dirksen Senate Office Bldg.

FINANCE SUBCOMMITTEES ON ENERGY AND AGRICULTRAL TAXATION AND TAXATION AND DEBT MANAGEMENT SET HEARING ON RENEWABLE ENERGY TAX CREDITS

Senator Malcolm Wallop, Chairman of the Subcommittee on Energy and Agricultural Taxation of the Senate Committee on Finance, and Senator Bob Packwood, Chairman of the Subcommittee on Taxation and Debt Management, announced today that the Subcommittees will hold a joint hearing on Friday, December 11, 1981, on legislation concerning renewable energy tax credits.

The hearing will begin at 9:30 a.m. in Room 2221 of the Dirksen Senate Office Building.

The following proposal will be considered at the hearing:

S. 1449--Introduced by Senator Packwood. S. 1449 would generally limit the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies.

DESCRIPTION OF S. 1449

Relating to

MODIFICATION OF THE ENERGY TAX CREDIT SUBSIDIZED FINANCING RULF

Scheduled for a Joint Hearing

by the

Subcommittees on Energy and Agricultrual Taxation

and

Taxation and Debt Management

of the

Senate Committee on Finance

on

December 11, 1981

Prepared by the Staff
of the
Joint Committee on Taxation

December 10, 1981

JCX-38-81

INTRODUCTION

The Senate Finance Subcommittees on Energy and Agricultural Taxation and Taxation and Debt Management have scheduled a joint hearing on December 11, 1981, on S. 1449 (introduced by Senator Packwood). This bill relates to the subsidized financing rule for energy tax credits.

This document, prepared in connection with the joint hearing, provides a description of the provisions of S. 1449. The first part of the document is a summary of the bill. This is followed by a more detailed description of the bill, including present law, issues, explanation of the provisions, effective dates, and estimated revenue effects.

I. SUMMARY

S. 1449--Senator Packwood

Present Law

Present law provides a residential energy tax credit equal to the sum of (1) 15 percent of the first $2,000 of qualified energy conservation expenditures (i.e., maximum credit of $300) and (2) 40 percent of the first $10,000 of renewable energy source expenditures (i.e., a maximum credit of $4,000). The credit applies to expenditures made after April 19, 1977, and before January 1, 1986, in or on the taxpayer's principal residence.

Present law also provides a business energy investment tax credit in addition to the regular investment tax credit. The additional credit is from 10 to 15 percent of the cost of qualified energy property, depending on the type of property acquired and the date placed in service.

To prevent duplication of benefits, present law provides that the residential energy credit is not available for expenditures made from subsidized energy financing and that the cumulative amount of qualified expenditures eligible for the residential energy tax credit while it is owned by the same owner is reduced by expenditures financed by tax-exempt grants or subsidized energy financing. Similarly, the amount of qualified investment eligible for the business energy tax credit is reduced to the extent the qualified investment is financed by tax-exempt industrial development bonds or through subsidized energy financing.

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 bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

S. 1449

The bill would limit the definition of subsidized energy financing to Federal programs which provide subsidized energy financing. Thus, property financed in whole or in part by State or local energy financing programs would not reduce the amount of qualified expenditures eligible for either the residential or business energy tax credits. In addition, under the bill the amount of qualified investment eligible for the business energy tax credit would not be reduced to reflect the extent to which the investment was financed by tax-exempt industrial development bonds. Thus, qualified investment eligible for the business energy tax credit would be reduced only to the extent acquired with Federal subsidized energy financing.

The bill generally would be effective as of January 1, 1981.

II. DESCRIPTION OF THE BILL

S. 1449--Senator Packwood

Modification of the Energy Tax Credit Subsidized Financing Rules

Present Law

1. Residential energy credit

Present law provides a residential energy tax credit equal to the sum of the energy conservation credit plus the renewable energy source credit.

Credit for energy conservation expenditures.--Under present law, a nonrefundable credit equal to 15 percent of the first $2,000 of energy conservation expenditures (i.e., a maximum credit of $300) is available for installations of eligible insulation and other energy conserving items. To be eligible for the credit, the expenditure must be made in or on the taxpayer's principal residence before January 1, 1986. The residence must have been in existence or substantially completed on April 19, 1977. The maximum on allowable expenditures is the total amount available to the taxpayer for any principal residence through December 31, 1985. For any year, this limit is reduced by expenditures for which the energy conservation credit was taken in prior years by the taxpayer for the same residence.

The credit is allowed for expenditures to install (1) insulation, (2) a replacement burner for an oil- or gas-fired furnace, (3) a device to modify flue openings, (4) an electrical or mechanical furnace ignition system, (5) a storm or thermal door or window, (6) an automatic setback thermostat, (7) caulking or weather-stripping for an exterior door or window, (8) a meter that displays the cost of energy use, and other items which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling.

Credit for renewable energy source expenditures.--Present law provides a tax credit equal to 40 percent of the first $10,000 of qualified renewable energy source expenditures (i.e., a maximum credit of $4,000). Qualified expenditures include:

(1) The installation of solar, wind, or geothermal energy equipment;

(2) Expenditures for equipment to produce electrical energy from solar or geothermal energy source property installed with respect to a residence;

(3) Expenditures for labor costs properly allocable to the onsite preparation, assembly or original installation of renewable energy source property eligible for the credit and expenditures for an onsite well drilled for any geothermal deposit, unless the deduction for intangible drilling costs has been claimed for any portion of these expenditures; and

(4) The cost of a solar roof panel installed as a roof (or a portion of a roof) even though a roof by itself is a structural component. Renewable energy source property does not include other structural components of a residence even though they also may play an ancillary role related to renewable energy source property.

Rules to prevent double benefits.--Under present law, expenditures financed by Federal, State or local grants which are exempt from Federal income tax are not eligible for the residential energy tax credit. Further, any portion of qualified expenditures financed by subsidized energy financing is not eligible for the credit. Lastly, the expenditure limits for energy conservation expenditures ($2,000) and for renewable energy source expenditures ($10,000) are reduced by the portion of expenditures which is financed by subsidized energy financing or financed by nontaxable Federal, State or local government grants.

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 bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

In addition, the Secretary has the authority to require persons having control of a Federal, State or local 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.

2. Business energy investment credits

Business energy property.--Present law generally provides an energy investment tax credit for investments in certain business energy property. The amount of the credit ranges from 10 percent to 15 percent of the taxpayer's cost of acquiring or constructing eligible property, depending upon the classification of the property and the date placed in service. Qualified energy property includes alternate energy property, solar or wind energy property, specially defined energy property, specially defined energy property, recycling equipment, shale oil equipment, equipment for producing natural gas from geopressured brine, qualified hydroelectric generating property, cogeneration equipment or intercity buses.

Rules to prevent double benefits.--The amount of the available credit is limited if the energy property is financed by nontaxable government grants, subsidized energy loans or industrial development bonds.

To the extent that property is financed with nontaxable government grants, the tax basis of the property is reduced for purposes of depreciation and the regular and energy investment credits.

In addition, for property eligible for the energy tax credit as in effect prior to the Crude Oil Windfall Profits Act of 1980 (P.L. 96-223), the rate of the energy tax credit is reduced by one-half if the property is financed in whole or in part by industrial development bonds such as pollution control bonds.

The Crude Oil Windfall Profit Tax Act provided additional limitations generally applicable to periods after December 31, 1982, or with respect to energy property first made eligible for the credit by the Act. */ When 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 tax credit percentage is the qualified investment multiplied by a fraction which is determined by dividing that portion of qualified investment in the property which is allocable to subsidized financing, loans or grants 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 bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized financing does not include, however, loan guarantees.

---

*/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.

Issues

The issues presented by S. 1449 are (1) whether it is appropriate to reduce the amount of qualified expenditures eligible for Federal residential and business energy tax credits by amounts received under State or local subsidized energy financing programs, including those which use bonds exempt from Federal income tax for providing funds under such a program; and (2) whether it is appropriate to reduce the investment eligible for the business energy tax credit on a ratable basis to the extent the investment is financed by industrial development bonds the interest of which is exempt from Federal income tax.

Explanation of the Bill

The bill would limit the definition of subsidized energy financing to Federal programs which provide subsidized energy financing. Thus, property financed in whole or in part by State or local subsidized energy financing programs would not reduce the amount of qualified expenditures eligible for either the residential or business energy tax credits.

Conforming changes would be made to the provision authorizing the Secretary to require that persons having control of a program which provides subsidized energy financing or an energy grant program make a return containing the same name and address of each individual receiving the financing or grant and the amount of financing or grant received under the program.

In addition, under the bill the amount of qualified investment eligible for the business energy tax credit would not be reduced to reflect the extent to which the investment was financed by tax-exempt industrial development bonds. Thus, qualified investment eligible for the business energy tax credit would be reduced only to the extent acquired with Federal subsidized energy financing.

Effective Date

The provision of the bill redefining subsidized energy financing would apply to subsidized energy financing made after December 31, 1980 and the provision of the bill applicable to tax-exempt industrial development bonds would apply to obligations issued after December 31, 1980.

Revenue Effect

This bill is estimated to reduce fiscal year receipts by $148 million in 1982, $133 million in 1983, $150 million in 1984, $91 million in 1985, and $31 million in 1986.

II

97TH CONGRESS
1ST SESSION

S. 1449

To amend the Internal Revenue Code of 1954 to limit the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 8, 1981

Mr. PACKWOOD introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1954 to limit the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUBSIDIZED ENERGY FINANCING LIMITED TO FEDERAL FINANCING.

(a) TAX CREDITS.—

(1) IN GENERAL.—Subparagraph (C) of section 44C(c)(10) of the Internal Revenue Code of 1954 (de-

fining subsidized energy financing for purposes of the residential energy credit) and subparagraph (C) of section 48(l)(11) of such Code (defining subsidized energy financing for purposes of section 38 property) are each amended by striking out "Federal, State, or local," and inserting in lieu thereof "Federal".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 6050D of such Code (relating to returns relating to energy grants and financing) is amended by striking out "a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants" and inserting in lieu thereof "a Federal program a principal purpose of which is to provide subsidized financing, or a Federal, State, or local program a principal purpose of which is to provide grants,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to subsidized energy financing made after December 31, 1980.

SEC. 2. PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.

(a) IN GENERAL.—So much of paragraph (11) of section 48(l) of the Internal Revenue Code of 1954 (relating to special rules for property financed by subsidized energy financing or industrial development bonds) as precedes subparagraph (B) thereof is amended to read as follows:

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(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 subsidized energy financing, 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) CONFORMING AMENDMENT.—Subparagraph (B) of section 48(l)(11) of such Code is amended by striking out "or proceeds" in clause (i) thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1980.

PREPARED STATEMENT OF SENATOR MALCOLM WALLOP

It is with pleasure that I join with Senator Packwood this morning in holding this joint hearing of the Subcommittee on Energy and Agricultural Taxation and the Subcommittee on Taxation and Debt Management. The purpose of this hearing is to invite public comment on S. 1449, a bill introduced by Senator Packwood, which would limit the definition of subsidized energy financing to Federal programs which provide such assistance, thus making projects subsidized in whole or in part by State programs still eligible for either the residential or business energy tax credits.

It is my hope that this hearing will serve to continue to highlight our need, our commitment to develop the energy resources that are to be found right here at home. The recent glut of oil on the international market makes it all too easy for us to forget the gas lines and the economic hardships which have accompanied the oil supply disruptions of the past. Unfortunately, our vulnerability to those same problems remains.

One only has to look at a few statistics to realize how close we are to those problems. While our oil imports have significantly declined in recent years, they still represent a full one-third of the oil consumed in this Nation on a daily basis. And further, even with the oil supplies to be found in our Strategic Petroleum Reserve and current industry inventories, we have scarely more than a month's supply of oil. It is not difficult to see that our insulation from the "petro-politics" of the Middle East is too thin to be of any real protection.

During these times of what can only be viewed as temporary energy security, we must not lose sight of the fact that the development of renewable and alternative energy resources, as well as the energy savings that can be realized through energy conservation efforts can make signficant contribution to our goal of making this Nation energy self-sufficient. It was with that thought in mind that I introduced S. 750 on industrial energy conservation earlier this year. That bill not only seeks to tap the truly enormous energy savings that can be realized through conservation efforts, but it also calls upon our greatest, yet all too often untapped, resource—American ingenuity. For the key to that bill is not that you get a tax credit for the mere installation of energy saving equipment, but rather that the installation and operation of that equipment resulted in significant demonstrated energy savings.

In conclusion, let me reaffirm my commitment to using this brief-respite from the oil shortages of the past to implement Federal policies which seek to tap those energy resources found in our own backyard.

Senator PACKWOOD. We will start out this morning on S. 1449, a bill which will allow citizens to be able to take loans in their own States for alternative energy property without losing the tax credit that they are entitled to otherwise take at the Federal level and under the normal Federal energy tax credits.

Oregon is one of the States that has pioneered the use of alternative energy loans and alternative energy credits, including solar energy. And yet, citizens in that State, and I assume others if they have similar loan provisions, are prohibited from taking a Federal tax credit or certainly get a reduced Federal tax credit if they are also entitled to a loan in their State to help them install alternative energy.

The Federal tax credit, when I introduced it and expanded it, was never intended to be an alternative to whatever benefits may be available at the State level. Some States may not have income taxes, so you have no credit that you can take the tax against. Obviously, the solar energy problems or the alternative energy problems of Florida or Hawaii may not be the same problems in Oregon or Massachusetts. And we did not mean by the passage of this Federal credit to make it more difficult for people to obtain alternative energy financial help, in whatever form it may take, from the States that choose to give it. And this hearing today is to address itself to that problem.

We will start with Mr. Lynn Frank, the Director of the Oregon Department of Energy, representing both the State of Oregon, in this case, and the National Governors' Association.

Mr. Frank.

Mr. FRANK. Thank you, Mr. Chairman.

Senator PACKWOOD. I will say to the witnesses again: I know you have all been notified, but your entire statements will be in the record, and we will adhere to the time limits that this subcommittee has been following. You don't have to even ask to have your statement put in the record, nor do any of the witnesses. It will be.

STATEMENT OF LYNN FRANK, DIRECTOR OF THE OREGON DEPARTMENT OF ENERGY, ON BEHALF OF THE NATIONAL GOVERNORS' ASSOCIATION

Mr. FRANK. Thank you, Mr. Chairman.

I wish to express my appreciation for the opportunity to provide testimony and support of Senate bill 1449 on behalf of both my department and the National Governors' Association. This legislation would accelerate the development of solar energy, energy conservation and other renewable energy resources both in Oregon and in the country, and I urge its adoption.

With your permission, Mr. Chairman, I will briefly introduce my prepared testimony and then submit that testimony for the record.

Mr. Chairman, energy is our lifeblood. It warms and lights our homes and supports the economy which sustains us. Oregon's energy demands, like those of the Nation, are growing. Our best guess—and that's all any forecast can be, is our best guess—is that Oregon's total energy demand will increase at an average annual rate of some 1.1 percent over the next two decades. While down substantially from the 2.8 percent average annual rate of growth of the last two decades, it will still represent a significant 24 percent increase by the year 2000.

Petroleum, which represents roughly half of our total energy consumption is projected to grow at a relatively slight average annual rate of growth of six-tenths of 1 percent. And yet, by the year 2000 that will represent nearly 1 million gallons a day more in consumption in Oregon alone.

This Nation, like Oregon, remains dependent on unreliable and uncertain sources of foreign imported oil. And we simply must be prepared to address that problem today and in the future.

Natural gas will continue to grow in energy consumption at 1 percent average annual rate. Oregon imports most of our natural gas from Canada, but prices are tied to the world oil prices. While discoveries in Canada and the Rocky Mountain States offer great promise, there are no guarantees; and, indeed, the Canadian National Energy Board is forecasting shortages in the 1990's.

Yet, the strongest rate of demand growth is projected for electricity. We are forecasting that our demand for electricity will grow at an average annual rate of some 2.1 percent. While that doesn't seem significant, by the year 2000 we are talking about a 52 percent increase in total electricity consumption in the State of Oregon. Mr. Chairman, that increasing demand is fueled by population growth and by growth in jobs. Energy, by definition, is work, and to support those jobs we will need more energy.

Meeting those growing energy demands will be one of Oregon's and indeed the Nation's greatest challenges, for there are no simple or single answers. Whatever one's preferences are, over the near term we have few choices. Conservation and renewable resources simply must play a significant role. But while all these resources hold great promise, achieving them is going to place significant demands and responsibilities on us all.

Oregon has taken the initiative. In 1979 the Governor appointed an alternative energy development commission which took a good, hard look at what Oregon can and must do to develop our own energy resources to become more energy self-reliant. That commission's recommendations formed the basis for a comprehensive special energy program, which Governor Atiyeh offered the Oregon Legislature in 1981, and that program was virtually adopted with over 23 bills passed by the Oregon Legislature.

Since 1977 the State of Oregon has granted or certified more than $35 million in State tax subsidies for residential and commercial use of conservation in renewable resources. Utility-subsidized loans have stimulated an additional $70 million in conservation. Great strides have been made in achieving renewable energy resource development in the State, and yet we have learned that that alone will not be enough. And Oregon has taken the initiative in offering some comprehensive programs to offer low-interest loans to consumers—6½ percent low-interest loans through commercial lending institutions, low-interest loans through the sale of State general obligation bonds for small-scale local energy projects, low-interest loans through the Department of Veterans' Affairs.

And yet, while these programs hold, again, great promise, that promise has not yet been fulfilled, for we have offered with one hand and taken with the other, because the people who take advantage of those low-interest loan programs cannot under current Federal law obtain Federal tax credits.

Mr. Chairman, if we are to achieve that potential, it's going to demand initiative and achievement, but with your support in the passage of Senate Bill 1449, we can do much more.

[The prepared statement follows:]

Testimony of
Lynn Frank, Director
Oregon Department of Energy
on Behalf of the National Governors' Association

Before

Subcommittee on Taxation and Debt Management and
Subcommittee on Energy and Agricultural Taxation
Committee on Finance
United States Senate
Washington D.C.
December, 1981

I. Introduction

Senator Packwood, members of the committee, I wish to express my appreciation for the opportunity to provide testimony in support of Senate Bill 1449 on behalf of both my agency and the National Governors' Association. This legislation would accelerate the development of solar energy, energy conservation and other renewable energy resource development in the United States. Solar energy, other renewable resources and conservation have substantial potential to contribute to our nation's energy resources.

II. The Need for S. 1449 to Help States Accelerate Development of Conservation and Renewable Resources

In Oregon, the 1979 Legislature established an Alternate Energy Development Commission to assess the potential contribution from conservation and renewable resources to Oregon's future energy supply, and how best to realize that potential. The Commission concluded that renewable energy and energy conservation in Oregon could produce, by the year 2000, the equivalent energy of almost 6 large coal-fired electric generating stations. Perhaps even more importantly, these resources are among the few options available over the near-term because of the long lead times required to build major fossil and nuclear fueled generating facilities.

The Commission provided a comprehensive plan for renewable resource development in the State of Oregon. That plan was the basis for the Special Energy Program submitted to the 1981 Legislature by Governor Vic Atiyeh. The Legislature endorsed most of the Governor's energy program and passed 23 energy bills sponsored by the Governor. I have enclosed a copy of the Commission's Report and the Governor's energy legislation for your information.

Since 1977, the State of Oregon has granted or certified more than $35 million in state tax subsidies for residential and commercial use of conservation and renewable energy resources. Utility subsidized loans have stimulated an additional $70 million in conservation actions.

Great strides in the development of renewable energy resources, both in Oregon and nationwide, have already been made. For example, there were 600 applications for the state tax credit in Oregon in 1979, while we have received almost ten times that many this year. However, if progress is to continue, the states and the federal government must continue their support. Senate Bill 1449 is a vital element in this effort.

This can be effected with relatively small costs to the federal government. This bill revises the changes to the Internal Revenue Code made by Section 203 of the Crude Oil Windfall Profits Tax Act of 1980. Section 203 amended Section 44 of the Internal Revenue Code to prohibit a taxpayer from using a government-subsidized federal, state or local loan for energy conservation or renewable resource projects and still qualifying for the federal tax credit.

The key term is "subsidized energy financing". Section 44(c)(10) as amended says 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".

The federal tax credit, of course, is crucial in terms of the overall economics of developing renewable resources. For example, the renewable energy federal tax credit amounts to 40 percent of the first $10,000 spent on solar energy. But in some cases, the tax credit comes to the taxpayer more than a year after the initial investment has been made. For purposes of cash flow, most individuals need upfront financial assistance in the form of a loan as well as the tax credit later.

The perceived high costs for solar energy systems, so perceived because they are up-front costs, discourage homeowners and builders from utilizing solar. In Oregon we have learned that the term of the loan and the amount of monthly payments are critical for individual determinations of the economics of renewable resources. However, because of the newness of the market and unfamiliarity with products, long-term loans are, for the most part, unavailable. Consequently, the consumer is confronted with the initial cost of the system as a significant financial barrier.

This is where tax credits and state loan programs can be important. Tax credits can help stimulate the market during its early phases by reducing the amounts of the loan that must actually be financed. State loans can provide low monthly payments on the amount that must be financed by providing long term loans at low interest rates thereby making solar energy affordable to a greater number of families until long-term financing becomes readily available.

III. State Programs Affected by Current Federal Tax Restrictions

The State of Oregon, for example, has three upfront financing programs to help individuals, small businesses and industry to develop conservation and renewable energy resources. The effectiveness of all three programs is jeopardized because of the probable unavailability of the federal tax credit to those who we seek to help.

The first program offers state-subsidized low-interest loans for residential weatherization and conservation. Homeowners can finance weatherization and conservation with 6.5 percent interest loans from commercial lenders. The difference between the 6.5 percent rate and the lender's market loan rate is paid by the state through a corporate tax credit for lenders. There is no direct or indirect subsidy by the federal government.

The second program is Oregon's Small Scale Energy Loan Program. Individuals, small business, municipal governments and other non-profit organizations are eligible for low interest loans financed by the sale of state general obgligation bonds.

Mr. Chairman, your efforts and the efforts of this committee were instrumental in providing federal legislation that made this program possible.

This program has been a particularly creative approach on the part of both the federal and state government. Under the terms of the legislation passed by Congress in Section 243 of the Windfall Profit Tax Act, the state bears the financial risk of issuing general obligation bonds to fund renewable resource projects. Fees paid by borrowers pay program costs.

The third program involves the Oregon Department of Veterans' Affairs Housing program. Veterans are eligible for low-interest farm and home loans. As part of this program, up to $5,000 in addition to the home mortgage loan may be borrowed to finance renewable resource and conservation measures on the same residence. These measures are financed with general obligation bonds issued by the State. The program is self-financed by loan repayments.

My testimony so far has focused on initiatives undertaken by the State of Oregon because those are the examples with which I am most familiar. Yet other states are also undertaking similar measures. At least 14 states have established state financed loan programs since 1977. Under current federal law, citizens who participate in any of these programs lose the benefit of the federal tax credit. Other states are considering establishing loan programs to provide incentives for conservation and renewable resources, but the loss of the federal tax credit removes the incentive for such actions. Consequently, the National Governors' Association strongly supports Senate Bill 1449 and the elimination of the double benefit restriction.

IV. Adverse Impact of Current Federal Restrictions on Conservation and Renewable Resource Development

The expressed concern which motivated the House and Senate Conference Committee that wrote the amendment included in the Windfall Profits Tax Act was twofold. The first concern was to assure that a federal tax credit would not be available to a person who also sought federal assistance from the federal Solar and Conservation Bank, legislation which passed Congress at approximately the same time as the Windfall Profits Tax Act.

The second concern, as evidenced in the Committee Conference report, was that by parlaying several publicly-subsidized incentives, a project could be financed with very little out-of-pocket investment by the developer.

I would like to focus on both of those points today, because the consequence of the prohibition in the legislation extends far beyond those issues. Specifically, the Conference Report indicates that the federal prohibition would not apply to state tax credits because state income taxes are deductible from federal income taxes and a state tax credit -- which is a credit against state income tax liability -- does not result in a loss of federal income tax revenue. Thus, states can provide a state tax credit for conservation and renewable resources without jeopardizing the taxpayer's federal tax credit. Conversely, under this law, a borrower cannot take advantage of a state-subsidized financing program to help cover upfront capital costs and claim the federal tax credit.

Two points should be kept in mind in evaluating Oregon's Loan programs and similar programs established by other states.

First, the loan is just that -- a loan. The taxpayer is receiving access to low-cost money to finance the construction and installation of these resources. The borrower is, nevertheless, obliged to repay the loan. Second, it is the state, not the federal government, which primarily is financing the loan and undertaking the risks of the loan, through a commitment of the state's general fund.

If the federal government wants citizens to choose subsidized federal financing OR federal tax credits -- which was the original intent of the Conference Committee -- the prohibition in Section 203 should apply only to federal financing. However, to preclude individuals who obtain financing from using a tax credit while allowing individuals who have a state tax credit to obtain a federal tax credit, is not only unduly restrictive but inconsistent policy. It frustrates the diversity of incentives we need to make renewable resources viable. It also deprives states of the flexibility to develop creative financing programs for energy resources. Under current law, states essentially have no options for an incentive program for renewable resource and conservation except a state tax credit. Other options, including the three Oregon programs I have described, are severely limited because participants must forfeit the federal tax credit.

Mr. Chairman, I can provide a dramatic example of where the unavailability of the federal tax credit has significantly lessened the development of renewable energy resources.

In 1980, approximately 1000 interested persons asked to be placed on Oregon's new Small Scale Energy Loan Program mailing list. After the state's Attorney General reported that applicants under the loan program could not receive the federal tax credit, a statistical sampling was taken from that mailing list. Contacted by telephone -- none of the randomly selected parties on the list said they intended to apply for a loan. Loan applications were sent to the list anyway but only 66 applications have been filed in over six months.

There is another consideration during these difficult economic times, and that involves the very high interest rates.

When Congress in February of 1980, raised the residential energy tax credit to 40 percent of the first $10,000, it ruled that a borrower at subsidized rates (which would then have been 6 to 9 percent) could not receive the tax credit. It awarded the tax credit to borrowers paying commercial rates (which were 12 to 13 percent).

However, today national home mortgage rates are about 18 percent and general obligation bond loan programs must charge rates of 12 to 14 percent. In other words, a subsidized loan today is as costly as a commercial loan was when the tax credits were authorized.

The subsized loan and tax credit together provide less of an incentive today than the tax credit alone did when approved in 1980. The development of solar energy, especially in these difficult economic times, requires the flexibility provided by S. 1449 to design creative financing programs.

I have provided below a chart comparing the impacts on the taxpayer of a state loan with and without the federal tax credit compared to a commercial loan where the federal tax credit is available. The table assumes that a commercial loan is available for a maximum of five years and the state loan, such as in Oregon's program, is available for ten years. The table demonstrates three things: (1) that the state loan, because it is at lower interest and for a longer period, provides a substantially reduced monthly payment, (2) without the federal tax credit, the state loan will cost the taxpayer over twice as much in actual cash outlays as a commercial loan with the tax credit (because of the longer amortization period of the state loan), (3) that even with the federal tax credit, a person using the state loan actually pays more in total cash payments than would be required for a commercial loan. Thus, the Conference Committee's concern that a person taking advantage of both a subsidized loan and a federal tax credit could obtain a renewable resource device without any substantial personal investment is unfounded.

		Case 1 13% 10 yr. State Loan (no credit)	Case 2 13% 10 yr. State Loan (with credit)	Case 3 16% 5 yr. Commercial Loan
1.	Amount Financed	10,000	10,000	10,000
2.	By applying tax credit (except in case 1) and monthly payments, balance at end of first year is	9,478	5,478	4,648
3.	Total cash outlay by project owner over term of loan	17,917	8,809	8,374
4.	Monthly payments	150	150	254

V. Conclusion

Senate Bill 1449 removes the restriction on state options and gives the states the flexibility necessary to develop incentive programs which complement the federal tax credits.

Senate Bill 1449 assists individuals, business and industry to meet the high upfront capital costs of renewable resources by enabling states to develop loan programs which effectively complement the federal tax credit.

I have provided more detailed information for the committee, attached as Appendix A to my testimony. This attachment provides more information about Oregon's programs to promote energy conservation and renewable resource development.

Thank you for your consideration in this important matter and for your assistance.

LF/MWG:cs
7236B

Attach.

Attachment A

I. OVERVIEW AND SUMMARY OF OREGON PROGRAM ENERGY SAVINGS

Energy conservation repeatedly has been recognized by numerous authorities as our cheapest and most readily available energy resource. In recent years in the Pacific Northwest, we have been threatened not only by petroleum shortages, but by drought-induced electricity shortages as well. Energy conservation has become increasingly important as an additional resource. Our region's strong interest and effective actions in energy conservation are reflected in the recently passed Pacific Northwest Electric Planning and Conservation Act, Public Law 96-501.

Energy conservation, as we have pursued it in the Northwest, does not imply discomforting changes in life style. It does not mean significant alterations in energy use patterns or end use products. Conservation is the more efficient use of the energy we have. The potential energy savings from improved energy efficiency in all sectors of the economy is enormous. Nationally, we have seen improved efficiencies in appliance standards, automobile fuel efficiency requirements, and in such electric utility use patterns as street lighting by cities and counties. Similarly, the use of renewable resources in the near term in small decentralized ways offers near-term promise of immediate payback.

A question frequently asked is how much of this would have happened anyway as a result of rising energy prices? That is not an easy question because the models and methods which energy planners use to calculate priced-induced energy savings are fairly new. Nevertheless, in Oregon our preliminary figures show that in electricity alone, energy savings directly attributable to programs initiated by the State of Oregon are likely to result in energy savings equivalent to 500 to 700 average MW by the year 2000. Those savings represent the displacement of the need for two additional large coal plants costing from $1 to $2 billion dollars each.

Another factor in the riddle of "price-induced conservation" is that econometric models can calculate energy savings, but cannot tell how you achieve those savings. That is, even though higher prices will result in lower consumption, such reduced consumption may result in adverse economic and social impacts in the absence of well-designed federal and state programs.

There is an important distinction between reduced consumption and energy conservation. Sudden price-induced reduced consumption can result in adverse changes in lifestyle or serious economic or social hardship, whereas well-planned energy conservation programs can reduce consumption by increasing energy efficiency.

Oregon's energy potential from both conservation and renewable energy resources is substantial and we have aggressive programs to capitalize on those opportunities.

Governor Victor Atiyeh has recommended a Special Energy Program to the Oregon Legislature to expand and broaden conservation and renewable resource incentives for Oregonians. As approved by the Legislature, this package commits $6.5 million of State funds over the next two years. In addition to funds to the State's Energy Department, this program will finance energy related activities of other State agencies including incentives for mass transit, land use, air and water quality, fish & wildlife and other state and local government activities that promote energy conservation and renewable resource development.

State funding for the Oregon Department of Energy is evidence of our commitment and our ability to supplement federal funds to develop effective energy programs.

For example, over the past five years, the State of Oregon has provided $11.3 million--75 percent--of the financing for all energy-related programs. The Oregon Department of Energy's budget has matured from a budget largely financed by the federal government to one increasingly supported by the state. In the 1975-77 biennium 60 percent of the Department's $1.5 million budget was federally funded. In 1979-81, federal funds comprise 50 percent of the Oregon Department of Energy's $6.6 million budget. The Governor's recommended budget for the department in 1981-83 is $10 million, of which only 39 percent would be federal funds. The Governor's proposed Special Energy Program which includes 23 pieces of legislation on conservation and renewable resources, is almost entirely state-funded and, all told, 67 percent of the costs of all energy programs in Oregon over the next two years will be financed by the state. A more detailed breakdown of our current budget is provided in the table on the following page.

While this state-to-federal funding pattern is higher in Oregon than in most other states, it demonstrates the effectiveness of a state/federal working partnership and how a resourceful state uses federal funds in a meaningful way.

The Oregon Energy Facility Siting Council, which is the body responsible for energy planning in the state of Oregon and the siting of energy facilities, recently concluded a rulemaking proceeding on future electricity demand and a master plan for meeting that demand in the state of Oregon.

Over the next ten years, the Siting Council estimates that conservation (including priced-induced and specific programs) and renewable resources will provide about 40 percent of the load growth projected to be experienced by Oregon electric utilities. This is a total of approximately 800 average MW, of which 500 is conservation and 300 is renewable resources. By the year 1995, the Siting Council estimates that 900 MW can be saved through energy conservation and an additional 450 MW can be obtained through renewable resources, principally, hydroelectric, cogeneration, geothermal electric and wind.

Based on this assessment, the Siting Council estimates that while the state of Oregon will require approximately three additional coal plants between now and 1995, the remainder of its load will be met by conservation and renewable resource programs. In a sense, the state is putting its money where its mouth is because absent a clear showing that these estimates are wrong, an application for additional thermal facilities or other energy facilities which do not meet this pattern established by the Siting Council will not be approved. This is an ambitious program but it is a program which the State believes is well grounded, both in its experience and in the analytical studies it has done of the potential for energy conservation and renewable resource development.

The state has made similiar strides in non-electric energy as well. In 1979, Governor Atiyeh requested the Oregon Legislature to establish an Alternate Energy Development Commission with the state of Oregon to quantify the potential for renewable resources and to establish a plan and a course of action for maximizing those potential resources. The Commission established six task forces to focus on the major renewable resource areas of hydro electric, geothermal, biomass and wood energy, solar and energy conservation, wind energy and alcohol fuels.

The Commission's final report was issued in September 1980 and was the basis for the Governor's Special Energy Program. It provides estimates of achieveable energy savings by the year 2000 and renewable resource development as well as how those means can be achieved. In some cases both federal and state financial assistance are necessary. In other cases no financial assistance is necessary, rather it is a question of removing institutional barriers such as leasing of public lands with adequate environmental safegards.

The Commission concluded that all of Oregon's demand growth theoretically could be met between now and the year 2000 by undertaking measures to promote energy conservation and renewable resources. In fact, the Commission's recommendations, which were the basis for the Governor's Special Energy Program, recommend attempting to meet between 10 and 20 percent of this demand growth in all sectors through conservation and renewable resources with a program that will cost the State nearly $700 million between now and the year 2000.

A more detailed description of the State's existing conservation and renewable resource programs is provided below.

A. Oregon Conservation Programs

1. Incentive Programs for Existing Residences

Oregon homeowners are offered a strong package of conservation incentives. The Common Cause report called Oregon's weatherization loan program one of the best in the nation.

a. Private Utility Weatherization Programs. Investor-owned gas and electric utilities serving Oregon are required to provide to their space heating customers a free home energy analysis and to arrange for low-interest financing and installation of weatherization. The interest rate for the loans is 6.5 percent. Oregon's investor-owned electric utilities-- Pacific Power and Light, Portland General Electric and C. P. National-- also offer loans on an interest-free, deferred- payment basis. After nearly three years of program operation, 28,231 homeowners had requested no-interest loans and 8306 had requested 6.5 percent loans. A total of 102,227 households requested an energy analysis.

b. Publicly-Owned Utility and Oil Dealer Programs. Publicly-owned utilities and large fuel oil dealers are also required to offer a free home energy analysis to their space heating customers. Customers are provided information on registered contractors and commercial lenders offering 6.5 percent loans. As of July 1981, publicly-owned utilities and oil dealers had conducted more than 28,042 home energy audits. Oregon Department of Energy estimates that lenders processed 9,967 weatherization loans during that period.

c. Weatherization Tax Credit/Grant. Oregon taxpayers previously could claim a personal income tax credit of 25 percent of weatherization costs up to $125 for adding such materials as caulking, weatherstripping, insulation, and storm windows to their primary residence or to a rental occupied as a primary residence. Approximately 159,577 tax credits were claimed for weatherization installed between October 1977 and December 1980, for a total state subsidy of over $14 million.

   The 1981 Legislature replaced the tax credit program with a utility grant program, which will provide Oregonians with cash grants of up to $350 for 25 percent of the costs of the weatherization activities previously eligible for the tax credit.

d. Veterans Weatherization Loans. To qualify for a Department of Veterans' Affairs (DVA) loan, a home built before July 1974 must meet minimum weatherization standards. The cost of weatherization can be added to the principal of the DVA loan. Between October 1977 and July 1981, nearly 47,000 homes were weatherized under this program.

2. New Construction

Every new commercial and residential building in Oregon is required to meet statewide energy conservation standards. The Oregon residential code has one of the strongest conservation standards in the nation. A recent study estimates that Oregon's 1974 residential code (which has since been substantially upgraded) reduced space heating energy use in natural gas heated homes by 40 percent compared with homes built before the code took effect.

New commercial and institutional buildings constructed in Oregon are not permitted to exceed maximum lighting power standards, and Oregon has a voluntary lighting power standard for existing buildings. With federal funds workshops have been conducted for architects and engineers to assist them in complying with the lighting standards and the structural code conservation standards. Federal funds are also enabling the Oregon State Homebuilders to conduct training sessions on energy-efficient construction techniques that comply with and often exceed code requirements.

Oregon law requires new multiple-unit residences to have separate electric metering for each unit, a requirement that a 1975 Federal Energy Administration study estimated could result in a per unit electricity savings of about 35 percent. In addition, natural gas furnaces, water heaters, clothes dryers, ranges, and pool heaters sold in Oregon are required to have intermittent ignition devices to eliminate pilot light waste.

3. Utility Rates

Oregon is one of the few states whose utility commissions have prohibited declining-block rates and one of three states setting rates for at least one class of customers based on marginal cost. The state's two largest electric utilities have recently adopted an inverted rate structure for residential customers.

4. Low-Income Weatherization Assistance

Oregon's share of the federal weatherization program for fiscal year 1981 should be approximately $3 million, enough to weatherize 3,500 homes of low-income families.

5. Public Information

Oregon Department of Energy has developed and distributed a number of instructional public service announcements and quality publications, including "Weatherization and Alternative Energy Incentives for Oregonians", "Weatherization: One Step at a Time", "The Oregon Sunbook", "The Oregon Wind Book", and "The Oregon Wood Heat Handbook". The publications have been widely distributed and well-received.

6. Local Government

Oregon Department of Energy has developed an innovative pilot Local Government Technical Assistance Program for Energy Management. The program is in two parts. The first provides selected cities and counties with help from a team of volunteers skilled in such fields as energy conservation, finance, engineering, architecture and planning. The team spends several days working with staff and officials on the energy issues identified by the local governments and provides written recommendations.

The second part is a series of workshops for local governments on energy conservation project needs they have identified in a statewide survey. Workshop topics will include fleet management, street lighting, solid waste, and developing an energy program.

Oregon Department of Energy has also offered a local grant program for energy conservation and renewable resource projects. The program provides seed money to local governments and non-profit community groups to develop a wide range of innovative energy projects meeting local needs. In fiscal year 1980, nearly $200,000 was provided to local governments in Oregon under this program.

Oregon Department of Energy is involved in Oregon's comprehensive planning process in which cities and counties are required to develop land use plans which conform to Statewide Land Use Planning Goals and Guidelines established by the Land Conservation and Development Commission. Goal 13 specifically requires that local plans include an energy element. Oregon Department of Energy has developed two handbooks to assist local planners in developing their energy elements. Oregon Department of Energy is also in the process of reviewing and commenting on all 287 local plans and providing technical assistance in developing plans and implementing ordinances encouraging energy-efficiency.

7. Commercial/Industrial

Oregon Department of Energy operates a Clearinghouse designed to help commercial and industrial energy users share information about energy conservation efforts. In the first full year of operation, nearly 1,000 representatives from Oregon commercial and industrial firms have attended Clearinghouse conferences and technical workshops to discuss energy economics and energy-efficient business operations. Oregon Department of Energy conducted the Second Annual Governor's Energy Management Conference in April 1981.

Five regional Boiler Efficiency Workshops instructed commercial/industrial boiler owners in the efficient operation of oil and gas-fired boilers. Workshops on Energy Efficient Lighting Techniques were conducted this spring. In addition, Oregon Department of Energy is conducting a Grocery Store Demonstration Project which offers energy conservation studies to ten selected grocery stores. Results will be compiled in a manual for use by all Oregon retail grocers. A video tape on energy-saving operational and maintenance techniques will be developed for grocery owners, managers and employes.

Many Oregon businesses and major trade associations have contributed technical and financial testimony on proposed energy legislation and adminstrative rules for tax incentives and loans for energy conservation and renewable resource projects. The Clearinghouse also sends a quarterly newsletter to Oregon businesses.

89-318 O - 82 - 5

8. State Energy Management

Between 1976 and 1979, the State of Oregon reduced building energy use by 21 percent. Most of the reduction is the result of no-cost and low-cost energy management techniques. There remains substantial potential for reduced energy consumption in state-owned and managed buildings. Governor Atiyeh has set a goal of 20 percent reduction in 1981 compared with 1976.

State building managers use computerized records to identify buildings that are wasting energy. State building operations staff are trained under the federal Institutional Buildings Grants Program to conduct energy audits of their buildings. Conservation measures identified by the audit and subsequent feasibility studies have been carried out in nine state facilities at a cost to the state General Fund of approximately $750,000.

9. Institutional Buildings Grants Program (IBGP)

The Institutional Buildings Grant Program was established as a result of the National Energy Conservation and Policy Act of 1978. This three-year program provides an opportunity for Oregon schools, hospitals, local governments, and public care institutions to receive cost-sharing grant funds from USDOE to conduct energy audits, technical assistance studies, and, in the case of schools and hospitals, to actually install energy conservation and renewable resource measures. Eligible institutions must match the federal funds dollar for dollar.

Oregon schools, hospitals, public care institutions and units of local government have spent more than $4 million to match federal funds for energy conservation activities since 1980. More than 1,200 energy auditors have been trained by Oregon Department of Energy, 1,000 on-site energy audits have been done and more than 275 technical assistance studies have been completed. One hundred sixteen energy conservation projects have been funded and institutions participating in the program will save nearly $2 million in annual energy costs. We estimate that the total energy savings attributable to the program would annually heat about 31,000 electrically-heated homes.

10. Energy Extension Service

Oregon's Energy Extension Service (EES) was begun in March 1980 by Oregon State University Extension Service under contract with Oregon Department of Energy. The federally-funded EES provides personalized energy conservation services to small energy users. Oregon's EES emphasizes conservation help for small businesses and homebuilders, and renewable resource assistance for individuals.

In the first year of operation, Oregon's six energy extension agents have provided energy information, technical assistance, or renewable resource education to more than 13,000 Oregonians. The agents work primarily in Washington, Clackamas, Lane, Coos, Jackson and Deschutes counties. The programs and target audiences include:

a. A Citizen Response Program addresses specific requests or needs for information on conservation and renewable resource opportunities. More than 1,800 people have attended EES-sponsored solar water heating workshops.

b. A Builder/Contractor Program offers energy-efficient design and construction information to residential contractors. This effort has included workshops and presentations to homebuilder, realtor and appraiser organizations. Over 500 Oregon realtors have completed a four-hour course.

c. The Master Conserver Program has trained more than 300 volunteers in the Portland and Lane County areas in weatherization and renewable energy resources. Each of these trained volunteers in turn agrees to spend at least 40 hours providing others in their communities with energy information and technical assistance. These 300 volunteers will contribute up to 12,000 hours of energy education to the community.

d. A Small Business Program emphasizes energy efficient equipment and business operation. In 1980, the EES target has been restaurants, hotels, and motels. Eight seminars for the food service industry were conducted in conjunction with the Restaurants of Oregon Association and the Oregon Department of Energy Clearinghouse for Commerce & Industry.

   In 1981, EES will modify energy information services to small business owners to provide more individualized assistance through on-site counseling.

   The Oregon EES program is in the process of conducting an evaluation of the effectiveness of certain programs it has offered in its first year of operation. An evaluation of the 10-state, two-year EES national pilot program showed that EES clients took half again as many conservation actions as each non-client. The evaluation also estimated that the EES program nationwide was responsible for energy savings of 6,400 barrels of oil per day beyond what would have been saved without the program. In terms of cost-effectiveness, the cost of achieving the additional energy savings averaged $8.50 per barrel of oil equivalent, compared to the $30 to $35 cost of a barrel of imported oil. The national evaluation further found that EES leveraged $16 of private conservation investment for every EES dollar expended.

11. Transporation Conservation

a. Statewide Ridesharing. Oregon's statewide ridesharing program is being expanded from its initial survey role to an effective role promoting employer ridesharing throughout the state. The expanded program will offer technical assistance and materials to employers and local governments.

b. Contingency Plan. The Oregon Department of Energy "Middle Distillate and Gasoline Contingency Plan" has recently been updated. The plan was established in 1979 with the help of the Oregon Department of Transportation and a citizens advisory committee.

   Phase I of this three phase plan was implemented in response to the petroleum shortage of 1979 and contributed to the absence of the disruptions experienced in many of the larger states.

c. State-Owned Vehicle Conservation. Increased energy awareness in the management of Oregon's state vehicle fleet has resulted in an improvement in energy efficiency. Gasoline consumption in 1980 was 6.4 percent less than 1979 and state vehicle mileage down roughly 4 percent for that same period. Consumption in 1980 was down 11 percent from 1978 in compliance with an Executive Order from the Governor in April 1979 establishing the State Vehicle Mileage Reduction Program.

d. Ramp Metering. Ramp metering (controlled freeway access) has been established along one of the state's busiest freeway corridors with an estimated savings of 20 percent of the energy used on that corridor. An estimated 28 percent reduction in travel time and 30 percent increase in freeway capacity has also been experienced for that corridor.

e. National Gasoline Targets. Oregon met all the voluntary gasoline conservation targets established by U.S. DOE. Oregon achieved this through the state's aggressive public outreach campaign and through the voluntary efforts of informed Oregonians.

f. Educational Efforts. The state is preparing an energy conservation curriculum unit for use in high school driver education classes. The current curriculum does not cover energy conservation awareness or techniques.

g. Local Government Program. A fleet management training program will be targeted at local governments in an effort to reduce consumption. The project will initially train a limited number of persons to instruct fleet operators in energy-efficient vehicle operations.

h. Pending State Legislation. The Governor's Special Energy Package includes two bills which will result in transportation energy savings: Senate Bill 121 which would facilitate special events mass transit, and House Bill 2257 which excludes from Oregon taxable income payment received as part of a nonprofit ridesharing arrangement.

Other important transportation bills before the 1981 Legislature are SB 53 and SB 54, which remove the uncertainties concerning insurance and workmans' compensation matters for vanpools and carpools. SB 71 establishes a transit pool and central purchasing agency for the state's transit districts. SB 286 provides a tax credit for employers who provide public transit passes to their employees. HB 2058 provides money to local transit districts in lieu of state payroll taxes.

B. Renewable Resource Programs

1. Small Scale Energy Loan Program

Oregon Department of Energy began taking applications for this new program in March 1981. The program provides long-term, low-interst loans and complements state tax incentives for energy development from solar, wind, geothermal, hydro, wood wastes, agricultural residues, waste heat and alcohol fuels.

Oregon Department of Energy will issue general obligation bonds to make loans to individuals, small businesses, non-profit cooperatives and corporations and municipalities. The loan program is designed to be self-sustaining. Income from loans and investments of bond proceeds are to pay all program costs. Loan activity is expected to be from $20 to $40 million per year, with a maximum bond ceiling of over $350 million.

2. Commercial/Industrial Tax Credit

Oregon offers a 35 percent tax credit for business and industry investments in renewable resource energy equipment. In its second year the program has received 160 applications representing total investments of more than $26 million. Nearly 94 percent of the projects are under $100,000. Approved projects use solar energy, waste heat recovery, wind, hydro, geothermal, alcohol, wood, and cogeneration.

3. Residential Energy Tax Credit Program

This tax credit, adopted in 1977, encourages residential solar, wind, geothermal and hydro resources. The tax credit provides a credit of 25 percent of the amount spent on a renewable resource up to a maximum credit of $1,000. The participation in the tax credit program has increased dramatically. In 1978 the Department certified 209 applications for tax credits. Applications more than doubled in 1979 and increased to over 2,600 in 1980, and are already over 4,100 so far in 1981. Higher energy costs, consumer awareness, attractive federal tax credit and aggressive marketing by solar industries all contributed to this increased use of the tax credit.

4. Appropriate Technology Grant Program

The Oregon Department of Energy helped to administer a federal grant program for innovative, small-scale energy projects. The Department reviewed and prioritized the applications that were received and made recommendations to the U.S. Department of Energy for awards. Twenty-six Oregon projects received grants totalling more than $236,000. These included hydroelectric, solar, wind, alcohol, waste recovery, wood combustion and energy-efficient farming programs. Nine additional alcohol production projects were supported by grants from the federal Office of Alcohol Fuels.

5. Geothermal Energy Development

Geothermal energy has significant potential in the state of Oregon. Geothermal energy potential in Oregon is substantial. The State has estimated that geothermal energy is capable of displacing 7 million barrels of oil annually. The heating potential for electric energy is 27 trillion Btus per year and an additional 66 trillion Btus of thermal energy per year, an amount equivalent to six coal plants. The State of Oregon is aggressively attempting to explore and develop these resources. The State of Oregon is developing this through a three-pronged approach.

a. Through the Oregon Department of Energy's outreach and information programs.

b. Through the exploration and drilling undertaken jointly by industry and the State's Department of Geology and Mineral Industries.

c. Technical assistance programs offered by the Oregon Institute of Technology.

As a result of these programs, Klamath Falls, Oregon and Boise, Idaho already make wide spread use of geothermal resources for space heating. The OIT Technical Assistance Program provides engineering, economic and planning assistance to near-term direct geothermal projects. Organizations that have received this form of assistance include the City of Vale, local schools, community colleges and hospitals, as well as industrial facilities. Heating districts are likely to be established in Vale, Oakridge, Lakeview, La Grande and the Klamath Falls system is likely to be expanded soon.

Finally, the State Geothermal Planning Fund provides environmental review of geothermal development and establishes a planning process that includes resource data compilation, information dissemination, coordination with federal, state and local agencies, analysis and resolution of institutional impediments, and resource planning assitance for local governments.

6. Biomass and Waste Heat Utilization

The Oregon Department of Energy is working closely with industry for the use of biomass and wood wastes in the Pacific Northwest. For example, the cogeneration potential in the Northwest is very high. The Department is working to identify industries which have sufficient waste heat potential available to establish district heating projects or cogeneration projects. At least one, Lake Oswego, has undertaken a feasibilty study, federally funded, for a district heating system. The forest products industry's interest in cogeneration is very large. One application, the site of a 38 MW cogeneration facility, has been approved by the State Energy Facility Siting Council. Applications for two additional facilities of 24 and 50 MW are likely to be filed within the next year.

At the same time, the staff of the Department is working with the Public Utility Commission to establish incentives for cogeneration in utility rates and to provide wheeling for cogenerated power in order to provide the financial and institutional incentives needed to make these projects commercially feasible.

7. Hydro Planning Group

The Hydro Planning Group is a program consisting of the Oregon Department of Energy and representatives from eight other State natural resource agencies. The Hydro Planning Group has evaluated all the potential hydroelectric generation sites provided by the U.S. Army Corps of Engineers National Hydro Power Study and has rated these sites as suitable, less suitable or unsuitable for hydroelectric development. Based upon the Hydro Planning Groups recommendations, expedited siting applications will be entertained for those applications deemed suitable.

8. Solar Energy

a. Solar Access. The Oregon Department of Energy has initiated a major program of technical assistance to encourage cities and counties to adopt ordinances to provide and protect solar access. Solar access can save 5 to 15 percent of a home's space heating energy requirements, reduce conflicts between homeowners as the number of solar installations increases, preserve the opportunity for future retrofits, and encourage private investments in solar energy by assuring access to sunlight.

Two Oregon communities have adopted ordinances recognized to be among the best in the nation. One, prepared as a model ordinance with a grant from the state, enabled by federal funds, deals with the difficult issue of protecting access in existing neighborhoods, and promises to be the model for the second generation of ordinances across the country. The other deals with providing solar access in new developments. The two together form a complementary package dealing with all situations.

In addition to providing other communities in Oregon with these models, the Oregon Department of Energy has helped coordinate a network of planners and local groups involved in solar access to help generate enthusiasm. The Oregon Department of Energy has disseminated widely several publications on solar access and land use and energy planning, including a few prepared and published by HUD. We are also providing technical assistance to local planners on ordinances and to developers on covenants and easements. We provide testimony before planning commissions and city councils which are considering solar access.

The Oregon Department of Energy organized a technical workshop on solar access for 300 planners, attorneys and site designers drawing upon regional experts in the field. This workshop was repeated at the Sixth National Passive Solar Conference to be held in Portland this fall and is considered of such high quality that we have been requested to repeat it in other states during 1982.

At last count, approximately 20 cities in the state are in the process of adopting solar access ordinances, including the four largest cities--Portland, Salem, Eugene and Springfield--and several others in the Portland metropolitan area.

b. Solar Monitoring and Demonstration Projects. The Oregon Department of Energy is administering several grants to monitor and demonstrate solar projects in Oregon. The Department's contractors are monitoring five passive solar homes and 48 solar domestic hot water systems. These projects will provide useful information on design and installation techniques and system characteristics appropriate to Oregon's climate for consumers, architects, builders, installers and others.

The state is also administering a grant with advisory assistance from several utilities to demonstrate a photovoltaic array on a residence in western Oregon. This project will provide information on the performance of photovoltaics in Oregon and how they interface with Oregon's utility loads. This information will enable the utilities, state agencies and others to move in advance to address technical and institutional problems and plan for the implementation of photovoltaics when they become economically competitive.

These projects are supported in part by federal funds for solar commercialization.

c. Western SUN. One of four Regional Solar Energy Centers funded by the U.S. Department of Energy, the Western Solar Utilization Network (Western SUN) was created by Executive Order of each of the governors of 13 western states in 1978 as an instrumentality of those states.

Western SUN's programs in Oregon are operated by the Oregon Department of Energy. The initial program emphasis is on increasing the availability of local solar expertise. Through training and assistance to community and professional groups, the state is establishing a firm base upon which to develop further use of solar energy.

Oregon's program strength stems from the active, statewide network of volunteers and Oregon's solar professionals. The State Western SUN program has helped organize new volunteer groups to provide solar information and a focus for solar activities in areas ~~in which~~ such organizaton previously has been lacking. Local contacts are being trained in the construction and installation of solar greenhouses and domestic hot water systems. Once trained, these contacts will receive support for the development of similar training programs in their local areas. Solar professionals, builders, designers, engineers, architects and dealers in 13 communities around the state have held community workshops on conservation, solar, wind and biomass.

d. Other Solar Activities. The Oregon Department of Energy is entering into its computer system data on solar energy systems in Oregon compiled by local groups and tax credit applications. This capability is already proving useful in identifying homes for solar tours and other educational activities by local groups, and in locating systems as consumer protection problems arise.

The Department is working ~~with the~~ Oregon Department of Commerce to develop codes for solar products and installation. We have been actively involved with the interstate Solar Coordinating Council, and the Department of Commerce with the National Conference of States on Building Codes and Standards.

9. Institutional Issues

Perhaps the greatest barriers to renewable resource development are federal and state regulatory or other institutional barriers, which either exist or require adjustment to accommodate new technological options. For example, the Oregon Department of Energy and the State Department of Commerce are reviewing building codes and code enforcement issues which inhibit wind and solar projects. The Department of Energy is also working with the Department of Land Conservation & Development, the State's land planning body, as well as local planning agencies to assure that resource potential, particularly solar and wind, are protected in local land use planning.

The Department, the Division of State Lands and federal land management agencies are exploring ways to expidite wind and geothermal development on State and federal lands. Access to areas of geothermal potential, expecially those controlled by the U.S. Forest Service is of critical importance to effective resource development.

89-318 O - 82 - 6

Senator PACKWOOD. Let's put the problem exactly in perspective. Say it's going to cost you $1,000 to put in a solar hot water heater, and you can afford it; you've got the $1,000. You are entitled to the 40-percent Federal solar energy credit, plus the 25-percent State credit. So that $1,000 water heater is going to allow you to take $400 off your Federal income tax and $250 off your State income tax.

But if you are in the low-income classification and do not have the $1,000 up-front money, you may be eligible for a loan from the State of Oregon.

Mr. FRANK. Yes, sir.

Senator PACKWOOD. Which you have to pay back, I grant.

Mr. FRANK. Yes, sir.

Senator PACKWOOD. But if you take the loan, you are not eligible for the Federal tax credit. We have a double irony: First, the credit. And credits are normally designed to aid lower income people rather than higher income people. If you are in a low enough income bracket that you are eligible for an Oregon loan, you lose the Federal tax credit. And, thereby, you are going to discourage people who we would like to encourage to put in these solar hot water heaters from doing it.

I know when we passed the law we didn't intend that to be the situation, with the effect that it is having on lower income people in Oregon.

Mr. FRANK. Mr. Chairman, there is no question but what that is the effect that it's having. The expressed intent, perhaps, of the committee was to insure that those who took advantage of other Federal programs, the Solar and Conservation Bank, by way of illustration, might not also qualify for the Federal tax credit, and I can understand that.

But unfortunately, in the language, the Federal, State, and local financing that it refers to, it's taken away some of the opportunities that the States have taken advantage of to resolve some of the problems we have, particularly for the low-income young families and elderly and others who are frustrated by the rising energy prices. And I think it's very important for us to be able to reinstate and to offer those kinds of opportunitites for them to take advantage of alternate forms of energy and conservation.

Senator PACKWOOD. I want to emphasize, again, you are not even addressing yourself to whether or not we should allow double-dipping under a variety of Federal programs. You are simply saying we've got a program in Oregon; it works for us; it's encouraging people to move toward alternative energy; we need conservation if we're going to meet our energy needs through the year 2000, and we've got a Federal program that works at odds with that as far as the State program is concerned.

Mr. FRANK. Yes, sir.

Senator PACKWOOD. There is a further irony. The Federal Government doesn't prohibit you from taking a State and a Federal tax credit. That's all right. If you are rich enough that you can afford the up-front money, you can get both credits. It's only if you are not rich enough and you have to have a loan—which again, you must pay back—that you can't take the credit. The thing is just 180 degrees in the wrong direction.

Mr. FRANK. Mr. Chairman, from my perspective, it is absolutely crucial that we address the issues. It has been reported to me by Oregon solar dealers that whereas in the past the sales have grown at a dramatic rate, particularly for those veterans and others who have been able to take advantage of these kinds of programs, when it has become clear they could not also take advantage of the Federal tax credit, that was not the case.

We established our small-scale loan program and over a 1,000 individuals expressed interest in that, and yet, too, when they found they could not take advantage of the Federal tax credit to help meet that pretty substantial initial cost, very few have taken advantage of that program.

And if we are to address the very significant energy demands that both we and the Nation have, I think it is absolutely essential, because to achieve what can be done over the near term, where there are few other options, conservation of renewable resources will play a critical role.

Senator PACKWOOD. Is your projected growth in Oregon 1.1 percent on energy and a different figure on electricity?

Mr. FRANK. It was 2.1 percent on electricity. Yes, sir.

Senator PACKWOOD. And does that presume a fair expansion of both conservation and alternative energy sources?

Mr. FRANK. There is no question.

Senator PACKWOOD. But if you don't have that encouragement, you are going to have to raise your energy production both on general energy and electricity.

Mr. FRANK. Yet, the dilemma is where would that energy come from?

Senator PACKWOOD. Indeed.

Senator Wallop.

Senator WALLOP. Mr. Chairman, not having heard the presentation, I think I'd better not wander into questions. [Laughter.]

I do have an opening statement which I would appreciate being placed in the record.

Senator PACKWOOD. It will be placed in the record just prior to Mr. Frank's testimony.

Senator WALLOP. Thank you.

Senator PACKWOOD. I have no other questions. Thank you very much, and I hope we can alleviate this problem.

Mr. FRANK. Mr. Chairman, thank you.

Senator PACKWOOD. Mr. Glickman, do you want to testify now? And do you have testimony on other than this bill?

Mr. GLICKMAN. Yes, Mr. Chairman.

Senator PACKWOOD. Why don't we take your testimony on all of the bills at once, then, and you can be on your way?

Mr. GLICKMAN. I would appreciate that.

STATEMENT OF HON. DAVID G. GLICKMAN, DEPUTY ASSISTANT SECRETARY FOR TAX POLICY, DEPARTMENT OF THE TREASURY

Mr. GLICKMAN. I would initially like to testify with respect to S. 1449. I am pleased to have an opportunity to present the views of the Treasury Department with respect to this bill.

This bill would limit to Federal loan programs the application of the so-called double-dipping rules which presently disallow Federal energy tax credits for property financed by Federal, State or local government energy-loan programs.

Prior to 1980 there was no limitation on the use of both subsidized energy financing or tax-exempt financing and Federal residential energy tax credits. The only limit on the business credit was that the energy credit percentage was cut in half for business property financed in whole or in part by tax-exempt industrial development bonds.

As part of the Crude Oil Windfall Profit Tax Act of 1980, rules were established to coordinate both the residential and business energy tax credits with other governmental subsidies for energy conservation and the production of energy from alternate sources. Congress was concerned that the compound effect of various subsidy programs, both Federal and State, could permit taxpayers to purchase energy property by expending only a relatively small amount of their own funds. In other words, Congress was concerned that the combined effect of these programs would cause the inefficient use of substantial resources.

Now, under the double-dipping rule adopted as part of the Windfall Profit Tax Act, the purchaser of energy property must choose between the energy tax credit, on the one hand, and subsidized energy financing and tax-exempt bond financing, on the other.

Subsidized energy financing was defined as 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. Loan guarantees are not included in the definition of subsidized energy financing.

The legislative history of that bill notes that the expenditures financed by grants which are exempt from Federal income tax are not eligible for the residential credit. With respect to the business credit, if property is financed with tax-exempt grants, the tax basis of the property, for purposes of cost recovery and investment credits, including energy credits, is reduced to the extent the property is financed by the grant. Taxable grants, such as State energy conservation grants, have no effect on the credit if the combined subsidy is less than the sum of the Federal tax credit and the State grant by the amount of the tax on that taxable grant.

Now, as the administration has testified in the past before this committee, we have serious reservations regarding the expansion of the energy tax credits either by broadening the class of eligible investments or by increasing the amount of credits allowed. The original reasons for providing tax incentives for conservation in 1978 have, in our mind, to a large extent been reduced. For the most part these incentives were proposed and enacted when price and allocation controls were in effect on both crude oil and natural gas. Because price controls have artificially depressed energy prices below what the market——

Senator PACKWOOD. Mr. Glickman, this statement will be put in the record, and you don't need to read it to us specifically. I would rather have you emphasize your main point.

Mr. GLICKMAN. OK.

[The prepared statement follows:]

For Release Upon Delivery
Expected at 9:30 A.M. EST
December 11, 1981

STATEMENT OF DAVID G. GLICKMAN
DEPUTY ASSISTANT SECRETARY (TAX POLICY)
DEPARTMENT OF THE TREASURY
BEFORE THE
SENATE FINANCE COMMITTEE
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. Chairman and and Members of the Subcommittee:

I am pleased to have this opportunity to present the views of the Treasury Department on S. 1449. This bill would limit to Federal loan programs the application of the so-called "double dipping" rules which presently disallow Federal energy tax credits for property financed by a Federal, State or local government energy loan program.

Prior to 1980 there was no limitation on the use of both subsidized energy financing or tax-exempt financing and Federal residential energy tax credits. The only limit on the business credits was that the energy credit percentage was cut in half for business property financed in whole or in part by tax-exempt industrial development bonds.

As part of the Crude Oil Windfall Profit Tax Act of 1980, rules were established to coordinate both the residential and business energy tax credits with other governmental subsidies for energy conservation and the production of energy from alternate sources. Congress was concerned that the compound effect of various subsidy programs -- both Federal and State -- could permit taxpayers to purchase energy property by expending only a relatively small amount of their own funds. In other words, Congress was concerned that the combined effect of these programs would cause an inefficient use of substantial resources.

Under the "double dipping" rules adopted as part of the Windfall Profit Tax Act, the purchaser of energy property must choose between the energy tax credits on the one hand, and subsidized energy financing and tax-exempt bond financing on the other.

Subsidized energy financing is defined as 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. Loan guarantees are not included in the definition of subsidized energy financing.

The legislative history notes that expenditures financed by grants which are exempt from Federal income tax are not eligible for the residential credit. With respect to the business credit, if property is financed with nontaxable grants, the tax basis in the property, for purposes of cost recovery and investment credits (including energy credits), is reduced to the extent the property is financed by the grant. Conference Report, H. Rep. No. 96-817, 96th Cong., 2d Sess., pp. 121, 136-7 (1980). Taxable grants, such as State energy conservation grants, have no effect on the credit, but the combined subsidy is less than the sum of the Federal tax credit and the State grant, by the amount of the tax on the grant.

The Administration has serious reservations regarding expansion of the energy tax credits, either by broadening the class of eligible investments or by increasing the amount of credits allowed.

The original reasons for providing tax incentives for conservation in 1978 have, to a great extent, been reduced significantly. For the most part, these incentives were proposed and enacted when price and allocation controls were in effect on both crude oil and natural gas. Because price controls artificially depressed energy prices below what the market would have charged, business firms and households had insufficient incentive to invest in energy-conserving assets or in alternative energy sources, or to use alternative fuels, such as fuels derived from alcohol, wood or biomass. Therefore, an argument could have been made that, in the absence of free market pricing, tax incentives for energy conservation and production should be provided. Also, at that time, there was substantial political resistance to decontrol and an apparent preference to retain price controls but to provide tax incentives to conserve.

The decontrol of crude oil prices, completed in January 1981, and the scheduled partial decontrol of natural gas prices significantly reduce the strength of this argument for tax incentives, since the cost of energy is at world market price levels for oil and is approaching those levels for natural gas.

In addition, Congress recently enacted the largest tax reduction in the history of this nation. This landmark tax act contains significant provisions that will increase business investment in new plant and equipment and will result in a revitalization of our economy. Consistent with our philosophy of reliance upon the operation of the marketplace to allocate capital efficiently, targeted tax incentives were generally rejected. Subsidies for a narrow class of eligible investments and favored resources can only interfere with business decision-making and divert capital, workers, and initiative from what may be more productive uses elsewhere in the economy.

Some amount of the business investment stimulated by the Accelerated Cost Recovery System (ACRS) provision of the Economic Recovery Tax Act of 1981 will be expended for energy conserving equipment as well as equipment designed to produce alternative fuels. To that extent, the tax incentives provided by existing law duplicate the stimulative effects of the Economic Recovery Tax Act. In our view, the effect of existing energy credits cannot be divorced from ACRS and the regular investment tax credit and must be examined together when liberalization of these credits is proposed.

For these reasons, we question whether it is desirable to expand the present energy tax credits. Indeed, these same considerations have led the Treasury to review the need for retaining the existing credits.

In addition, we cannot accept the logic behind certain provisions in this bill. The stated purpose of S. 1449 is to remove an alleged impediment to States which seek to encourage conservation. This ignores the fact that the use of tax-exempt bond financing is <u>not</u> a subsidy provided by State or local government. The cost of such programs is incurred wholly by the Federal government; the State or local borrowing authority merely serves as a conduit to convey a Federal subsidy to private borrowers. This is true both when the borrower receives the benefit of the tax-exempt bond financing directly, as in the case of industrial development bond financing, or indirectly, as when a State issues bonds in its own name to provide funds for several smaller loans, which are repaid directly to the State or its surrogates.

The double dipping rules do not apply to State tax credits or grants for energy conservation or production of energy from alternate or renewable sources. Thus, a State generally is free to encourage these activities through the use of its own funds without also reducing the level of Federal tax benefit.

Thus, we do not believe there is any need for liberalization of the current double dipping rules. Moreover, this Subcommittee should consider whether loan guarantees should be added to the definition of subsidized energy financing. Recently we have become all too aware of the fact that Federal loan guarantees, like Federal borrowing, preempt financing for productive business activities, and that such guarantees represent a direct Federal subsidy to the recipient of such financing. In light of this fact, we question whether it is appropriate to allow taxpayers to claim energy credits for investment financed by Federally-guaranteed loans.

<u>Revenue Effect</u>

Enactment of S. 1449 is estimated to reduce budget receipts in the following amounts (in millions):

FY	1982	1983	1984	1985	1986	1987
	$148	$133	$150	$91	$31	*

* less than $5 million

Mr. GLICKMAN. Let me just finish this point.

Since the cost of price controls artificially depressed energy prices below what the market would have charged, business firms and households have had insufficient incentive to invest in energy-conserving assets or on the alternative resources or the use of alternate fuels.

Now, in our judgment, since oil has now been decontrolled and gas is approaching that, many of these types of incentives and stimuli, it seems, are rather questionable. As I said when we testified in the past on this, the administration does have under consideration the question of energy tax credits in view of decontrol and in view of the Economic Recovery Tax Act, whether these types of additional subsidies are still required for conservation. We are working on that right now. We are looking at the bill that Senator Wallop has introduced, and we are working with various members of the staff to see how we are going to come out on that.

So this is something which the administration does have under active consideration, but I do want to emphasize that there is a question as to whether there is still the need for these provisions.

Now, setting that aside for just a second, with respect to the bill which is before us today, S. 1449, there is some question in our minds as to whether the logic behind the bill will be followed. It seems to us that the one thing that we have to take into consideration is the fact that the financing we are talking about is generally going to be tax-exempt financing. If the State goes out and borrows money on a tax-exampt basis for its general obligations and then reloans the money, in essence we are talking about tax-exempt financing. And this is really not a subsidy provided by the State. In our judgment, the benefit of such financing is being taken from the Federal revenues and, thus, there is a question in our minds, a serious question, as to whether compensation of these types of benefits with the energy tax credits is appropriate. I think that the revenue impact of the bill is not irrelevant. Our revenue estimates indicate it is going to be $148 million in 1982 and $133 million in 1983, $150 million in 1984. These are significant considerations.

Thus, Mr. Chairman, we question whether these types of additional expenditures should be made at this point in time in view of the fact that ACRS has come into place, decontrol is in effect with respect to oil, and, thus, it has reached world prices, and natural gas is moving in that direction. Thus, for those reasons and the revenue impact involved, the Treasury Department cannot support this legislation.

Senator PACKWOOD. Let me ask you a question. I understand the Treasury Department doesn't like all of these credits, period. They would love to get rid of them. I think the Government would like to get rid of all of them, if they could. And they will succeed in doing that only over my dead body. But that's a philosophical argument that we will fight about later.

Tell me where the logic is. If we assume we are going to use these credits to try to encourage people to put in wind energy and solar energy and geothermal energy—and we'll argue later over whether the credit is justified—at the moment the policy is we are going to try it. That's the law.

I am an Oregon citizen. I go out and I borrow a $1,000 from the First National Bank, because my credit is good enough, and I buy a solar hot water heater. I have to eventually pay back the loan to the First National Bank, but I am entitled to the Federal Energy Credit. Is your sole argument that I should not be entitled to that? If the State of Oregon subsidizes my loan, is your sole argument that I should not be entitled to the credit because that loan may have been provided from funds derived from the sale of tax-exempt bonds?

Mr. GLICKMAN. Well, I would like to respond to the question in two ways, if you would allow me, Mr. Chairman.

First, the subsidy is coming from a grant by the State.

Senator PACKWOOD. This is not a grant. It is a loan, not a grant.

Mr. GLICKMAN. If the financing is accomplished through industrial development bonds, it seems to me in that situation that what you have is a true double-dipping concept.

Senator PACKWOOD. The loan is not taxable to the individual. He has to pay it back. You are passing through the State's tax-free bond status to the individual and saying because he is given some money from the State, or they are subsidizing a loan that the bank would not otherwise make, that the tax-free bond to the State is to be wholly attributed to the indivdual.

Mr. GLICKMAN. Yes, if the interest rate which is charged in essence reflects solely that it is the result of the tax-free borrowing.

Senator PACKWOOD. All right. Now, I have no idea where the interest rates may be from day to day because they fluctuate, but let's say you borrowed $1,000 from the First National Bank and you paid 12 percent interest. You get the tax credit. You borrow the money from the State of Oregon and you pay 9 percent interest or 6 percent. You are saying just because of that difference in interest you lose your whole tax credit.

Mr. GLICKMAN. What I am saying is from the way the statute is presently worded, that is clearly the way I would see it.

Senator PACKWOOD. I don't quarrel with that, although I might be willing to go to court and argue it, but I want to know the logic of it. Why don't we just change the statute? Where is the logic in that conclusion?

Mr. GLICKMAN. I guess if you are talking about logic you are going to have to make the determination of how much of a subsidy you deem the lower interest rate to be.

Senator PACKWOOD. If it is a subsidy, it is certainly not the value of the whole Federal tax credit.

Mr. GLICKMAN. That's true. But in many situations, as you know better than I, Mr. Chairman, sometimes bright lines have to be drawn.

Senator PACKWOOD. I believe the only difference you have is the difference in the interest rate. That was the subsidy.

Mr. GLICKMAN. Well, that's true.

Senator PACKWOOD. And if you really wanted to impose on the State of Oregon and all of the citizens a reduction in their Federal credit to the extent of the difference in their subsidy, you might end up reducing the credit by, on $1,000 purchase, $400, you might be able to reduce it $50 and charge that to interest. That isn't worth the Federal Government's time.

Mr. GLICKMAN. I guess we would have to sit down and figure, whether from an administrative standpoint it is worth the Federal Government's time or not, Mr. Chairman. I know that we are talking about a bill which, overall, has substantial economic impact on the Federal Government, especially in a time right now when, as you know, revenues are of rising importance. We are talking about a bill that is going to cost the Federal Government a substantial amount of money.

It seems to me that whenever that takes place, it's incumbent on the Treasury Department and this Congress to make sure that the benefits we are talking about are justified and are needed at this point in time. It seems to me that gets us back into the question of whether today, under today's situation where we do have the decontrol now in place with respect to oil, we do have ACRS and the effect that it's going to have, because there is going to be a substantial amount of energy conservation equipment that is going to qualify for ACRS in the business sector, as to whether this type of additional expenditure is justified.

Congress didn't think it was justified back in 1980 when this originally was enacted. Since that point in time it seems to me that the justification has decreased, not increased. And thus, it is something that, it seems to me, we ought to be looking at very closely before we move forward.

Senator PACKWOOD. All right.

Are you going to address yourself only to S. 696, or are there other bills?

[Note: this testimony is made reference to in the December 11 hearing called "Miscellaneous Tax Bills XIII" by the Finance Committee.]

Mr. GLICKMAN. No, sir, three other bills.

Senator Packwood. All right. Why don't you go ahead and address yourself to those. But, again, all of your testimony will be in the record, and I would appreciate it if you would abbreviate it and make your main points on those three.

Mr. GLICKMAN. Mr. Chairman, I would like to first start with S. 696, which would provide that organizations operating certain libraries would not be treated as private foundations without regard to whether they are publicly supported. That is the first one that I am going to be talking about.

The second bill will be S. 1883, which would extend to Fannie Mae the special loss-carryover rules that apply to banks, thrift institutions and certain other financial institutions. Yesterday, before the Ways and Means Committee, the companion of this provision was adopted by the Ways and Means Committee yesterday with an amendment which would not apply the loss carryback extension to losses incurred on the sale of mortgages, securities and other evidence of indebtedness currently held by Fannie Mae. The Treasury Department supports this bill and the concept adopted in Ways and Means.

The final bill that I will briefly address concerns the tax-exempt status of certain amateur sports organizations. Again, this was a bill that was introduced by Senator Stevens on this side, initially, and then a companion bill, another bill, was introduced on the House side. We feel very strongly that this is good legislation. We commend Senator Stevens for moving in this direction. There are some changes that we think are necessary.

Now, let me just summarize them very briefly so that you can move along with your testimony.

First, with respect to certain libraries, this was a bill that was introduced, as I understand it and from what the record indicates, concerning two libraries in the State of Missouri.

As you know, Mr. Chairman, these types of libraries, under present law, are considered private operating foundations and, although they are exempt from tax, there are certain requirements that they must meet concerning such things as prohibition on self-dealing transactions, referred distributions of certain amounts and limitations on excess business holdings. There is also a 2-percent excise tax on the foundations net investment income which is used to reimburse the Internal Revenue Service for the costs of auditing these types of foundations.

This type of foundation, the private operating foundation, is distinguished from the publicly supported public charity, which does not have to pay the 2-percent excise tax and does not have to meet some of these other requirements. These two libraries are requesting that the code be amended, in essence, to bring them within the umbrella of the public charity provision so that they would not have to pay the 2-percent tax and would not have to meet some of these other requirements.

Let me start off by saying that, although I am not familiar with all the details of these two libraries, from what I know they are extremely important reference sources, and thus the Treasury Department has no question about the importance of these libraries.

But the problem we have is that when this law was enacted in 1969, there was a distinction drawn between the requirements private operating foundations had to meet and public charities had to meet. As I understand it, the distinction basically went to the question of whether they were publicly supported. The feeling was that if the public was supporting one of these types of organizations there would be public scrutiny helping to police the activities of the organization. However, if there was not sufficient public support, this type of policing was not there; and thus there was a need to have policing by the Internal Revenue Service. This was put into the law, and the 2 percent was put in to help pay for it. Although, again, we think that these types of entities are very desirable, we can't see any reason to draw any distinction between these types of private operating foundations and many, many others that are in existence. For that reason, we do not feel that we can support that bill.

With respect to the Fannie Mae issue, as I said, I think I can cut this fairly short. What it does is to extend the carryback period for losses incurred by the Federal National Mortgage Association which is similar to other types of financial institutions.

Senator PACKWOOD. It treats them like any other financial institution on carryforward and carryback.

Mr. GLICKMAN. That's right, sir.

We support this bill, as I said. One of the problems that came up yesterday at the Ways and Means Committee concerned the sale of some of their mortgages and securities. The concern was that if we didn't put some sort of limitation on that, the revenue estimates which we came up with, which range from $30 million to approximately $300 million, will be an absolute $500 million, because Fannie Mae could then just go out and sell whatever mortgages they had in their portfolio, to generate the loss. At that time the Ways and Means Committee adopted a restriction. We support the bill, because we feel that there is a sufficient similarity between Fannie Mae and the financial institution which have the carryback. We also support the amendment which was adopted yesterday, Congressman Stark's amendment.

The final issue which I would like to discuss concerns the amateur sports association problem. This involves a question which came into the law in 1976. The type of entity that was covered was one that fostered national or international amateur sports competition. However, there was a limitation put into the law that said: that organizations would be qualified provided, they don't supply any facilities or equipment.

The intent of the limitation was to prevent people from making contributions to organizations which they claimed fostered national or international amateur sports but which really were set up to provide a benefit to their own. This has caused the Internal Revenue Service and the Treasury Department a great deal of consternation, because there are many entities out there which deservedly should be exempt and their contributions should be deductible. But, because of the way the statute was written, it prevented us from going that far.

Again, we support the concept. However, even though we support the concept, we think, technically, the bill introduced before the House probably more directly approaches the problem and sets forth the better standard. Both bills would, in essence, make these entities exempt.

With respect to the House bill, there are two problems which I would like to point out that we are concerned about.

One concerns a de minibus rule and the question is: If you set up a diving club or a skating club, or whatever it is, with people donating substantial amounts of money to have one of their children trained at one of these types of establishments, when under normal circumstances the person could not have his child trained and get a deduction for it, should a deduction be allowed in bill? We think not, and we think there is a need to prevent this type of activity.

In the House bill there was a provision concerning this question. We see some benefits to the House bill, because what it did was establish a cap, providing a donor can deduct the first $500. This limitation only applies if the donor's child or other relatives or the donor himself actually uses the facility.

It seems to us that there are a number of questions as to whether that is the proper approach or not. We can see situations where there is a low usage and a very high contribution; there the argument can be made that some or a large part of the contribution should be deductible. We can also see situations where there is high usage and a low contribution, and, thus, on a quid pro quo basis—which is presently in the law—none of the contribution should be deductible.

What we would like to do in this type of situation is to sit down with the committee and try to work out some standards to make sure that the abuses that could be out there are foreclosed.

The final point, along this same line, concerns another provision of the bill which, in essence, would say that people who voluntarily participate in helping in a sports activity, for example, a track meet which is conducted by an exempt organization, would be allowed to deduct their out-of-pocket expenses.

Now, what we don't want to do is stop volunteerism in these types of organizations. At the same time, a concern has been expressed about a father wanting to attend a meet (whether in the States or in Europe) in which his child is participating, volunteers for some mental job, and then deducts all of his expenses of attending. We think, again, that present and the proposed law would stop that type of thing. The only thing that we want is to make sure is that the provision in the House bill allowing the deduction of volunteer's expenses continues to be sought to the limitations of present law.

So, again, with respect to this bill, we support it vigorously in concept and just would like to make sure that any potential abuses are taken care of. We would like to work with this committee on that.

Senator PACKWOOD. Mr. Secretary, I would be willing to work with you to try to correct the abuses, I think. You know, the longer I have been here, sometimes I think we cause more problems correcting the few abuses than we do if we simply let the few abuses go on. I have seen this in the ERISA Act. If there is a way to limit the abuses so that the cure doesn't overwhelm the intent, that's fine. Otherwise I would be inclined to send it through the way it is. But I will be happy to work with you to see if we can do something that is not so frivolous, so that we close the loophole of the rich fellow sending his talented daughter through sports education by making contributions. That's fine.

Mr. GLICKMAN. All right. I would think, Mr. Chairman, that we could work out some language. The House bill already has some language in it which would, to a large degree, take care of these types of problems. The only thing we wanted to make sure of is that this bill does not take too draconian an approach to the problem and that we solve the problems in an enlightened way.

Senator PACKWOOD. I think we can work it out. I can maybe live with your amendments there, and you can live with mine on the solar energy credits. [Laughter.]

I have no further questions. Thank you very much.

Mr. GLICKMAN. Thank you, Mr. Chairman.

Senator PACKWOOD. We have more on S. 1449, and we will take Mr. R. Nicholas Loope, the president of the Solar Energy Industries Association.

Go right ahead, Mr. Loope, and then we will take Ms. Tapper when you're done.

Mr. LOOPE. Thank you, Mr. Chairman.

Senator PACKWOOD. Again, your entire statement will be in the record.

[The prepared statement follows:]

SOLAR ENERGY INDUSTRIES ASSOCIATION Suite 800 1001 Connecticut Avenue, NW Washington, DC 20036 202 293 2981

SEIA

SUMMARY OF STATEMENT OF SOLAR ENERGY INDUSTRIES ASSOC.

PRESENTED BY R. NICHOLAS LOOPE, PRESIDENT

BEFORE COMBINED SUBCOMMITTEES OF SENATE FINANCE COMMITTEE

ON S. 1449 - DECEMBER 11, 1981

The statement is summarized as follows:

I. Introduction of Solar Energy Industries Association

II. Brief legislative history

III. S. 1449 should be passed because it is unwise and unnecessary to so limit local and state programs.

IV. S. 1449 should be passed because the limitations in the present law jeopardize private financing.

V. S. 1449 should be passed because it contains needed amendments and changes, which along with other improvements and changes, are necessary for the solar and conservation tax credits to fulfill their expectations.

VI. Conclusion

STATEMENT PRESENTED BY SOLAR ENERGY INDUSTRIES ASSOCIATION R. NICHOLAS LOOPE, AIA, PRESIDENT

The Honorable Bob Packwood, Chairman, Subcommittee on Taxation and Debt Management and

The Honorable Malcolm Wallop, Chairman, Subcommittee on Energy and Agricultural Taxation.

Mr. Chairmen and Members of the Subcommittees:

It is my great pleasure to appear before you today to give testimony regarding S. 1449, a bill to limit the application of the subsidized energy financing limitations on certain tax credits to federal subsidies. I am R. Nicholas Loope, an executive of Sunworks, Inc., a subsidiary of American Smelting and Refining Co. I am appearing today in my capacity as the President of the Solar Energy Industries Association (SEIA), the major national trade association for the solar industry in the United States. SEIA includes among its membership, producers, designers, installers, and others in the solar business, whom we estimate to represent between 80 and 90% of the total of all solar equipment produced in the United States. We number among our more than 800 members, both large and small businesses, and estimate that 85% of our members may be properly classified as small business. The Association is six years old and its membership is divided into participating division units. The division units are organized around the various solar technologies now being utilized.

In approaching a discussion of the merits of S. 1449, let me begin by recalling some recent history in energy legislation by the Congress. Fortunately for our country, the Congress clearly saw the need for moving to encourage a broadening of our domestically produced energy sources as far back as the days of the oil embargo of 1973. Many people, in government and in the private sector, were calling for the advancement and development of renewable energy sources, even before that date. The Congress responded with substantial legislation to plan for the development and use of renewable energy sources, including solar energy, with passage of several major pieces of legislation in 1974, including the Solar Heating and Cooling Demonstration Act. Other legislation followed and the solar industry was created in the United States to answer the demand for the production of solar energy products. However, a major barrier continued to the marketing of solar products in the country, that of access to the conventional and tested sources of financing for the purchase of solar products. The breakthrough of 1978, when Congress passed the Energy Tax Act of 1978, providing for solar and conservation tax credits, gave the industry a major thrust forward.

As industry started to work with the tax credits, it became apparent that the incentives needed to be sharpened and improved. Congress responded in 1980 with substantial amendments contained in the Crude Oil Windfall Tax Act, which increased the residential tax credit to 40% of the installation, up to $10,000, and for business installations an increase to 15% of the installed cost.

Because this tax credit appeared to many in the Congress as a possible source of manipulation by some taxpayers to combine the tax credit with other federal financing sources so that the federal government might conceiveably be financing nearly the total cost of the solar energy system, the idea for the limitations on government sources of funding arose. Most of the discussion for this limitation was directly attributable to the congressional consideration of the Solar Conservation Bank and its plan for interest subsidies to be paid by the federal government. While the Solar Bank was enacted, the funding for FY 1981 was removed, and for FY 1982, it is so low that its program for solar financing appears legislatively dead.

The reason for this brief historical summary is to point out that the major concern surrounding the troublesome language which found its way into legislation in 1980, was primarily aimed at limiting other federal financing and not at limiting state and local sources, although, unfortunately, the language does substantially confuse the point. To be sure, there was disucssion about the local and state sources of financing, but congressional concern that prompted the limiting language which S. 1449 is designed to correct, was primarily the threat of federal overload in solar financing.

So, specifically the problem posed is the overly broad language surrounding the definition of "subsidized energy financing". The so-called "double-dipping" provision provides that for the 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 acccount expenditures which are made from subsidized energy financing. The statute provides "...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."

As indicated before, one of the major barriers to the marketing of solar energy systems has been and continues to be the inadequate sources of financing for purchasers. While Congress has acted with great responsibility in enacting the solar and conservation tax credits, it should be recognized that these federal tax credits are only a part of the mix of financing mechanisms involved. Unfortunately, the result of the broad language of the Crude Oil Windfall Profits Tax Act in this regard, seriously jeopardizes several other important sources of solar financing. Among these are state tax credits, state tax deductions, state or local loan programs, state or local credit programs to financial institutions, and state directed utility rebates, credits or financing. There may be other classifications, but these would probably describe most of the affected state or local incentives.

There are many reasons why the objectional language should be removed, as proposed by S. 1449, the first of which might be called unnecessary and unwise adverse affects on state and local programs. This argument goes to the heart of our system of carefully divided responsibilities between federal, state and local sytems of government. The federal government has no clear mandate as the only government level to be concerned with energy sources and conservation. Indeed this matter has such variations and differences across the country as to require modifications and a variety of approaches. The states and localities which have responded with incentives to fit the needs of their constituencies are, in turn, the areas where solar marketing is most successful. Two widely separated markets where this is true, are California and Massachusetts. In both states the state incentives suppliment and coordinate with the federal solar tax credit. In both states the solar market has improved and expanded so that the real intent of both the federal and state legislation is having its affect, that taxpayers are shifting from reliance upon higher cost, fossil fuel sources of energy to renewable sources. It could not be said in most cases that various levels of government are financing all of these purchases of solar equipment because the private sector is still very important and the taxpayer is still directly involved as the moving force in the transaction, not the government. Therefore, the law should allow flexibility for programs to be implemented at the local and state level, which will coordinate and supplement the federal tax credit as incentives in the market-place. This is necessary if we truly want to see the growth and development of solar energy in this nation.

An equally strong second argument against the objectional language, which S. 1449 would remove, is that such language jeopardizes private financing sources of solar energy equipment. While it is apparent that the term "subsidized energy financing" does not itself include private sources, it is not inconceivable that it could be argued and possibly ruled by the Internal Revenue Service or some court, that state directed financing initiatives, such as some state utility commissions have urged on private utilities, could have a governmental linkage as "subsidized energy financing". If such financing is authorized or compelled by the state, it could be argued that this would be "provided under a state program". With utility companies serving the public now as energy suppliers, it is logical, as Congress has recently agreed in its amendments to the National Energy Conservation Policy Act, that utility companies should be able, with certain safeguards, to assist the public in financing solar energy equipment purchases.

However, even if there is no conceivable argument possible that the private utility or other such entity is providing any "subsidized energy financing", the objectionable language still has an adverse affect on private financing. Because the private sector still retains some skepticism about solar products and in some cases is yet hesitant about financing solar products, it is apparent that uncertainties or ambiguities about the government's commitment to solar financing will have an adverse affect. In the marketplace of today, business cannot risk any unnecessary burdens which may destroy sales, especially if they can be remedied as easily as this problem can be.

The third maior araument which should be made for the modifications sought by S. 1449 is that they are an integral and important part of the amendment and improvement process which must take place in the solar and conservation tax credit legislation in order that these incentives reach the full potential expected. Although it is recognized that this hearing is not the forum to explore other needed changes in the solar and conservation tax credits, nor perhaps is S. 1449 the proper vehicle for such other changes, still the problem being examined here is representative of the type of housekeeping work which needs to be done by Congress and the Administration. Market experience, for instance, tells us now that the residential market for solar is moving well because of the combined incentives in tax credits, at both the federal and state levels, and other incentives such as loans, grants, or tax deductions. There remains a major problem with the eligibility for passive solar designs for the tax credits, and the eligibility for low temperature systems such as swimming pools. These problems should again be addressed by Congress in the future. But the major incentive gap at the present time is in the commercial or business sector where the changes made in 1980, increasing the business energy tax credit from 10 to 15%, is not proving a sufficient incentive in the marketplace to move this part of the solar market. Huge savings are possible in this commercial area, which represents the greatest potential for conservation and energy improvement in our entire economy. Solar has a major role to play in providing process heat as well as hot water and space heating and cooling for several industrial, commercial and business uses. It is not happening as rapidly as anticipated when the tax credits were enacted. The present attractiveness of expensing fuel costs in these operations, which is lost when replaced by solar energy, presents a marketing and financing dilema to be solved. The front-end costs of solar must be reduced by the application of a more attractive and realistic business energy tax credit, which should be 50%, or at least as large as the present residential tax credit of 40%. This would assist greatly in moving this sector of the solar market, while the tax credits are still in place. Other changes could be made which would improve the picture substantially, but these would do much toward making the final report card on solar-conservation tax credits more satisfactory.

In summary, then, it is the opinion of the Solar Energy

Industries Association that S. 1449 should be enacted to clarify and amend the unintended limitation on solar and conservation incentives at the local and state level. We believe that the objectionable language used in the Crude Oil Windfall Profits Tax Act, as we have before indicated, should be amended because it is unnecessary and unwise to so limit the states and local programs; that it jeopardizes private financing of solar products; and that it is one of the several changes and improvements that Congress must support to make certain that the solar and conservation tax credits have their full opportunity to provide needed incentives for renewable energy sources.

As your subcommittees continue consideration of this important legislation, SEIA will be pleased to further assist you in any other way that we can. Please call upon us if you have further need.

I will be pleased to answer any questions you may have. Thank you.

STATEMENT OF R. NICHOLAS LOOPE, AIA, PRESIDENT OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION

Mr. LOOPE. Thank you, Mr. Chairman. Our industry association, which is made up of 800 corporate members involved in the design, manufacturing, distribution and installation of solar energy products and services, welcomes the opportunity to speak in support of bill S. 1449.

Our membership has been concerned since the passage of the 1980 oil windfall profits tax legislation with the broad and general language regarding the ability to utilize the tax credit in concert with certain types of financing. Specifically, we are very concerned that the broad language limits important expansions in solar financing. Since, as has been pointed out earlier in this hearing, the initial first cost of solar energy is large, and for solar energy to be widely available to the populace that has the potential to use it, the ability to economically obtain that equipment must be reached.

The language as exists in the 1980 legislation is broad enough that we feel that it would limit certain programs on both a State and local level affecting loans, State and local credit programs to financing institutions as well as State-directed utility-rebate credits and financing. We also are concerned that the language in its broadest interpretation may jeopardize private involvement in financing. Of course, this is of grave concern to our membership because the ability for private institutions, whether they be acceptance corporations amongst providers of the equipment or whether they be local lending institutions, should feel unencumbered in organizing their plans to offer financing for solar energy equipment purchases.

Finally, we also feel that this particular bill, S. 1449, is an important part of the continual amendment and improvement process that is needed to increase the options available to the energy-consuming public in America today. And even though this is not the forum for it, obviously price parity is very important in the ability for that choice to be made by the energy-consuming public.

For these reasons we are very much in favor of the proposed S. 1449, and thank you for the opportunity to share our views with the committee.

Senator PACKWOOD. Have you yet had any problems with the IRS because of utility-provided conservation devices or funding by the utilities where you pay it on your bill? What has been the IRS position?

Mr. LOOPE. I do not know of any specific instances, but I have certainly been involved in hearings as well as discussions with members of the utility as well as private industry regarding that question.

Senator PACKWOOD. Well, I can see their argument. I can see what they are going to say: The utilities are regulated by public law; therefore, that's a quasi-subsidy of some kind. And if you borrow money from a utility or they borrow it to put it up for your solar energy hot water heater, that's just like a loan from the State of Oregon, and therefore you don't get your credit.

Mr. LOOPE. Precisely, Mr. Chairman.

Senator PACKWOOD. But we have had problems in other States similar to Oregon, where they had a State-subsidized loan program, and the Federal Government, in those States, as Illinois, said: "No, you can't get the credit."

Mr. LOOPE. I can relate personally two instances. Before my present residence, which is in the State of New Jersey, I resided in the State of Connecticut and was appointed to the late Governor Grasso's Advisory Board on Energy. Specifically, we were charged with coming up with methods to encourage the population of Connecticut to move from their heavy dependence on oil to alternate energy sources.

Realizing the large first-cost burden and also the fact that the State of Connecticut does not have a State income tax, we were looking for a vehicle where we could enhance the then-available Federal tax credit, which was a lower percentage—30 percent—at that point in time, to encourage the use of solar energy and other energy-conservation devices. We were looking at making available a $400 grant and/or an $800 loan. Both programs were ready to be moved, with the support of the majority of the legislature, and enacted in the State of Connecticut when the 1980 legislation was passed, and because of the double-dipping clause in the legislation those programs were shelved.

Most recently I have moved within the last year and a half to the State of New Jersey, which had passed a bond referendum in the general election to raise several million dollars for low-interest loan financing of solar systems through the State. It was a very popular program the first time it ran through. Since then, with the enaction of the 1980 oil windfall profits tax, and second, bond effort has been aborted because, again, of this potential conflict of double dipping.

From a marketing standpoint, it is very important as we make the transition from the early audience that has been buying solar products, which the market analysts would call the early adopters and the early innovators, who have been largely cash participants, to where we really move to the mainstay of the energy users, whether they be private individuals, or whether they be corporations, or commercial users. The financing aspect of that is very important to overcome that first-cost hurdle. I believe any restriction of that will severely hamper the overall growth pattern that solar energy and energy conservation should be enjoying in this country to help with our energy problems.

Senator PACKWOOD. I couldn't agree with you more. Of course, I have been using this $1,000 example for a solar hot water heater, and I realize they cost more than that. It's just easily divisible by 10, and it's easy to use for an example.

Most people probably do not have the cash in this country to just put up-front money in for a solar hot water heater, let alone any other extensive alternative forms of energy conservation, or whatever. And if we want to tap the vast market in this country, it may have to be for a good period of time with State-subsidized loans. We have done that in housing programs and veterans bond programs all over this country to the benefit of this country and to the benefit of the middle-income people in this country, and now we are moving to another program.

I understand the administration's position; they don't even like the credit. They think the whole program's bad, and anything that is done to expand a bad program in their mind is worse.

Mr. LOOPE. I think that, upon close scrutiny by the administration and upon the revenues that are being generated out of the growing energy conservation and the solar energy industries, both with respect to the foreign fuels that are being offset as well as the jobs and overall capitalization that is being created within our own economy, I believe, given close scrutiny, that the tax credits are supplying the impetus that is needed to truly build a new revenue-generating sector in our economy, an economy which needs new revenues, new jobs and employment.

Senator PACKWOOD. I feel totally the same way.

Thank you very much. I appreciate it.

Mr. LOOPE. Thank you, Mr. Chairman.

Senator PACKWOOD. Ms. Tapper, are you ready?

STATEMENT OF SUZETTE TAPPER, LEGISLATIVE REPRESENTATIVE OF THE SOLAR LOBBY

Ms. TAPPER. Before I summarize my testimony, I have a short letter from the National League of Cities, who were unable to appear today, addressed to you. And I believe that, by agreement with your staff, I have been asked to put that into the record.

Senator PACKWOOD. All right.

Ms. TAPPER. It is from Alan Beales, the executive director of NLC.

DEAR MR. CHAIRMAN: I am writing on behalf of the National League of Cities to express our appreciation for your decision to hold these hearings and to advise you of our support for S. 1449.

In our experience, current tax law with respect to the ability of a state or city to develop and implement its own energy-conservation or renewable-resource program is discriminatory and ambiguous. We believe the Internal Revenue Code establishes an inherent policy bias in favor of investments to develop energy resources as opposed to energy investments at the size of consumption, which leaves cities with diminished abilities to secure financing for capital investment in infrastructure and human needs.

We are especially concerned about the so-called double-dipping provisions in the Code which act as a disincentive to cities which wish to implement their own energy-subsidy programs. It is our view that, at the minimum, the Code should be neutral with regard to local energy programs.

Given the severe and ongoing budget reductions for weatherization and low-income fuel assistance programs, we believe that tax policy should be reexamined so that those in greatest need and least able to make needed investments are considered. S. 1449 is a meaningful step in that direction.

We strongly support the initiative and stand ready to work with the committee in securing early enactment.

Senator PACKWOOD. Thank you.

Ms. TAPPER. I thought it might be most helpful.

There are 15 States that are in situations of conflict under this law. They are: Alaska, California, Connecticut, Iowa, Maine, Maryland, Michigan, New Jersey, New Mexico, Oregon, Tennessee, Virginia, Minnesota, Montana, and Nebraska. Presumably, if we were successful in removing this prohibition, there would be many more States who would want to implement programs. The desire is there; there is no question about it.

The most ironic example, with which I'm particularly familiar on that list, is Alaska. In the case of Alaska, they wish to use their considerable general revenues—their treasury is in pretty good shape these days—to make low- or no-interest loans to their citizens without involvement in bonds or financing that has any impact at all on the Federal Government. The present language prohibits them even from doing that.

Minnesota is another interesting case. Under their mortgage-financing agency they have moneys available for renovation of housing which can be used for the purposes of conservation, for instance. But conservation under FHA is defined differently than it is under the tax credits. So when they try to report to Treasury how much people have used of that program for conservation or for solar, they are not sure that they are reporting the right amount at all.

Just as a further fantastic irony of an administration that is trying to cut paperwork, I understand that IRS does not require them to report the social security numbers of the people who take those loans.

So the entire mechanism has a paper storm going up in Minnesota both ways. They have to inform every citizen who takes advantage of the program—under their State law they have to tell them that they are going to report that to Treasury—and then they have to report it to Treasury, and Treasury doesn't know what to do with it, because they don't have the right information.

These are some of the things that happen. There is just no question that as we go on toward building a solar energy industry, toward getting more and more State and local initiatives involved, that to tie the hands of State and local governments to only the use of tax credits—there are seven States in the country that don't even have a State income tax and can't use that mechanism. In other States it is politically impossible. There are 23 States who do have State income taxes that can be layered on. But to limit the possible creativity of State and local governments and organizations to invent programs that speak to the most immediate need which, of course, is the high up-front costs of solar energy that is the tradeoff for not having to pay a monthly fuel bill, seems so ironically counterproductive that the solar lobby very much hopes that we will be able to pass this legislation.

Senator PACKWOOD. Let me ask you a favor. On that list that you read, could you, almost today if possible, have solar energy advocates in those States that have members on this committee contact their members immediately so that when we get to a markup on this bill the members would appreciate the interests of their States?

Ms. TAPPER. Yes, sir; that's what solar lobby does.

Senator PACKWOOD. Thank you.

That markup may come soon, is all. I am not sure when.

Ms. TAPPER. I will be talking to your staff about that.

Senator PACKWOOD. Thank you; I appreciate it. Thank you very much.

Ms. TAPPER. Thank you.

[The prepared statement follows:]

Solar Lobby

1001 Connecticut Avenue, NW, Suite 510
Washington, D.C. 20036
202-466-6350

TESTIMONY OF SUZETTE TAPPER

LEGISLATIVE REPRESENTATIVE OF THE

SOLAR LOBBY

BEFORE THE

SUBCOMMITTEE ON TAXATION & DEBT MANAGEMENT

AND

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

OF THE COMMITTEE ON FINANCE

OF THE U.S. SENATE

December 11, 1981

on S. 1449

Limiting the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies.

Mr. Chairman (Senator Packwood), members of the Committee, ladies and gentlemen: I am Suzette Tapper, legislative representative and tax specialist for the Solar Lobby. I am pleased to have the opportunity to appear before this Committee in support of S. 1449 which limits the application of subsizied energy financing limitations on certain tax credits to Federal subsidies.

The Solar Lobby is a research and advocacy group based in Washington, D.C. supported by the contributions of over 45,000 members who believe that an expeditious transition to the use of renewable energy sources, combined with aggressive programs of energy efficiency, are the only basis for sound energy policy and the security for this country in the next decade.

The Solar Lobby favors Senator Packwood's bill to correct a problem in the wording of the provision to prevent double benefits found in the renewable energy tax credits -- a problem which effects many states.

At the time this legislation was being drafted, legislation was also moving through Congress creating the Solar Energy and Energy Conservation Bank. The so-called "double-dip" language was inserted in the windfall profits tax act at the time partially to prevent anyone from obtaining both a subsidy from the Bank and a tax credit. Solar Lobby agreed that this was undesirable. We supported that prohibition and will continue to do so should the administration bow to the will of Congress and activate the bank. However, the language has had some effects which we presume are unintentional.

Surely it was not the intent of Congress to discourage state and local governments from augmenting the federal incentives for the use of renewable energy. It is especially inappropriate to do so at a time when the Administration and Congress are working on many measures designed to encourage state and local initiatives in solving problems. Nor does it seem likely that Congress wanted to encourage those governments to use only additional tax credits and no other forms of assistance. Yet the penalty of the loss of the 40% tax credit is so severe as to almost completely discourage states from offering incentives other than tax credits. At least 22 states have created additional incentives through their state income taxes. To make the case different for other forms of assistance discriminates in favor of those states which have a readily available tax mechanism such as state income tax. Seven states do not even have that mechanism, and in others it is almost politically impossible to use it.

New Jersey is a case in point. In 1980 their Mortgage Finance Agency offered 8 3/4%, 15 year, loans. $2,000,000 - $3,000,000 worth of solar systems were subscribed for in a 6-week period. Specifically because the double benefit provision of the Windfall Profits Tax Act took effect in 1981, the program was not repeated this year. If the legislation before us today is passed, they intend to go on with the program. The only additional cost to the federal government would be the loss of revenue vis-a-vis the sale of tax exempt bonds. That sum would be more than recovered by the treasury through taxes paid by employers and employees in the greatly expanded industry.

As the policy of the federal government moves away from involvement in commercialization, it is unreasonable to tie the hands of the state and local governments regarding what they deem necessary or desirable for their citizens. In fact, there are compelling arguments for encouraging states to do so.

A report released this week by the City of New York entitled, Energy Consumption in New York City: Patterns & Opportunities, clearly makes the case of how important energy efficiency can be in reducing the outflow of money for energy. The savings potential is: fuel oil-25%, gasoline-50%, electricity 33.7%, natural gas-20% and steam 16% which equal 4 million barrels of oil (equivalent). These savings projected at the national level could have staggering positive effect regarding our balance of payments and increased employment.

Coupling these savings with the predictions that renewable energy could account up to 11.6 quads by the year 2000 through the efforts of the private sector, as outlined in the Department of Energy Office of Policy, Planning and Analysis Report released in July of 1981, the impact of providing the best atmosphere for the promulgation of renewable energy small business has important national implications. The Solar Lobby maintains that such encouragement of the free market enterprise approach can add to the security and self reliance of the United States which is an issue of paramount importance to most Americans.

Although we realize that it is imperative to develop a diverse energy production strategy. There are certain obstacles which impede significant renewable energy development.

• It is inherent in the nature of solar devices that there is a fairly high up-front cost and small monthly costs thereafter - notably none at all for fuel. Therefore, the biggest bar to "going solar" for most people is financing. Getting the cash for the high up-front costs has always been a problem, and it is greatly accentuated by the very high interest rates currently charged on home improvement loans, if such loans are available at all.

The federal government is in effect dictating to the states what forms of encouragement they can offer, allowing state tax credits, but prohibiting assistance with financing - often the very thing that is needed.

This has the additional effect of re-distributing federal revenues. That is, if a state institutes a program of subsidies which make its citizens ineligible for federal tax credits, the effect on federal revenues will be an increase. However, the resulting federal saving will not come back to that state, but instead will be re-distributed among other states who have been less provident.

Another priority of this administration is the reduction of paperwork. It would be ironic indeed if in that atmosphere, we failed to eliminate the self-defeating paperwork jungle created by this legislation. In order to ensure that the prohibition on double benefits works, providers of all other programs are required to report to IRS everyone who avails themselves of those programs. The creation of such storm of paper for the small amounts involved certainly would shrivel under a costs-benefits analysis.

In sum, this legislation would unshackle the forces of state and local government and free enterprise so that they can most effectively apply themselves to the contribution that conservation and renewable energy can make to the solution of the nation's energy problems.

Senator PACKWOOD. That will conclude S. 1449. Let's now move on to S. 1757.

[Whereupon, at 10:18 a.m., the hearing was concluded.]

[By direction of the chairman the following communications were made a part of the hearing record:]

Edward J. Carlough
General President

SHEET
METAL
WORKERS'
INTERNATIONAL
ASSOCIATION

1750 New York Avenue, N.W.
Washington, D.C.
20006
202/783-5880

December 17, 1981

The Honorable Bob Packwood, Chairman
Taxation & Debt Management Subcommittee
G204 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Packwood:

We recognize your outstanding efforts in the development of significant federal tax credits and loan programs designed to enhance the affordable commercialization of solar energy and other renewable energy technologies. And we are very pleased to go on record in support of S. 1449, to correct the conflict between federal tax credits and state renewable energy loan and grant programs.

The Sheet Metal Workers' International Association shares your concern that "double-dipping" provisions pertaining to federal renewable energy incentive programs should not preclude participants in state energy loan programs from eligibility to the federal tax credits.

In the short-term, we believe it is imperative to maximize the effectiveness of the incentives enacted in the windfall profits tax legislation. Eliminating the problem of taxpayers having to choose between federal tax credits or participation in a state loan or grant program will make both incentives more effective - to the solar industry and the consumer.

We believe the timing of this bill is significant. Those that have supported federal initiatives to bring affordable alternative energy technologies to the American public are witnessing an enormous shift in policy that will leave commercialization efforts up to the states and the forces of the marketplace. Rectifying the current inequity will help state energy agencies meet this challenge by encouraging the development of energy loan programs that will work in concert with existing federal incentives.

The Administration's recent initiative to repeal the federal tax

Chairman Bob Packwood
Taxation & Debt Management Subcommittee
Page Two

credits makes clear that we will do well to maintain existing incentives and accentuates the necessity of encouraging state and local initiatives.

We do not regard S. 1449 as an expansion of the pioneering strides enacted in the Crude Oil Windfall Profits Tax Act of 1980, but rather as a justified and necessary refinement of that important initiative.

Sincerely,

Edward J. Carlough
General President

EJC/ets
OPEIU#2

FINANCE SUBCOMMITTEES ON

ENERGY AND AGRICULTURAL TAXATION

AND

TAXATION AND DEBT MANAGEMENT

December 11, 1981

Senate Bill 1449 Subsidized Energy Financing	Testimony of Professional Solar Contractors, Environmental Technology, Inc., United Energy Systems, Inc., Solar Man, Inc., Todd and Sun Energy Systems, Inc., and Oregon Solar Energy Industries Association

I. <u>Introduction</u>

Professional Solar Contractors, Environmental Technology, Inc., United Energy Systems, Inc., Solar Man, Inc., Todd and Sun Energy Systems, Inc. are corporations engaged in the business of distribution, sale and installation of renewable resource energy equipment in the State of Oregon. Oregon Solar Energy Industries Association (OSEIA) is a non-profit trade association comprising 160 trade members. During the past year the effectiveness of state renewable resource energy financing incentives has been damaged by Federal legislation limiting energy tax credit eligibility to those purchases not financed by "subsidized energy financing". This appears to be true regardless of whether the financing was Federal, State or local. The effect is that if a purchaser of solar energy equipment utilizes a below market rate loan to finance his investment, the purchaser loses all of his federal tax credits no matter how small the loan subsidy. Member and non-member businesses are concerned that the federal legislation restricts state flexability in offering incentives and requests that SB 1449 be adopted to clarify the intent of the energy tax credit legislation.

II. What is Subsidized Energy Financing?

It is not clear what constitutes subsidized energy financing because the meaning of the statute is not clearly interpreted in the Congressional Record.[1] The term is circularly defined by law as "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]

No IRS regulations have been drafted to interpret the double-dipping provision, but it is likely that the regulations will conform to the conference committee interpretation, given the inherent ambiguity of the definition. A 1980 house conference committee attemped to clarify the definition of subsidized energy financing, but failed to amend the bill to reflect their agreement. Under the committee report, expenditures financed by Federal, State, or local grants that are exempt from Federal income tax are not eligible for the residential tax credit. This includes the direct or indirect use of tax-exempt bonds for providing funds. However, subsidized energy financing does not include loan guarantees, grants that are taxable, and credits against State and local income taxes.[2] The committee intended the double-dipping provision to "coordinate the residential energy credits with any other government subsidies for energy-related expenditures,"[4] such as loans from the Solar Energy Bank[5], to prevent compounding of benefits.

III. General Effect of Provision on Solar Development

The conference committee had intended the provision to apply narrowly to programs such as the Solar Bank so that recipients of Federal funds through subsidized loans would not also be eligible for a second subsidy in the form of tax credits. However, the scope of the double-dipping provision is not narrowly drawn but included financing provided by State and Local governments. Therefore, should a homeowner take a loan at reduced interest rates from general state revenues he would become ineligible for Federal tax credits. This is so even if the state subsidy was minimal (ie 5% interest) and the loss of tax credits relatively substantial (ie up to $4,000).

Under present law, State and local governments must necessarily limit their incentives for renewable resource energy production to tax credits and loan guarantees to avoid double-dipping complications for its residence. Senate Bill 1449 would correct the overly broad effect of the double-dipping provision and allow states the necessary flexability in developing programs that provide for continued renewable resource energy development. This could be accomplished with no further impact on Federal revenues.

IV. The Effect on Oregon Programs

Oregon has long been recognized as a leader in conservation and renewable resource energy development. The states Alternate Energy Development Commission reported in September of 1980 that 84 trillion Btu per year could be produced economically through the implementation of its solar/conservation energy program. This represents about forty percent (40%) of the projected increase in demand for energy through the year 2000.[6]

In order to meet these projections the state determined that federal and state benefits must be combined in order to encourage Oregon homeowners to make conservation and renewable resource expenditures. For example, a typical solar water heating system, capable of supplying the hot water needs to a family of four will cost $3,000 to $5,000. Federal credits will lower the cost by forty percent (40%) only if the system was not financed by "subsidized energy financing". Therefore, if the homeowner utilizes a state loan to finance the expenditure, energy cost savings will not pay for the cost of the system within twenty (20) years, due to the homeowners inability to receive federal energy tax credits. If the homeowner is able to utilize the federal energy tax credit in combination with the state subsidized loan, the expenditure will payback within seven (7) years through energy savings.

A. Veterans Loan.

Oregon has such a loan program, administered by the Oregon Department of Veterans' Affairs.[7] The source of revenues for the alternative energy loan program are the repayments of Veterans home loans. These funds are deposited to the Veterans' War Bond Sinking Fund. These funds are general revenues of the State of Oregon but are indirect proceeds of bond sales since the original home construction loans were financed by the sale of tax exempt bonds.

The Internal Revenue Service has indicated that Veterans who have received loans under ORS 407.048 will not be eligible for federal energy tax credits,[8] even though no regulations have yet been drafted to interpret the provision. The net effect is that hundreds of Veterans will be denied Federal benefits as a result of their acceptance of a State loan from the general revenues of the State.

Senate Bill 1449 would correct this misinterpretation only if the committee clearly states that the indirect use of revenues from the sale of tax exempt bonds is not financing provided under a Federal program for the purpose of IRC §44C (c)(10). Without passage of SB 1449 the Oregon State Veterans loan program will not be an effective incentive to encourage conservation and renewable resource energy expenditures.

V. <u>Industry and Consumer Concerns</u>

The double-dipping provision became effective January 1, 1981. No regulations have been drafted to interpret this provision and general confusion exists in the minds of local IRS agents regarding its applicability. Dealers of solar energy equipment in Oregon have, in some instances taken the position that the "principal purpose" of the State Veterans loan program was not to finance projects designed to conserve or produce energy but rather the principal purpose was home construction. As a result of this interpretation these dealers have represented to their clients that they would be eligible for federal energy tax credits. In some cases local officials, accountants and IRS officials have supported the dealers' contention that Veterans would be eligible for construction state loans and federal credits. Should Veterans become ineligible for Federal tax credits, as the office of chief counsel of the IRS suggests, renewable resource energy production will face a major setback.

Rapid implemetation of SB 1449 will elevate this consumer concern and will provide direction to the Internal Revenue Service in drafting Regulations governing IRC §44C(c)(10).

VI. Summary

Oregon and other states have made substantial progress in the development of conservation and renewable energy resources. The double-dipping provision within the Crude Oil Windfall Profits Tax Act of 1980 was not intended to restrict the states flexibility in offering incentives to develop conservation and renewable resources. The provision was only intended to limit duplicative federal benefits.

Senate Bill 1449 reaffirms the prohibition on double-dipping from Federal funds to finance conservation and renewable resource energy devices while affording states and local entities the opportunity to administer programs to develop their renewable resources. We encourage enactment of Senate Bill 1449 at the earliest possible opportunity.

Philip G. Cobb
Attorney at Law

1. House Conference Report No. 96-817, 96th Cong., 2d Sess, on H.R. 3919, p. 120 reproduced in f1980 U. S. Code, Cong. and Ad. News, p 1271.

2. Windfall Profit Tax Act § 03(a)(1), I.R.C. §44C(c)(10) [26 U.S.C.A. §44C(c)(10) (1980 Pkt. Ptd)].

3. House Conference Report, note 1 above.

4. Id.

5. Solar Energy and Energy Conservation Bank Act, Title V subtitle A of the Energy Security Act, Pub. L. No. 960294, 94 Stat. 719 in 12 U.S.C.A. §3603 (1980).

6. Oregon Alternate Energy Development Commission, Future Renewable, Final Report, Salem, Oregon: AEDC, Sept. 1980, p. 21.

7. ORS 407.048.

8. Telephone conversation with Mr. Walter Woo, Attorney Reviewer, Office of Chief Counsel, Legislation and Regulations Division, Internal Revenue Service, Washington, D. C., November, 1981.

National League of Cities
1301 Pennsylvania Avenue N.W.
Washington, D.C.
20004
(202) 626-3000
Cable: NLCITIES

December 11, 1981

The Honorable Malcolm Wallop
Chairman, Subcommittee on Energy
and Agricultural Taxation
Committee on Finance
United States Senate
2227 Dirksen Senate Office
Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing on behalf of the National League of Cities to express our appreciation for your decision to hold these hearings and to advise you of our support for S. 1449.

In our experience, current tax law with respect to the ability of a state or city to develop and implement its own energy conservation or renewable resource program is discriminatory and ambiguous. We believe the Internal Revenue Code establishes an inherent policy bias in favor of investments to develop energy resources as opposed to energy investments at the site of consumption, which leaves cities with diminished abilities to secure financing for capital investment in infrastructure and human needs.

We are especially concerned about the so-called double-dipping provisions in the code which act as a disincentive to cities which wish to implement their own energy subsidy programs. It is our view that, at a minimum, the code should be neutral with regard to local energy programs. Given the severe and on-going budget reductions for weatherization and low income fuel assistance programs, we believe that tax policy should be re-examined so that those in greatest need and least able to make needed investments are considered.

S. 1449 is a meaningful step in that direction. We strongly support the initiative and stand ready to work with the Committee in securing early enactment.

Sincerely,

Alan Beals

Alan Beals
Executive Director

O

BEST COPY AVAILABLE