HOUSE OF REPRESENTATIVES—*Monday, March 10, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, our help in ages past, our hope for years to come, bless us this day and the work that we do. Take away from us the blinders of self seeking that narrow our vision and limits our usefulness. May we see the fullness of Your kingdom and the rich opportunities for service to those who stand in great need.

May Your comforting spirit be with those who are anxious or fearful about their lives, or do not know freedoms they deserve. Sustain them always with Your promises of strength and of power and peace. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On March 5, 1980:

H.R. 3757. An act to establish the Channel Islands National Park, and for other purposes; and

H.J. Res. 267. Joint resolution to provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America."

On March 6, 1980:

H.R. 948. An act for the relief of Maria Corazon Samtoy;

H.R. 3139. An act for the relief of Pedro Gauyan Nelson; and

H.R. 3873. An act for the relief of Jan Kutina.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2253. An act to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees.

The message also announced that the Vice President, pursuant to section 9355(a) of title 10, United States Code, appointed Mr. HOLLINGS, Mr. HART, Mr. STEVENS, and Mr. GOLDWATER to the Board of Visitors to the U.S. Air Force Academy.

The message also announced that the Vice President, pursuant to section 6968(a) of title 10, United States Code, appointed Mr. SARBANES, Mr. SASSER, Mr. MATHIAS, and Mr. COHEN to the Board of Visitors to the U.S. Naval Academy.

The message also announced that the Vice President, pursuant to section 4355(a) of title 10, United States Code, appointed Mr. JOHNSTON, Mr. EXON, Mr. JAVITS, and Mr. LAXALT to the Board of Visitors to the U.S. Military Academy.

The message also announced that the Vice President, upon the recommendation of the majority and minority leaders, pursuant to Public Law 95–45, appointed Mr. CANNON (chairman) and Mr. STAFFORD (vice chairman) to attend the Interparliamentary Union Conference, to be held in Oslo, Norway, April 7–12, 1980.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication, which was read:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 10, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: At 12:00 o'clock noon, Central Standard Time (1:00 o'clock P.M. Eastern Standard Time), Monday, March 10, 1980, I will be inaugurated Governor of the State of Louisiana. Accordingly, I hereby submit my resignation as United States Representative for the Third Congressional District of Louisiana, effective upon my taking office as Governor.

Service in this House has been a privilege of the highest order, for which I shall be forever grateful.

Respectfully,

DAVID C. TREEN,
Member of Congress,
Third District of Louisiana.

BANKRUPTCY OF DEMOCRATS' ECONOMIC POLICIES

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SOLOMON. Mr. Speaker, Friday we received news that our Nation's second largest bank raised its prime interest rate to 17¾ percent, and the wholesale price index is now rising at an annual rate of 19 percent.

These announcements expose the bankruptcy of the Democrats' economic policies—policies initiated, endorsed, and continued by the majority party in Congress and by the present administration.

For 25 years, this House, under Democrat control, has refused to make the hard decisions that must be made to restore order to our troubled financial affairs.

They continue to spend more than we have—to the tune of a million dollars a minute. They increased taxes 700 percent in 25 years to pay for this spending spree, and here is the result: a dollar that looks like this.

Democrats have shown conclusively that they cannot manage our economy, they cannot manage our budget, they cannot manage our Government—in short, they cannot manage our country. But, Mr. Speaker, I am confident that, in November, the American people will decide that our country can, and will, manage without their control.

PRESENT GOVERNMENT POLICIES REGARDING INFLATION ARE NOT WORKING

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the story is told of an Emperor in a distant land that desired to have the most unique and extravagant wearing apparel possible and assigned his tailor the responsibility of providing him with ever new and different clothes. The tailor decided to design a unique garment which the Emperor would never forget. The Emperor was wild with excitement and delight over his new clothes and proudly strutted with excitement over his new clothes through the streets of his city to show them off. Everyone looked on admiringly and in silence until the Emperor passed a small boy. Then, in the innocence and freshness of youth the young boy exclaimed, "But he doesn't have any clothes on."

This simple fairy tale illustrates a very serious problem facing the American people that is not a fairy tale but a stark reality to our countrymen. Over the last 25 years since the Democratic Party took control of this Congress, they have put on many different and extravagant outfits of Federal bureaucracy at the expense of the helpless onlookers, the American people. However, we are rapidly reaching the point when the Emperor is not the only one that is parading around in his "birthday suit."

Present Government policies regarding inflation are not working. Recent movements in wholesale prices indicate that the cancer of inflation is still picking up momentum, which will only serve to further erode the buying power of consumers. Excessive high taxes are stripping the American people of basic necessities of life. The voters are going to tell the Democratic Congress this November the naked truth. "Throw the rascals out," is the voters' battle cry.

NEED TO CUT COMMITTEES

(Mr. COLLINS of Texas asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, with everyone in our country talking about inflation, the big question is what is Congress doing about it. So far Congress has done nothing to solve inflation. Congress created inflation through its excessive Government spending. The President talks, the Cabinet talks, everyone talks, but no one does anything.

This week Congress can take a constructive step forward. We can cut our own spending. Six committee funds are up for our House disapproval this week. We need to provide the example of tightening the belt and fighting inflation.

Review these six and you will see they should all be cut back.

First. House computer system: Asks for $9.881.000. Compare this duplicative House system with comparable information you can get from the Congressional Library. Compare and let us cut.

Second, Drugs: This could be handled by its full committee. Started July 29, 1976, and supposed to be for 1 term only.

Third. Judiciary: Check its increase over the past five terms.

Fourth. Outer Continental Shelf: This could be handled by existing Merchant Marine Committee.

Fifth. Committee on Committees: This has shown little constructive progress. Refer to present committee.

Sixth. Commerce: This could be reduced by one-third.

Stop inflation. Set an example, Congress. Vote to cut committee budget.

VOTE BUYING IN LOUISIANA

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BADHAM. Mr. Speaker, obviously it is business as usual here in the Congress and over at the White House and with the Cabinet. I would like to point out, as a result of actions last week that this House faced, that it is business as usual again in Louisiana.

This article appeared late last week in the Washington Post, with a dateline of Shreveport, La.:

VOTE BUYING IN LOUISIANA

SHREVEPORT, LA.—Three more people pleaded guilty to buying votes in Louisiana's 1978 fall elections, bringing to 9 the total convicted in the federal investigation.

The pleas came the day after Congress voted along party lines to scuttle further investigation into the election that sent Democrat Claude Leach to Congress.

It is business as usual in Louisiana.

AMERICA'S SECURITY IS BEING THREATENED

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. CONTE. Mr. Speaker, today, even as I stand in this well, America's security is being threatened. I am not talking about the dangers of attack by a foreign power, the possibility of being sucked into a third party conflict, or even the impending dangers of a population bomb which continues to tick away. What I am referring to is a foe as formidable as these external threats, a foe which has been slowly eroding American strength—eating away at our economy like a cancerous growth. That foe is inflation.

Mr. Speaker, today the effects of this enemy are felt in every aspect of our daily lives. We feel the pinch of higher food prices, the bite of energy costs which have risen beyond the scope of even our wildest imagination, and the squeeze of credit which precludes home purchases. And the situation is not improving. Already inflation indicators are forecasting a 20-percent increase rather than the mere 13-percent rise in prices registered last year. The consequences for American economic and the associated political and strategic strength will be even more far reaching and debilitating. Action must be taken now. We must tighten our belt, trimming the fat from every budget which passes through this House. We must revamp the system which fosters conspicuous consumption to increase instead our savings and investment. We must take effective measures now and arm ourselves against this most deadly of foes.●

WELCOMING GARDEN STATE CATV TO SUSSEX COUNTY

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, many of the people in the district will never have the opportunity to visit Washington, the Nation's Capital, or see Congress in action.

Today, I would like to welcome Garden State CATV to Sussex County. This cable television network is hooked to the satellite that will bring the floor of Congress right into your homes and schools.

For 2 hours, every day, Garden State CATV will follow the daily action on the House floor. See the votes on important issues, key speeches, et cetera.

I hope you all take advantage of this wonderful educational opportunity in your homes, and in your schools as well.

I look forward to your impressions and reactions to this new system, and I want to thank Garden State CATV in Sparta for the occasion to speak with my constituents in Sussex County.

REPUBLICANS WANT TO SHOW AMERICANS THEY CARE

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, when you go to the grocery store, do you nearly "drop your false teeth" over the outrageous prices you must pay? Perhaps you drop your teeth because you cannot afford the denture adhesive to hold them in anymore. At $2.89 a tube, denture adhesive is beginning to look like a luxury.

What is most disheartening is remembering 25 years ago when prices were about a third what they are now. That same tube of denture adhesive sold for 98 cents then, and a person could afford to keep his choppers in his mouth.

What happened to send prices soaring, you ask? Well, in 1954 the Democrats got control of the Congress and the country and have not let go yet. The result has been rampant inflation, eating away at the buying power of the dollar.

Republicans want to get a hold on inflation and restore the integrity of the dollar. We have not been waiting all these 25 years to do it either. We have been working at it all the time, and a Republican majority in Congress can make it happen.

Furthermore, Republicans want to show Americans we care. We will be holding a national food store workday on March 15 to get a firsthand look at prices and what they are doing to Americans. We will be checking you out and bagging your groceries. We are concerned. We are Republicans.

20/20 MAY BE NOVEMBER BATTLE SLOGAN

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, during the past 4 days, I met with well over 2,000 Ohioans, some in meetings as small as 20, and several in meetings of several hundred and up.

They are mad about inflation. I do not care what the Washington smart set says or how sure they are that they can ride this one out and then go back to business as usual. I do not care how unresponsive the majority in this House is to the question of inflation or whether they subscribe to our Speaker's belief that liberal programs should not be touched. People are mad and they are in a fighting mood.

They know numbers. Historically, Americans have responded to "Fifty-four forty or fight."

I remember Mr. Truman used the "Do-nothing 80th Congress."

We have heard about the 38th parallel in Korean war. They know numbers and there is an emerging number that I will suggest is going to be the death knell of the majority party. That is 20/20.

The American people are starting to think about 20/20, 20 percent inflation, and 20 percent interest. These numbers are destroying the middle class. Now the Democrat Members may have a month or two to prevent us from getting to that 20, but we are headed there through the policies on the other side of the aisle. I would suggest along about November the American people are going to have 20/20 vision in looking at the people who have caused 20/20 inflation and interest rates.

PRESIDENT CARTER'S PORK BARREL POLITICS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the newspapers have been full of stories about

the tens of millions of Federal-aid dollars that are being carefully dispensed by the President around the country, in order to help his primary election campaign.

Funds for new Federal buildings and development projects, and possible aid for coal degasification and gasohol production facilities, are being dangled before voters as a less than subtle reminder of lavish rewards for political support of the President.

However, Federal housing funds expected in one Illinois community were quickly denied when a local politician announced his support for one of the President's Democratic opponents.

As a Presidential candidate 4 years ago, Jimmy Carter denounced pork barrel politics.

Now that he controls the barrel and can dispense the pork, President Carter has apparently changed his mind about using taxpayer-funded Federal programs to line up votes for his own reelection campaign.

WHIPS' TEAMS WHIPPED

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, in recent weeks the Members of the House have been treated to some friendly intraparty jibes between the majority whip and his chief deputy over national collegiate basketball superiority.

The gentleman from Illinois (Mr. ROSTENKOWSKI) was riding high during the latter part of the season while his DePaul team was ranked No. 1 in the Nation. His confidence was shaken, however, when a Notre Dame team defeated the top ranked Demons just before the regular season ended. The distinguished majority whip (Mr. BRADEMAS) could not resist the temptation to bring this to the attention of his deputy.

It should be noted that the minority side is also well represented in the NCAA tournament. As you may know, Bradley University, located in the home of our distinguished minority whip (Mr. MICHEL), won the Missouri Valley championship and earned a berth in the national tournament.

But my reason for rising today is to report that each of these three teams, DePaul, Notre Dame, and Bradley, were eliminated from tournament play over the weekend. I am proud to point out, on the other hand, that a school which rests in the district of another gentleman from Indiana, the deputy minority whip, has survived the first round and I am confident that Coach Bobby Knight and his Indiana Hoosiers will go on to win the national championship, as they did in 1976.

I am somewhat disappointed that the schools represented by the majority whip, and his deputy, as well as the minority whip, were defeated. I was hoping Indiana University would have the opportunity to whip each of these teams themselves.

PRACTICE IMPROVES ORATORY TALENT OF REPUBLICANS

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I enjoy this 1-minute period more than anything else in the Congress. One of the things that it demonstrates is the difference between Republicans and Democrats.

Now, the old definition was that the main difference between Republicans and Democrats was that Republicans hired exterminators, whereas Democrats stepped on bugs. But clearly there are some other differences. I have noticed that Republicans come to the well and read speeches that are written for them by somebody else, while Democrats speak from the heart.

I also notice that when Republicans give their speech, they say, "Now, the trouble with the American people is that 'they' are going to do this, and 'they' will have 20/20 vision and 'they' remember 'Fifty-four forty or fight.'"

When Democrats make such speeches, they say, "We." We identify ourselves with the American people, whereas, the Republicans, who have never quite been assimilated into the American society, refer to Americans as being "they."

But anyway, they are practicing a lot lately, these Republicans, and by golly, some of these speeches are good, particularly the one about basketball.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague and I welcome him to the 1-minute happy hour.

Mr. DANIELSON. Thank you very much. We are all "Minute Men." Bless you all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 7, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Office of the Clerk at 2:42 p.m. on Friday March 7, 1980, and said to contain a message from the President whereby he transmits the annual report of the National Endowment for the Arts and the National Council on the Arts for the Fiscal Year ended September 30, 1978.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL COUNCIL ON THE ARTS, FY 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended, I transmit herewith the annual report of the National Endowment for the Arts and the National Council on the Arts for the Fiscal Year ended September 30, 1978.

JIMMY CARTER.
THE WHITE HOUSE, *March 7, 1980.*

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COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 7, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Office of the Clerk at 2:43 p.m. on Friday, March 7, 1980, and said to contain a message from the President whereby he transmits the 19th annual report of the United States Arms Control and Disarmament Agency.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORT FOR 1979 OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

To the Congress of the United States:

I am pleased to transmit to you the annual report for 1979 of the United States Arms Control and Disarmament Agency. Over the past few years SALT has tended to dominate our thinking about the arms control activities of the United States. It is one of many arms control endeavors which this report will describe.

Last June in Vienna, I signed the SALT II Treaty with Soviet President Brezhnev and submitted it for the Senate's advice and consent to ratification.

Since that time, SALT has been the subject of an intense national debate and of hearings by three committees of the Senate. In November, the Committee on Foreign Relations reported the Treaty favorably to the Senate.

After the Soviet invasion of Afghanistan, however, I asked that the Senate delay consideration of the SALT II Treaty on the floor so that the Congress and the executive branch can devote our primary attention to the legislative and other matters required to respond to this crisis. But I intend to ask the Senate to take up this treaty after these more urgent matters have been dealt with. As I said to you in my State of the Union address, "especially now in a time of great tension, observing the mutual constraints imposed by the terms of (such) treaties will be in the best interests of both countries and will help to preserve world peace." When the full Senate begins its debate on SALT II, I am convinced that those who are concerned about our national security will support the Treaty as a wise and prudent step.

This Administration continues to believe that arms control can make genuine contributions to our national security. We remain deeply committed to the process of mutual and verifiable arms control, particularly to the effort to prevent the spread and further development of nuclear weapons.

Those of you who have an opportunity to read and reflect upon the attached report will find a compelling case for the importance of the work described—to us, our allies, and those who look to us for leadership in the world. We must diligently pursue negotiated, verifiable solutions to the many arms races upon which nations are now embarked. We must be prepared to work with others to bring peace and stability to the world.

While we depend upon the Arms Control and Disarmament Agency, the Department of Defense and other agencies to be vigilant in their duties, none of us should forget the danger that confronts us all individually and collectively, and that threatens us as a sovereign nation and as a part of the world of nations.

JIMMY CARTER.

THE WHITE HOUSE, *March 7, 1980.*

ANNUAL REPORT OF THE COMMUNITY SERVICES ADMINISTRATION, FISCAL YEAR 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

Pursuant to the provisions of Section 608 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2948), I transmit herewith the Annual Report of the Community Services Administration for fiscal year 1978.

JIMMY CARTER.

THE WHITE HOUSE, *March 10, 1980.*

AUTHORIZING PRINTING OF REVISED EDITION OF "HANDBOOK FOR SMALL BUSINESS" AS A SENATE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged Senate concurrent resolution (S. Con. Res. 45) authorizing the printing of a revised edition of the "Handbook for Small Business" as a Senate document, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 45

Resolved by the Senate (the House of Representatives concurring), That a revised edition of Senate Document Numbered 91–45, entitled "Handbook for Small Business," explaining programs of Federal departments, agencies, offices, and commissions of benefit to small business and operating pursuant to various statutes enacted by the Congress, shall be printed with illustrations as a Senate document; and that there shall be printed six thousand additional copies of such document, which shall be for the use of the Senate Select Committee on Small Business.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California.

Mr. HAWKINS. Mr. Speaker, Senate Concurrent Resolution 45 provides for the printing of a revised edition of the "Handbook for Small Business."

Purpose: The publication provides updated information on the programs of Federal departments, agencies, offices and commissions which are of interest to small business. A smilar publication was produced during the 91st Congress, but it is both out-of-date and out-of-print. The resolution would provide 6,000 copies for the use of the Senate Select Committee on Small Business, as well as providing for depository library distribution.

The resolution is supported by both the chairman of the select committee, Senator NELSON, and the ranking minority member, Senator WEICKER.

Cost:

1,500 copies (usual number)	$8,960.61
6,000 additional copies	10,869.72
Total	$19,830.33

Mr. Speaker, I move the previous question on the Senate concurrent resolution.

The previous question was ordered.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING REPRINTING OF COMMITTEE PRINT ENTITLED "SYNTHETIC FUELS"

Mr. HAWKINS. Mr. Speaker, by direction of the House Administration, I call up a privileged Senate concurrent resolution (S. Con. Res. 56) authorizing the reprinting of the committee print entitled "Synthetic Fuels", and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That there shall be reprinted for the use of the Senate Committee on the Budget three thousand five hundred copies of its committee print of the Ninety-sixth Congress, first session, entitled "Synthetic Fuels", a report to the full committee by the Subcommittee on Synthetic Fuels.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, Senate Concurrent Resolution 56 provides for reprinting of the committee print entitled "Synthetic Fuels."

Purpose: The publication deals comprehensively with the subject of synthetic fuels and was produced as a committee print by the Senate Committee on the Budget during the first session of this Congress. The supply was quickly exhausted, however, and demand remains high. The resolution would provide 3,500 copies of the publication for the use of the Senate Budget Committee.

The resolution is supported by both the chairman of the committee, Senator MUSKIE, and the ranking minority member, Senator BELLMON.

Cost:

1,000 copies (back to press cost)	$8,063.84
2,500 additional copies	5,720.77
Total	$13,784.61

The SPEAKER pro tempore. Without objection, the previous question is ordered on the Senate concurrent resolution.

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF BROCHURE ENTITLED "HOW OUR LAWS ARE MADE"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 95) to provide for the printing of the brochure entitled "How Our Laws Are Made," and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 95

Resolved by the House of Representatives (the Senate concurring), That the brochure entitled "How Our Laws Are Made," as set out in House Document Numbered 95–259 of the Ninety-fifth Congress, be printed as a House document, with a suitable paperback cover of a style, design, and color, to be selected by the chairman of the Committee on the Judiciary of the House of Representatives, with emendations, and with a foreword by the Honorable PETER W. RODINO, JUNIOR; and that there be printed two hundred and forty-six thousand additional copies, of which twenty-five thousand shall be for the use of the Committee on the Judiciary and the balance prorated to the Members of the House of Representatives.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, House Concurrent Resolution 95 provides for printing of the brochure entitled "How Our Laws Are Made."

Purpose: The publication is one of those traditionally made available to Members for distribution to various school and community groups. The supply printed during the last Congress has been exhausted but the demand remains high. Under the terms of the resolution, each Member would be allotted 500 copies.

Cost:

1,500 copies (usual number)	$1,570.48
246,000 additional copies	80,771.64
Total	$82,342.12

The SPEAKER pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF FINAL REPORT OF THE INDIAN CLAIMS COMMISSION AS A HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 162) providing for the printing of the final report of the Indian Claims Commission as a House document, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 162

Resolved by the House of Representatives (the Senate concurring), That the final report of the Indian Claims Commission be printed as a House document with suitable binding.

SEC. 2. In addition to the usual number, there shall be printed one thousand five hundred copies of such document for the use of the Committee on Interior and Insular Affairs.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

H. CON. RES. 162

Resolved by the House of Representatives (the Senate concurring), That the final report of the Indian Claims Commission be printed as a House document with suitable binding.

SEC. 2. In addition to the usual number, there shall be printed five hundred copies of such document for the use of the Committee on Interior and Insular Affairs.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, House Concurrent Resolution 162 provides for the printing of "the Final Report of the Indian Claims Commission" as a House Document.

Purpose: The publication is an historical document describing the various claims made by American Indian tribes against the U.S. Government. The reprinting will allow for depository library distribution, as well as for a mailing of a copy of the report to approximately 300 Indian tribes. A further small supply (approximately 200 copies) will be maintained by the Committee on Interior and Insular Affairs.

A letter was received from Mr. CLAUSEN of California, the ranking minority member of the committee in which he strongly supports the resolution.

Cost:

1,500 copies (usual number)	$4,880.34
Additional 500 copies	590.24
Total	5,670.58

The SPEAKER pro tempore. Without objection, the previous question is ordered on the committee amendment and the concurrent resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING AS A HOUSE DOCUMENT AN ANTHOLOGY OF CAPTIVE NATIONS WEEK PROCLAMATIONS, ADDRESSES, AND OTHER RELEVANT MATERIAL

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 233) to authorize the printing as a House document an anthology of Captive Nations Week proclamations, addresses, and other relevant material, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 233

Resolved by the House of Representatives (the Senate concurring), That in commemoration of the twentieth observance and anniversary of the congressional Captive Nations Week resolution, which in July 1959 was signed by President Dwight D. Eisenhower into Public Law 86-90, there be printed as a House document an anthology of Captive Nations Week proclamations, addresses, and other relevant material published during the two commemorative events; and that nine thousand nine hundred and ninety-nine additional copies shall be printed, of which seven thousand five hundred shall be for the use of the House of Representatives, and two thousand four hundred and ninety-nine shall be for the use of the Senate.

SEC. 2. Copies of such document shall be prorated to Members of the House of Representatives and Senate for a period of sixty days, after which the unused balance shall revert to the respective House and Senate document rooms.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, House Concurrent Resolution 233 provides for the printing as a house document an "Anthology of Captive Nations Week Proclamations," addresses and other relevant material.

Purpose: The publication is a collection of materials which appeared in the CONGRESSIONAL RECORD during the observance of Captive Nations Week. Similar publications have been made in the past, following the observance of the first Captive Nations Week under President Eisenhower. The most recent publication was during the Bicentenial Year of 1976. The resolution will provide each Member of the House with 16 copies and each Member of the Senate with 24 copies, as well as providing for depository library distribution.

Cost:

1,500 copies (usual number)	$4,938.66
9,999 additional copies	8,471.24
Total	13,409.25

The SPEAKER pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1230

AUTHORIZING PRINTING OF REVISED EDITION OF "OUR AMERICAN GOVERNMENT" AS HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 279) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 279

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edition of "Our American Government," revised under the direction of the Committee on House Administration.

SEC. 2. In addition to the usual number of copies, there shall be printed five hundred and fifty-six thousand additional copies, of which four hundred and fifty-three thousand copies shall be for the use of the House of Representatives, and one hundred and three thousand copies shall be for the use of the Senate.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, House Concurrent Resolution 279 provides for the printing of a revised edition of "Our American Government" as a House document.

The publication is one of those traditionally made available to Members. The supply has been exhausted. None of the new Members have had an opportunity to have distribution made to them of this rather routine document.

The resolution calls for the printing of 556,000 additional copies and the total cost is $135,864.19.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF "FEDERAL ELECTION CAMPAIGN LAWS RELATING TO THE UNITED STATES HOUSE OF REPRESENTATIVES"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 283) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 283

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document, "Federal Election Campaign Laws Relating to the United States House of Representatives", revised under the direction of the Committee on House Administration.

SEC. 2. In addition to the usual number of copies, there shall be printed twenty thousand copies, of which five thousand shall be for the use of the Committee on House Administration and the remaining fifteen thousand for distribution to candidates for the House of Representatives and for political committees supporting them.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, House Concurrent Resolution 283 provides for the printing of the publication "Federal Election Campaign Laws Relating to the United States House of Representatives." This is a revised edition of that document and the total cost of the 20,000 additional copies, in addition to the usual number, is $30,977.57.

The publication presents in a single pamphlet all of the Federal election campaign laws of importance to Members of the House of Representatives. It is a revised edition, necessitated by the recent passage of the Federal Election Campaign Act Amendments of 1979 (Public Law 96–187). The resolution provides for the printing of 5,000 copies for the use of the Committee on House Administration and 15,000 copies for distribution to candidates for the House of Representatives as well as for depository library distribution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

DISAPPEARING PERSONS

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 285) expressing the sense of the Congress with respect to the disappearance of persons which is caused by the abduction and clandestine detention of those persons by the governments of foreign countries or by international or transnational terrorist organizations.

The Clerk read as follows:

H. CON. RES. 285

Whereas under international law and the Charter of the United Nations the governments of countries are obligated to promote and defend human rights;

Whereas the domestic law of most countries, as well as international law, prohibits the governments of the respective countries from suspending certain human rights under any circumstances, particularly those rights which guarantee freedom from arbitrary execution and freedom from torture;

Whereas the commitment to human rights is a central bond shared by the United States and other nations committed to the rule of law;

Whereas in an attempt to suppress dissent and to conceal gross violations of human rights, certain foreign governments in different parts of the world, particularly those governments monopolized by a single person, party, or group such as the armed forces, or by extremist religious groups, separatist movements, or political parties supported by foreign entities, have increasingly engaged in the abduction and clandestine detention of persons suspected of opposing those governments and of members of groups out of favor with governmental authorities, such as intellectuals or members of certain social classes, political organizations, or ethnic or religious groups;

Whereas testimony before the Congress has established that such governments often torture and murder the persons they cause to "disappear" while denying knowledge of the whereabouts of those persons;

Whereas these governments and quasi-governmental entities causing these disappearances often engage in acts of international or transnational terrorism;

Whereas the Congress is deeply moved by the anguish and sorrow suffered by the relatives of the persons who have so disappeared, particularly the spouses, children, and parents of those persons;

Whereas the imposition of restrictions by the United States on economic and other forms of assistance to, and on access to financial and other United States resources by, countries the governments of which violate internationally recognized human rights referred to in sections 116 and 502B of the Foreign Assistance Act of 1961, is not discretionary but is required by Federal law; and

Whereas this practice by foreign governments of causing the disappearance of persons threatens the foundations of civilized societies, which are based on due process of law: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) any government which causes the disappearance of any person by the abduction and clandestine detention of that person is committing an act of terrorism which cannot be justified under any circumstances;

(2) the President should encourage the leaders of other countries to join him in calling upon the United Nations—

(A) to condemn such abduction and detention as an act of terrorism,

(B) to establish effective procedures for dealing with cases of disappeared persons, and

(C) to demand that all governments thoroughly investigate all reports of such disappearances in their respective countries, prosecute those persons responsible for any such disappearance, and account for any person who has so disappeared, either by releasing such person if alive or by explaining the circumstances of such person's death and disclosing the location of such person's remains; and

(3) the President should attempt to organize and implement a program of national and international action to be taken with respect to governments practicing this act of terrorism.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 285, expressing the sense of the Congress with respect to the disappearance of persons which is caused by the abduction and clandestine detention of those persons by the governments of foreign countries or by international or transnational terrorist organizations.

House Concurrent Resolution 285 was ordered favorably reported from the Committee on Foreign Affairs on February 28, by a voice vote. The resolution addresses an issue of increasing concern regarding human rights violations—that of the mysterious disappearances of individuals. House Concurrent Resolution 285 recognizes such political disappearances, in which persons are often tortured and murdered, as acts of terrorism. Such gross violations of individual rights must not be ignored. The resolution urges governments to thoroughly investigate incidents of disappearances, and also urges governments and the United Nations to develop a means of dealing with such terrorist activities.

I would like to commend our colleague, the Honorable DON BONKER for his leadership and extensive efforts on this issue. Congressman BONKER chairs the Subcommittee on International Organizations, which has conducted hearings on the subject of human rights violations and the phenomenon of disappearances.

I now yield such time as he may consume to the distinguished Chairman of the International Organizations Subcommittee, the Honorable DON BONKER, who will present a more detailed account of House Concurrent Resolution 285, and also manage the time on the resolution.

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have just returned from Geneva where I had the privilege of representing the House last week at the 36th session of the United Nations Commission on Human Rights. I am pleased to report that the Commission adopted by consensus a resolution on disappearances, which establishes a working group of five members to examine the questions rele-

vant to enforced or involuntary disappearances of persons.

This was a very notable achievement and a large share of the credit for success must go to the U.S. delegation led by Jerry J. Shestack. For in the last few years the Commission had tried time and time again to pass such a resolution but did not succeed.

Mr. Speaker, the question of missing and disappeared persons has grown to constitute one of the most widespread and serious human rights violations in the modern world. This violation of human rights takes many forms. Governments may direct their security forces, military, or police to detain persons suspected of subversion in order to remove them from circulation, obtain information by torture and demoralize the opposition. Security or police forces may operate unofficially, generally in civilian clothes, with the state's tacit approval and protection. Groups of civilians may operate their own progovernment terrorist forces. Two governments may even cooperate with each other by shifting the disappeared across national borders. In all cases, people are abducted from homes, offices, or public places. The victims are taken, usually blindfolded, to some location where, in virtually all cases they are seriously mistreated—beaten, tortured, and humiliated.

Families have no recourse. The government denies all knowledge and responsibility—severely undermining the rule of law. It is government complicity in the disappearances which makes this act one of the most abhorrent human rights violations today.

Mr. Speaker, the International Organizations Subcommittee of the House Foreign Affairs Committee which I chair, recently held several hearings on the phenomenon of disappearances, as a violation of human rights. We received excellent and detailed testimony from nongovernmental organizations concerning the scope and history of the "disappeared." We also heard dramatic and tragic testimony from individuals with firsthand knowledge of the disappearance phenomenon.

What emerges from the reports presented to us, is a shocking picture of the violation of human rights on an unprecedented scale. Though most of the documented cases of the disappeared person have come from Latin America, witnesses have testified that this phenomenon is occurring around the world with numerous cases reported in Asia, Africa, and behind the Iron Curtain.

There is no doubt that numerous regimes in our contemporary world must rely on repression to continue their existence. In testifying before our Committee William Wipfler, of the National Council of Churches said—

> World indignation denies these regimes the use of torture, or arbitrary and prolonged detention or horrendous inhuman prison conditions as a means of intimidation and control; then some other instrument—disappearances—will be developed.

It does not matter in what part of the world these violations occur. The phenomena of disappearances has victimized many thousands of persons and thousands more of their families. It is widespread and occurring in all too many countries. And as it continues to go on whether in Soviet-dominated areas or Argentina, the result is always the same—people disappear.

For example, a Swedish diplomat, went to Budapest in 1944 after the Nazis began deporting Hungary's 700,000 Jews to extermination camps. He printed thousands of Swedish passports and distributed them to Jews as a prelude to emigration to Sweden, while at the same time building a system of safe houses, that is, hospitals and shelters over which the Swedish flag flew. He continuously went to the railroad yards, pulling Jews off the death trains; he went to the SS, threatening them and forcing them to release their captives. When the Russians captured Budapest in January 1945, he disappeared. The Soviets insist that he died in 1947, but over the ensuing three decades there have been eyewitness reports that Wallenberg is alive in a Soviet prison. Where is Raoul Wallenberg? What has happened to him? Why is it a crime to have saved tens of thousands of lives?

As another example, one does not need to be a terrorist to be arrested, tortured, or murdered. It is enough to have belonged to a trade union or a student organization or to have helped persons classified by the military as subversive. People are simply picked up, some to return as corpses, minus their heads and hands to prevent identification. A few are released and warned not to speak, but most are subject to brutal conditions in secret camps.

Mr. Speaker, there are other noxious factors associated with the reprehensible practice of disappearance—factors which I feel compelled to call to the attention of my colleagues. They are: First, eyewitnesses have told us, the usual fate of those abducted is torture and death in flagrant violation of their country's laws and international standards of human rights; second, the abductors direct their terror not only against the perceived enemies, but the families of their enemies as well. In many cases, husband and wife are abducted together.

In other cases children are also taken; third, the victim is deprived of life and liberty without trial. There is no possibility for the disappeared to defend himself, no possibility to employ counsel and no possibility to appeal; and fourth, governments that practice disappearances make victims of the disappeared's family. They are kept in a state of agony and uncertainty which itself is a means of torturing those left behind.

When terrorists kidnap and kill defenseless victims, governments must seek to bring them to justice. But not by using the same methods of the terrorists. Governments are the custodians of law. When a government engages in a campaign of terror, such as is the case of the disappeared, they undermine the rules of law as well as their own rights to govern.

The problem of disappearances demands action by the United States and all members of the international community. We must act because of the needs of the victims. We must act because of our feelings of compassion. And we must act because it is our duty to send an unmistakable signal to the principal offenders that they will be checked and stopped. Now that the international community is beginning to act—witness the actions of the Human Rights Commission—I urge all my colleagues to support House Concurrent Resolution 285.

Mr. Speaker, the resolution expresses the sense of the Congress with respect to the disappearances of persons which is caused by the abduction and clandestine detention of those persons by the governments of foreign countries or by international or transnational terrorist organizations. It calls upon the President to encourage the leaders of other countries to join with him in calling upon the United Nations to: condemn such abduction and detention as an act of terrorism; establish effective procedures for dealing with cases of disappeared persons, and to demand that governments investigate all reports of disappearances, prosecute those responsible, and account for any person who has so disappeared. The resolution states that the President should attempt to organize and implement a program of national and international action to be taken with respect to governments practicing this act of terrorism.

□ 1240

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of this resolution.

A number of Members have expressed their concern that this measure might be construed as anti-Argentine. Others have questioned the wisdom of such a resolution at a time when the United States is engaged in negotiations with Argentina to secure its support for the U.S. grain embargo of the Soviet Union.

I do not believe that House Concurrent Resolution 285 should be construed as anti-Argentine or that it interferes with U.S. foreign policy objectives. The situation in Argentina has improved considerably with respect to "disappearances." The State Department "Country Reports on Human Rights Practices for 1979" has this to say:

> Since late 1978, the incidence of disappearances has declined significantly. These are indications that the Government has committed itself to end this practice.

The near civil war in which the Argentine found itself in the mid-1970's produced the excesses typical of such domestic conflicts. Trained and equipped from abroad, leftist terrorists committed murders, bombings, and kidnappings to the point that Argentina was on the brink of anarchy and collapse. Financed by astronomical ransoms from their brutal kidnappings, terrorists took the nation to the point of disaster. I do not condone excesses on the part of the authorities, such as contrived disappearance, although in civil wars as in international wars, desperate means are often used for survival and innocent people always suffer.

This resolution is a balanced document. A careful reading will show that the words, "extremist religious groups, separatist movements or political parties supported by foreign entities," bring within the preview of the resolution entities throughout the world, entities which are sometimes not condemned as assiduously as are our friends and allies. A careful reading of this resolution will show that it seeks the protection of persons on the other side of the Iron Curtain as well as on this side—Africa and Asia as well as Latin America.

During the hearings conducted by the Subcommittee on International Organizations which led to this resolution, many of the witnesses concentrated on disappearances in Latin America. There were other witnesses, however, providing balance and scope. As their testimony made clear, although a bit more difficult to examine, perhaps, the facts of disappearances, as in most other human rights problems, in their enormity point to Asia, Africa, and the Soviet bloc. It is no accident that where the Soviets reach beyond their own frontiers the abysmal rights record that results is a carbon copy of the Soviet original. Since the Soviet invasion of Afghanistan, for example, which occurred after our subcommittee hearings, there has been further ample evidence of the disappearance of thousands of Afghans at the hands of the Soviet occupation forces.

Closer to home in the U.S.S.R., documents circulating in the "Samvydav" in the Ukraine, attest to the disappearances of Ukrainian intellectuals. The great Russian administrators for the Ukraine, it would seem, are using the weapon of contrived disappearance against Ukrainian cultural figures—a composer and a philosopher, for example, have disappeared. The spirit, physical health and even the lives of the disappeared minority peoples are stifled and smothered in the psychiatric hospitals of Russia and the Siberian forced labor camps.

Nevertheless, the really immense disappearances in the world today are taking place in Southeast Asia. Vietnam's policy of consigning hundreds of thousands of its people to "reeducation camps" and "new economic zones," where many of them starved to death, in fact a huge program of contrived disappearances. Vietnam has forced many more hundreds of thousands to flee in dangerously inadequate boats, knowing that perhaps half or more would die. According to our colleagues, Congressmen ROSENTHAL and WOLFF, the number of persons lost at sea may be a quarter of a million. Many people suspect even more of these "boat people" have perished.

For its part, the population of Cambodia (Kampuchea) 5 years ago was an estimated 7 to 8 million persons. Today, according to the State Department, 4.7 million remain, 2 to 3 million people have thus simply disappeared in that tragic land.

Part of the reason, I believe, that the witnesses at our hearings concentrated on Argentina is that most of the human rights groups reporting about disappearances were, and are, allowed relatively free access to that country. Because access is limited or denied by those nations with the worst human rights records, such as Red China, Vietnam, the Soviet Union, Ethiopia, Afghanistan, Cuba, North Yemen, Cambodia (Kampuchea), Uganda before the fall of Amin, the Central African Republic before the fall of Bokassa, and Equatorial Guinea before the fall of Macias, the reporting agencies are inclined, normally enough, to report on what they are allowed to see.

It is interesting to note, parenthetically, that the Argentine press reported widely on the latest State Department human rights report. I have not heard that the press in the countries I mentioned above have taken the same liberties. It is also noteworthy that Argentina has admitted foreign including American, human rights monitoring groups.

There have been numerous disappearances to examine even if we confine ourselves to Latin America. The recent leftist kidnaping disappearances in El Salvador quickly come to mind. Extensive disappearances have taken place in Cuba over the last two decades, of particular interest are the disappearances to Cuba of thousands of young people from Angola and Mozambique. Many of these youths, as it turns out, have been shipped there as slave laborers. In the words of Dr. Herminio Portell-Vilá, a Cuban exile scholar who has studied this problem, after almost a hundred years African slavery has been reintroduced into the New World. This phenomenon, it might be added, has been largely unheralded in our press. In any case, were we to concentrate on Latin America to the exclusion of human rights considerations elsewhere, no study would be complete without a glance at Cuba, the hemisphere's worst and longest human rights offender.

In sum, I believe that this resolution, as it now stands, is evenhanded. It concentrates on no particular country. If the rhetoric today names as culprits mostly America's friends and allies, a misconception is being fostered. But the really big promoters of "contrived disappearances" and "human hijacking" today are, I submit, the countries I have noted here. This resolution includes, among other things, "Governments and quasi-governmental entities" causing disappearances and engaging in "acts of international or transnational terrorism." Once again it is clear which countries are the greatest offenders in this area.

Thus, I support the resolution as it now stands in the confidence that it condemns the great as well as the small offenders and I reject the concept that it is aimed particularly at one of the latter.

Mr. BONKER. Mr. Speaker, I would like to commend the ranking member of the Subcommittee on International Organizations, the gentleman from Illinois (Mr. DERWINSKI), for his leadership and support of this resolution. He has been involved in the drafting of the resolution and I think has contributed to the resolution and to its timeliness as it has been presented to the floor today.

Mr. Speaker, I would like now to yield 4 minutes to the gentleman from Iowa (Mr. HARKIN), who also has been prominent in our concern on this issue.

Mr. HARKIN. Mr. Speaker, I thank the distinguished gentleman from Washington (Mr. BONKER) for yielding me this time.

Mr. Speaker, I rise in support of this resolution to express congressional concern about the phenomenon of disappearance around the world.

In the past human rights advocates have concentrated their efforts on eradicating torture, arbitrary imprisonment, and other human rights violations. In recent years a new form of human rights violations has replaced some of the standard abuses of the past. Today many governments, aware of the political liabilities of public recognition of tortured or imprisoned persons, have removed the problem from the public view by implementing a policy of "salvaging" or causing opponents to "disappear."

This phenomenon whereby thousands of human beings around the world simply vanish from sight is a form of torture which must be eradicated with the abolition of the rack and the thumbscrew. Its victims are not just those who have disappeared, but their anxious family members, who wait in vain for word of their loved ones. This form of torture lives on long past the death of the disappeared. It nourishes fear and pain in the living as well. In fact, the main reason for a government implementing this policy of disappearance is more to terrorize the people of that country than it is to just silence one person.

Amnesty International has documented figures on this form of torture in countries around the world. Some of the documented figures are astounding on the number of people who have disappeared: Argentina, 6,000 documented cases of disappearance; Chile, 2,500 documented cases; El Salvador, 108 documented cases; Guatemala, an estimated 20,000, but not documented; Mexico, 300; Paraguay, 20; Uruguay, 100. Afghanistan, again no documentation, but thousands of people have disappeared in Afghanistan; Uganda, again not any firm figure, but tens of thousands of people have disappeared under the rule of Idi Amin. The list continues and incidents of disappearance are increasing in many other countries, so political activists and human rights advocates around the world are becoming the target of this kind of policy.

I want to compliment the gentleman from Washington (Mr. BONKER) and the chairman of the full Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), for bringing forth this resolution. It is a good resolution, and I believe that this sense-of-Congress resolution is a first step in the direction of eradicating this practice around the world. I commend the other Members and am proud to be able to support it.

Mr. Speaker, I yield back the remainder of my time.

□ 1250

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the resolution.

I commend the effort to call attention to the callous disregard for human rights in condoning or bearing responsibility for disappeared persons.

I also believe it is imperative to take an even-handed approach in citing violations in all countries responsible. It does little good to make charges against one or two regimes and not against all those who are guilty of such activities. To do otherwise merely leaves the United States open to criticism as being biased and applying a double standard. The result is that any effort on our part to preserve, protect, and promote human rights is looked upon with skepticism and cynicism.

Deploring human rights violations in South America is valid only if similar violations are condemned in other parts of the world, just because disappearances in the Soviet Union, Cuba, and mainland China have been a way of life for decades does not mean they are acceptable practices.

Other countries like Cambodia, Vietnam, Ethiopia, Equatorial Guinea, the Central African Republic, and Uganda have experienced periods in which the brutal disregard of human rights was unmatched by the traditional kicking-boys in South America, the offenses in Rhodesia, Angola, Mozambique, and the Sandinista regime in Nicaragua should not be overlooked in the haste to point fingers at more popular targets. Hundreds, probably thousands, of Afghans are disappearing—permanently—at the hands of the Soviet invaders.

If the United States is truly to be the guardian and judge for the standard of conduct in human rights, then we must do so objectively and dispassionately. I applaud the efforts to condemn and eradicate the practice of disappearances. I trust we will do so in response to disappearances resulting from actions of governments on the left as well as on the right.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to my friend from Illinois.

Mr. HYDE. I thank my friend for yielding.

Of course, Mr. Speaker, everyone supports the substance of this resolution. However, are we not deceiving ourselves? The greatest abusers of human rights are the Communist countries. People are being slaughtered by the hundreds of thousands in Cambodia and we kid ourselves that we are striking a blow for human rights by getting a U.N. Commission to look into Argentina and Chile, where they are amateurs compared to what is going on in the Soviet Union or in China.

Here once more, Mr. Speaker, here once more we have created the form of really doing something about human rights but the substance will be myopic and selective and the real offenders, most of whom are members in good standing of the U.N. by supporting the creation of this Commission, will give the appearance of supporting human rights.

Mr. Speaker, human rights are on the run all over the globe and the greatest offenders will be the ones least touched by what this well-intentioned resolution purports to do.

Mr. Speaker, I thank the gentleman for yielding.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman. I want to add that hundreds, perhaps hundreds of thousands of Vietnamese and ethnic Chinese have disappeared forever beneath the surface of the South China Sea as a result of Vietnamese activity.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, the concept, of course, is something everyone supports in fact but we must remember that international communism and its inroads on mankind around the world does so with the purist concept of government, only, and no respect for the individual at all.

However, Mr. Speaker, our allies in the Western Hemisphere especially, who do respect the rights for the individual, even though they have the right to choose and select their own government, those are the people we should really be supporting.

Mr. Speaker, I was in South America about 3 months ago and the movement by our Government against so-called human rights violations in Paraguay, Chile, and in Argentina was something that was deplored by the people in those areas who are trying to conform to what they think our standards might be.

Mr. Speaker, I cite one example: In Paraguay, which has been condemned for it human rights violations, had two political prisoners—so-called political prisoners—and I do not know how we justify that compared to the millions that have been murdered, slaughtered, and enslaved in the Soviet Union, Red China, and Southeast Asia. Also, with regard to the at least 7,500 political that are detained now in Nicaragua and the uncountable number of political prisoners and political murders that have taken place in Cuba.

Mr. Speaker, I think this bill before us voted on in suspensions should certainly be up for debate on the floor.

I thank the gentleman for yielding.

● Mr. HALL of Ohio. Mr. Speaker, I rise in support of House Concurrent Resolution 285. As a member of the Subcommittee on International Organizations, I was pleased to participate in the hearings that provided the basis for this resolution and to join with Chairman BONKER as a cosponsor of House Concurrent Resolution 285.

The increasing "disappearances" of real or imagined opponents of repressive regimes is a new and alarming trend in human rights violations. This resolution brands the phenomenon of disappearances for what it is—an act of terrorism. The illegal abduction, detention, and murder of persons by governments or by individuals acting on behalf of such governments cannot be justified under any circumstances.

Disappearances should be considered a violation of internationally recognized human rights. The resolution before us would call upon the President to encourage the leaders of other countries to join with him in calling upon the United Nations to condemn such abductions and detentions as acts of terrorism. It also demands all governments to investigate reports of disappearances, prosecute those responsible, and account for those who have so disappeared.

This resolution is an important contribution to rallying world outrage against the increasing number of disappearances around the globe. Hopefully, it will lead to international action against those governments which practice this type of terrorism.

I commend Chairman BONKER for his leadership on this resolution and on the recommendation of the Subcommittee on International Organizations that disappearances be specifically mentioned in our laws concerning international human rights policies.

I urge my colleagues to vote in favor of this resolution.●

● Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 285, condemning those nations, groups, and individuals who are responsible for acts of terror by the abduction and clandestine detention of their fellow citizens.

With increasing frequency, repressive governments and radical terrorists around the globe have adopted policies that permit or endorse the elimination of their enemies by making them disappear. By way of abduction and political assassinations, literally millions of people have been abducted, held in secret detention or simply disappeared as the result of terrorism. Whether in Afghanistan or Vietnam, Angola or Zimbabwe, Argentina or Uruguay, the pattern is the same.

In some nations like Argentina, Chile, and Uruguay, where thousands of persons have disappeared, the governments have admitted committing excesses in what is considered a life and death struggle against terrorism. In other countries like Uganda, Central African Empire, and Equatorial Guinea, human barbarism was the simple motive when the rulers of these nations sought information, suspected subversion, or simply acted to demoralize all opposition. In still other nations such as Vietnam and Cambodia, millions have disappeared in the pursuit of ideological domination and imperialism. The sad fact remains that no matter what the reason, the results are the same and make little difference to their victims.

Unfortunately, the deadly game is not limited just to the acts of governments. Terrorists groups including the PLO, the Red Brigades, the Baader-Meinhof Gang, and scores of others on both political extremes have increasingly used abduction and assassination as a tool in their efforts to terrorize the world. The acts of these radicals when combined with the counter actions of their target governments has led to a tragic bidding war in games of political murder and repression.

Even the United States has not been spared the agony of this "disappeared" phenomenon. To this day, 2,500 American servicemen remain unaccounted for in Vietnam despite our knowledge of that

government's coverup. These missing-in-action servicemen are Americans who disappeared and cannot be ignored and must not be forgotten.

This resolution, House Concurrent Resolution 285, recognizes that any government that participates in actions that cause any person to disappear are in fact committing acts of terrorism. In addition, it calls upon the President to lead an effort through the U.N. to condemn such abductions and detentions as terrorism and to help establish effective procedures for dealing with cases of disappeared persons. Furthermore, we should demand that all governments thoroughly investigate all disappearances, prosecute those responsible, and account for everyone who has disappeared. Finally, the President should attempt to organize and implement a program of action to be taken at home and with the world community with respect to nations committing acts of terrorism.

As we have experienced in Vietnam, the suffering is not limited to the victims of disappearances, but also touches the lives of their families, relatives, and friends who may never know the fate of their loved ones. As a civilized people we must respond to these acts of barbarism and demonstrate our concern and commitment to stopping the phenomenon of the "disappeared" wherever and whenever they occur.

As a cosponsor of this resolution, I am pleased that so many of may colleagues joined in support of House Concurrent Resolution 285, expressing the sense of Congress for the rule of law, for justice, and and in respect for human rights in our fight against terrorism from all sources.●

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 285.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this House Concurrent Resolution 285.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

EXTENSION OF REORGANIZATION AUTHORITY

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6585) to extend the reorganization authority of the President under chapter 9 of title 5.

The Clerk read as follows:

H.R. 6585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 905(b) of title 5, United States Code, is amended by striking out "three years" and inserting in lieu thereof "four years".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has been reported unanimously by the Committee on Government Operations and will extend for a period of 1 year the authority granted by Congress to the President to submit reorganization plans for the executive branch to the Congress for approval or disapproval. The present authority, enacted in 1977 for a period of 3 years, will expire on April 6, 1980, leaving the President without authority to submit such reorganization plans. H.R. 6585 provides an extension until April 6, 1981.

The President has made reorganizations to provide economies and efficiencies in the executive branch. Nine such plans have been submitted and approved by the Congress during his first 3 years. He has advised that other plans are under contemplation and may be forwarded before the end of this session.

The executive branch of our Government has reached mammoth proportions. It is necessary that its structure be examined from time to time and changes made to help maintain control and produce management improvements wherever possible. This legislation provides a tool whereby the President, with the approval of the Congress, can make reductions in costs and expenditures.

Authority similar to that in this bill has been given to Presidents under various forms since 1932. Under it, the President may submit plans which meet the criteria set forth in the Reorganization Act and such plans will become law unless either the House or the Senate passes a resolution of disapproval within 60 days.

This legislation is needed and will prove beneficial to our Government and to the taxpayers, which look to us for any relief from their burdens which we can provide.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

The executive branch of Government has grown over many years and has now reached mammoth proportions. A look at the organization of the executive branch shows that we have an Executive Office of the President plus 13 departments—each containing many different offices and bureaus—and 56 independent agencies. If we look further we see that in addition to this, there are 81 national commissions, committees and boards established by congressional or Presidential action and having functions independent of any other department or agency. A further look shows us that there are also 1,240 advisory committees serving almost every part of Government. The current Government Manual, in which all of these departments and agencies (except advisory committees) are listed, runs over 900 pages in length.

With a government this large, it is necessary that its structure be examined continuously and that changes be made to help control the size of Government. and produce management improvements.

This legislation before us would extend the authority whereby the President, with the approval of Congress, can modify this large bureaucratic structure to improve its performance and reduce its cost.

This reorganization authority has been in place for the last 3 years. During that time it has proved a valuable tool in improving Government organization. This administration has submitted nine reorganization plans, each of which has been approved after careful study by the Committee on Government Operations.

A quick look at these plans indicates how this reorganization authority has been used:

SUMMARY OF REORGANIZATION PLANS, 1977–80

REORGANIZATION PLAN NO. 1 OF 1977, EXECUTIVE OFFICE OF THE PRESIDENT

This plan streamlined the Executive Office of the President, reducing both the number of units in the Executive Office, and the size of the White House staff. The plan also established an improved decision process for domestic policy and Presidential agenda setting.

REORGANIZATION PLAN NO. 2 OF 1977, INTERNATIONAL PUBLIC DIPLOMACY

Plan No. 2 of 1977 merged the U.S. Information Agency and the State Department's Bureau of Educational and Cultural Affairs into a new United States International Communication Agency. This reorganization provided a more efficient and objective setting for the conduct of U.S. public diplomacy by unifying in Washington the management of activities which were already administered together in the field. Creation of the International Communication Agency also provided a new framework to foster and encourage the interchange of information and experiences between the U.S. and other nations.

REORGANIZATION PLAN NO. 1 OF 1978, EQUAL EMPLOYMENT OPPORTUNITY TRANSFERS

This plan began movement toward a consolidation of the Government's equal employment opportunity enforcement activities. This reorganization was designed to strengthen civil rights enforcement and reduce jurisdictional overlap and duplication. A civil rights unit has been established recently in the Office of Management and Budget to strengthen monitoring of the Government's civil rights enforcement effort.

REORGANIZATION PLAN NO. 2 OF 1978, CIVIL SERVICE COMMISSION TRANSFERS

Reorganization authority was used in 1978 to divide the Civil Service System into the Office of Personnel Management and the independent Merit Systems Protection Board. This reorganization clearly established responsibility for personnel performance in OPM, and protection of employee merit system rights in the MSPB. The reorganization

plan also created a Federal Labor Relations Authority to improve labor/mangement relations within the Federal work force. Reform of civil service procedures, also proposed by the Administration and approved by Congress, is discussed in section III.

REORGANIZATION PLAN NO. 3 OF 1978, FEDERAL EMERGENCY MANAGEMENT AGENCY

Reorganization Plan No. 3 of 1978, consolidated Federal programs concerned with civil, natural and man-made disasters. This reorganization makes a single agency responsible for organizing all Federal disaster preparedness, mitigation, and response activities. The success of this initiative was demonstrated in the Federal Government's swift response to communities damaged by Hurricane Frederick last year.

REORGANIZATION PLAN NO. 4 OF 1978, EMPLOYEE RETIREMENT INCOME SECURITY ACT TRANSFERS

Plan No. 4 clarified the responsibilities of the Labor and Treasury Departments for implementing the Employee Retirement Income Security Act (ERISA) and reduced the paperwork burden involved in the administration of this program. The plan also facilitated more timely responses to applications—70 percent of the backlog of requests for exemptions had been closely by November 1, 1979.

REORGANIZATION PLAN NO. 1 OF 1979, FEDERAL INSPECTOR FOR ALASKA NATURAL GAS PIPELINE

This plan consolidated enforcement functions related to the proposed Alaska Natural Gas Transportation System (NAGTS) under a single Federal Inspector. This plan creates a unique institution to manage the Federal role in a critical energy project, ensuring timely competition of the natural gas pipeline at the lowest possible cost consistent with Federal regulatory policies.

REORGANIZATION PLAN NO. 2 OF 1979, INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Plan No. 2 of 1979 combined U.S. international development assistant programs into a new International Development Cooperation Agency. This reorganization will strengthen coordination of U.S. economic policies affecting the developing countries, providing a more coherent development strategy and ensuring that U.S. bilateral programs and the multilateral programs to which we contribute better complement each other. This plan carries out reforms in the organization of foreign aid first proposed by the late Senator Hubert Humphrey.

REORGANIZATION PLAN NO. 3 OF 1979, INTERNATIONAL TRADE FUNCTIONS

Congress recently approved a major reorganization to strengthen the Federal Government's international trade functions. By centralizing authority and improving coordination in trade policy, Reorganization Plan No. 3 of 1979 will help the Federal Government ensure that trade opportunities for American business under the Multilateral Trade Negotiations (MTN) Agreements are fully realized. In conjunction with MTN, the trade reorganization is a major step in increasing the government's capacity to strengthen the export performance and import competitiveness of U.S. industry.

In summary, Mr. Speaker, I believe that this authority has worked reasonably well and urge the adoption of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 6585.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1300

AMENDING SECTION 603 OF TITLE 18, UNITED STATES CODE, WITH RESPECT TO CERTAIN POLITICAL CONTRIBUTIONS

Mr. THOMPSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6702) to amend section 603 of title 18, United States Code, with respect to certain political contributions.

The Clerk read as follows:

H.R. 6702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 603 of title 18, United States Code, is amended to read as follows:

"§ 603. Making political contributions

"(a) It shall be unlawful for any officer, clerk, or other person in the employ of the United States or any department or agency thereof to make a contribution within the meaning of section 301(8) to any other such officer, clerk, or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, unless such contribution is voluntary: *Provided, however,* That no contribution, voluntary or otherwise, may be made by any such officer, clerk, or person to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, or their authorized committee within the meaning of section 302(e)(1) of the Federal Election Campaign Act of 1971, if that person authorizing such committee is the employer or employing authority of the person making such contribution. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6702 is a bipartisan bill introduced by Mr. FRENZEL and myself to refine some language used in H.R. 5010, the Federal Election Campaign Act Amendments of 1979. When the House passed H.R. 5010, one of the provisions contained in the bill generally allowed Government employees to make voluntary contributions, but prohibited contributions to a Member of Congress from persons in his or her employ.

When the Senate amended the original House-passed version, the amended language unintentionally cast doubt on the ability of executive branch employees to make campaign contributions to other persons in the executive branch, including the President. Mr. FRENZEL and I, and the chairman and ranking minority member of the Senate Rules Committee, agreed with the President that we would seek clarifying language at the earliest possible date. H.R. 6702 eliminates the ambiguity in the current law, and allows voluntary contribution except for certain congressional employees.

Because the language of section 603 of title 188, United States Code, is somewhat ambiguous and because the Congress clearly did not intend to prohibit Federal employees from participating in the political process, Mr. FRENZEL and I introduced H.R. 6702 to allow Federal employees to make voluntary contributions. The bill does continue the prohibition on contributions by a congressional employee to the Member of Congress who serves as his or her employer or employing authority.

For example, all committee staff would be prohibited from contributing to the reelection campaign of the chairman of the committee, and the minority staff would, in addition, be prohibited from contributing to the ranking minority member of the committee. With respect to staff appointed by each Representative and Senator, no contributions could be made to the employing Member's reelection campaign.

This bill, which allows voluntary contributions by Federal employees, except to Members of Congress by their immediate staffs, eliminates the ambiguity in the present law, and requires, as a standard for political contributions, that the contribution be voluntary.

This bill is the identical language passed by the House under suspension on September 10, 1979. It is in the nature of a clarifying amendment to the Federal Election Campaign Act of 1979, and was reported by the Committee on House Administration unanimously. It has bipartisan support, and is noncontroversial. The bill has no cost associated with it because it simply enunciates a standard.

Mr. Speaker, I believe this bill will clarify the ambiguity in the language of the present law. I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in both the description of the bill and of the situation just given by the distinguished chairman of the House Administration Committee,

the gentleman from New Jersey (Mr. THOMPSON).

It is true that what we are amending was a Senate amendment. The language which is before us today is exactly the language which the House passed when we passed the bill in the first instance.

The distinguished chairman and I, and Members of the other body, did confer with the President and his staff, and did agree that we would try to make the change which he suggested. It seemed to us to be wholly consistent with the intent of this body.

The bill before us is what we agreed with the administration. We believe that it leaves the law about the way the law has always been in the past, and certainly as it was when the House passed the bill. The reason that we did not bring this back to the House in the first instance when the Senate bill returned to us was that we were very anxious to pass the bill and make the new amendments effective just as soon as possible, particularly those which reduced the paperwork and reporting requirements.

Mr. Speaker, I think that the passage of this bill is warranted, and that it should occur immediately.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise today to call attention to the continuing problem of a glaring omission of the first session of the 96th Congress when it enacted H.R. 5010.

As my colleagues are no doubt aware, enactment of H.R. 5010 has resulted in a situation where 434 incumbent Members of the House of Representatives may convert stockpiled campaign funds to their own use upon retirement. We made such practice illegal to make such a conversion on the part of all future Members of the House of Representatives.

In this day where public attention is focused more and more upon our activities—as well it should be—this financial privilege of incumbency cannot be tolerated. Why should the rules be different for incumbent Members of the House of Representatives?

More importantly, why should we continue to tolerate what the public simply will not tolerate; nor should they tolerate this practice and a recent change which they will no doubt view as only a partial step. The more we persist in carving out privileges for ourselves, the more attention is focused upon our activities, and the more suspicion is raised in the mind of the public. In order to focus our attention on the issues facing this country, we must regain the respect and confidence of the public.

One of the most important things this Congress could do this session by its actions in an attempt to reverse the trend of suspicion, distrust, and cynicism the public has for us would be to eliminate the privilege we voted for ourselves in H.R. 5010.

The bill I have introduced (H.R. 6473) currently has 24 cosponsors. There are two other bills also introduced on this subject: H.R. 6345 by Congressmen JACOBS and ROYER, and H.R. 6530 by Congressman HARRIS. I believe there to be substantial support for these measures in this body. For that reason, I am greatly concerned that there be some commitment that hearings will be held on these bills and that they will be considered by the House of Representatives. I am concerned that this body and especially the public, might misinterpret our action today on H.R. 6702 as being the only effort that will be made this year to amend the Federal Election Campaign Act.

I invite the gentleman from New Jersey, Representative FRANK THOMPSON, chairman of the House Administration Committee, to give us the assurance that these bills will be heard and considered, and that the vote today on H.R. 6702 will not be interpreted as foreclosing any further action on bills pertaining to the Federal Election Campaign Act.

Mr. Speaker, I would like to briefly engage in a colloquy with the distinguished gentleman from New Jersey, the chairman of the House Administration Committee (Mr. THOMPSON).

Mr. Speaker, really what I am seeking is an indication from the gentleman that these three bills, which also relate to the Federal Campaign Act, will be heard by the gentleman's committee or his subcommittees, and be given consideration during this calendar year. I am wondering if the gentleman would be willing to comment upon those questions.

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, certainly I am very pleased to reiterate an earlier announcement that the Committee on House Administration has established five ad hoc task forces to review the entire Federal elections law. I might point out to my distinguished friend that there were extensive deliberations and oversight hearings, and indeed legislation, relating to the Federal election law during the first session.

□ 1310

The hearings, or the investigations of the respective ad hoc election law task forces, are in progress. They will continue to hold hearings on behalf of the committee during the remainder of this calendar year.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for that explanation, and the fact that this is a continuing process is, I think, to be commended. I appreciate the gentleman's comments.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

Mr. BEREUTER. Mr. Speaker, certainly upon that reassurance, which I had fully expected, I do support H.R. 6702 as a necessary clarification in the existing law. I want to commend the chairman of the committee, the ranking minority Member, the gentleman from Minnesota (Mr. FRENZEL) and others on the committee for bringing this to us at this time.

Mr. ROYER. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. ROYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wish to associate myself with the gentleman's remarks, and I also indicate to the committee chairman my sincere concern that we actually expand the good work done under H.R. 5910 so that we do not exclude those Members here in Congress today. I think that is extremely important.

I want to thank the gentleman for the part he has played in this, and I thank the committee chairman for indicating at this point that these bills will be heard. I have the gentleman's assurance that that will take place.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. THOMPSON. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I think the colloquy that went on a moment ago is sufficient so far as the scheduling of hearings for the bill that was just discussed is concerned.

I would just like to say for the record that I really do not think the legislation that the gentleman from California (Mr. ROYER) and others have proposed need be any reflection on the Committee on House Administration or the Committee on Government Operations. It is quite typical in drafting legislation, I would point out, to have so-called grandfather clauses. Since the advent of ERA, we now call them "grandparent clauses."

But I would indulge the presumption that draftsmanship is a matter of normal pattern, but this is not a normal situation. This is a privilege, not a recognition of detrimental reliance by private citizens but a privilege for people in politics, and, therefore, I not only urge the committee to allow hearings on the legislation but I urge every member of the committee enthusiastically, and with dispatch, to report the vehicle to the floor so that the oversight which I really think can be characterized now as a loophole will not endure.

Mr. THOMPSON. Mr. Speaker, I have no further requests for time.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. THOMPSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 6702.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 or rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H. Cong. Res. 285, by the yeas and nays; and

H.R. 6702, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

DISAPPEARING PERSONS RESOLUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 285).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 285) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 343, nays 3, not voting 86, as follows:

[Roll No. 125]

YEAS—343

Akaka	Coughlin	Hagedorn
Albosta	Courter	Hall, Ohio
Anderson, Calif.	Crane, Daniel	Hall, Tex.
Andrews, N.C.	D'Amours	Hamilton
Andrews, N. Dak.	Daniel, Dan	Hance
Annunzio	Daniel, R. W.	Hanley
Anthony	Danielson	Hansen
Archer	Dannemeyer	Harkin
Ashbrook	Daschle	Harris
Ashley	de la Garza	Harsha
Aspin	Deckard	Hawkins
Atkinson	Derrick	Heckler
Badham	Derwinski	Hefner
Bafalis	Devine	Heftel
Bailey	Dingell	Hightower
Baldus	Dixon	Hillis
Barnard	Dornan	Hinson
Barnes	Downey	Holland
Bauman	Drinan	Hollenbeck
Beard, R.I.	Duncan, Tenn.	Holt
Beard, Tenn.	Early	Hopkins
Bedell	Eckhardt	Horton
Bellenson	Edgar	Howard
Benjamin	Edwards, Calif.	Hubbard
Bennett	Edwards, Okla.	Hughes
Bereuter	Emery	Hutto
Bethune	English	Hyde
Bingham	Erdahl	Ichord
Blanchard	Erlenborn	Ireland
Boiling	Ertel	Jacobs
Boner	Evans, Del.	Jeffords
Bonior	Evans, Ga.	Jeffries
Bonker	Evans, Ind.	Jenkins
Bouquard	Fary	Jenrette
Bowen	Fascell	Johnson, Calif.
Brinkley	Fenwick	Jones, N.C.
Brodhead	Ferraro	Jones, Okla.
Brooks	Fish	Kastenmeier
Broomfield	Fisher	Kazen
Brown, Calif.	Fithian	Kelly
Brown, Ohio	Florio	Kildee
Broyhill	Foley	Kindness
Buchanan	Ford, Mich.	Kogovsek
Burgener	Ford, Tenn.	Kostmayer
Burlison	Forsythe	Kramer
Burton, Phillip	Fountain	LaFalce
Butler	Frenzel	Lagomarsino
Byron	Fuqua	Latta
Campbell	Gaydos	Leach, Iowa
Carney	Gephardt	Leath, Tex.
Carr	Gibbons	Lee
Carter	Gilman	Leland
Cheney	Gingrich	Lent
Cleveland	Ginn	Levitas
Clinger	Glickman	Lewis
Coelho	Gonzalez	Lloyd
Coleman	Goodling	Loeffler
Collins, Tex.	Gore	Long, La.
Conable	Gradison	Long, Md.
Conte	Gramm	Lott
Conyers	Grassley	Lowry
Corcoran	Gray	Lujan
Corman	Green	Luken
Cotter	Grisham	Lungren
	Gudger	McClory
	Guyer	McCormack
McDade	Pickle	Stangeland
McEwen	Porter	Stanton
McHugh	Preyer	Stark
McKinney	Price	Steed
Madigan	Quayle	Stenholm
Maguire	Quillen	Stockman
Markey	Rahall	Stratton
Marks	Railsback	Studds
Marlenee	Rangel	Stump
Marriott	Regula	Swift
Martin	Reuss	Symms
Matsui	Rhodes	Synar
Mattox	Richmond	Taylor
Mavroules	Rinaldo	Thompson
Mazzoli	Ritter	Traxler
Mica	Roberts	Trible
Michel	Robinson	Udall
Miller, Ohio	Roe	Ullman
Mineta	Rose	Van Deerlin
Minish	Rosenthal	Vander Jagt
Mitchell, Md.	Rostenkowski	Vanik
Mitchell, N.Y.	Roth	Vento
Moakley	Royer	Volkmer
Moffett	Runnels	Waigren
Mollohan	Russo	Walker
Montgomery	Sabo	Wampler
Moorhead, Calif.	Satterfield	Watkins
Moorhead, Pa.	Sawyer	Waxman
Mottl	Scheuer	Weaver
Murphy, N.Y.	Schroeder	Weiss
Murphy, Pa.	Schulze	White
Murtha	Sebelius	Whitehurst
Myers, Ind.	Seiberling	Whitley
Natcher	Sensenbrenner	Whittaker
Neal	Shannon	Williams, Mont.
Nedzi	Sharp	Wilson, C. H.
Nelson	Shelby	Winn
Nichols	Shuster	Wirth
Nowak	Skelton	Wolff
Oakar	Slack	Wolpe
Oberstar	Smith, Iowa	Wright
Obey	Smith, Nebr.	Wyatt
Ottinger	Snowe	Wydler
Panetta	Snyder	Wylie
Pashayan	Solomon	Yatron
Patterson	Spellman	Young, Alaska
Pease	Spence	Young, Mo.
Perkins	St Germain	Zablocki
Petri	Stack	
	Staggers	

NAYS—3

McDonald	Paul	Rudd

NOT VOTING—86

Abdnor	Dougherty	Moore
Addabbo	Duncan, Oreg.	Murphy, Ill.
Alexander	Edwards, Ala.	Myers, Pa.
Ambro	Fazio	Nolan
Anderson, Ill.	Findley	O'Brien
Applegate	Flippo	Patten
AuCoin	Fowler	Pepper
Bevill	Frost	Peyser
Biaggi	Garcia	Pritchard
Boggs	Giaimo	Pursell
Boland	Goldwater	Ratchford
Brademas	Guarini	Rodino
Breaux	Hammer-schmidt	Rousselot
Burton, John	Holtzman	Roybal
Cavanaugh	Huckaby	Santini
Chappell	Johnson, Colo.	Shumway
Chisholm	Jones, Tenn.	Simon
Clausen	Kemp	Solarz
Clay	Leach, La.	Stewart
Collins, Ill.	Lederer	Stokes
Crane, Philip	Lehman	Tauke
Davis, Mich.	Livingston	Thomas
Davis, S.C.	Lundine	Whitten
Dellums	McCloskey	Williams, Ohio
Dickinson	McKay	Wilson, Bob
Dicks	Mathis	Wilson, Tex.
Diggs	Mikulski	Yates
Dodd	Miller, Calif.	Young, Fla.
Donnelly		Zeferetti

□ 1330

The Clerk announced the following pairs:

Mr. Addabbo with Mr. O'Brien.
Mr. Brademas with Mr. Pritchard.
Mr. Rodino with Mr. Goldwater.
Mr. Lederer with Mr. Hammerschmidt.
Mr. Dodd with Mr. Cavanaugh.
Mr. Chappell with Mr. Abdnor.
Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Biaggi with Mr. Clausen.
Mr. Flippo with Mr. Livingston.
Mr. Pepper with Mr. Bob Wilson.
Mr. Myers of Pennsylvania with Mr. Thomas.
Mr. Stokes with Mr. Kemp.
Mr. Zeferetti with Mr. Philip M. Crane.
Mr. Boland with Mr. Davis of Michigan.
Mr. Breaux with Mr. Dickinson.
Mr. Giaimo with Mr. Donnelly.
Mr. Santini with Mr. Dougherty.
Mr. Solarz with Mr. Edwards of Alabama.
Mr. Whitten with Mr. Pursell.
Mr. Diggs with Mr. Rousselot.
Mr. Dellums with Mr. Findley.
Mr. Clay with Mr. Shumway.
Mrs. Chisholm with Mr. Tauke.
Mr. John L. Burton with Mr. Williams of Ohio.
Mr. Guarini with Mr. Leach of Louisiana.
Mr. Fazio with Mr. McCloskey.
Mr. Jones of Tennessee with Mr. Young of Florida.
Ms. Mikulski with Mr. Moore.
Mr. Davis of South Carolina with Mr. Frost.
Mr. Bevill with Mr. Lehman.
Mr. AuCoin with Mr. Mathis.
Mr. Ambro with Mr. Lundine.
Mr. Alexander with Mr. McKay.
Mr. Garcia with Mr. Charles Wilson of Texas.
Mr. Huckaby with Mr. Yates.
Mr. Applegate with Mr. Miller of California.
Mrs. Collins of Illinois with Mr. Murphy of Illinois.
Mr. Duncan of Oregon with Mr. Nolan.
Mr. Patten with Mr. Fowler.
Mr. Peyser with Ms. Holtzman.
Mr. Ratchford with Mr. Roybal.
Mr. Simon with Mr. Stewart.

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by a electronic device may be taken on the educational motion to suspend the rules on which the Chair has postponed further proceedings.

AMENDING SECTION 603 OF TITLE 18, UNITED STATES CODE, WITH RESPECT TO CERTAIN POLITICAL CONTRIBUTIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6702.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 6702, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 338, nays 5, answered "present" 1, not voting 88, as follows:

[Roll No. 126]

YEAS—338

Akaka	Anthony	Bailey
Albosta	Archer	Baldus
Anderson, Calif.	Ashbrook	Barnard
Andrews, N.C.	Ashley	Barnes
Andrews, N. Dak.	Aspin	Bauman
Annunzio	Atkinson	Beard, R.I.
	Badham	Beard, Tenn.
	Bafalis	Bedell

Beilenson	Guyer	Ottinger
Benjamin	Hagedorn	Panetta
Bennett	Hall, Ohio	Pashayan
Bereuter	Hall, Tex.	Patterson
Bethune	Hamilton	Paul
Bingham	Hance	Pease
Blanchard	Hanley	Perkins
Boiling	Hansen	Petri
Boner	Harkin	Pickle
Bonior	Harris	Porter
Bonker	Harsha	Preyer
Bouquard	Hawkins	Price
Bowen	Heckler	Quayle
Brinkley	Hefner	Quillen
Brodhead	Hightower	Rahall
Brooks	Hillis	Railsback
Broomfield	Hinson	Rangel
Brown, Calif.	Holland	Regula
Brown, Ohio	Hollenbeck	Reuss
Broyhill	Holt	Rhodes
Buchanan	Hopkins	Richmond
Burgener	Horton	Rinaldo
Burlison	Howard	Ritter
Burton, Phillip	Hubbard	Robinson
Butler	Hughes	Roe
Byron	Hutto	Rose
Campbell	Hyde	Rosenthal
Carney	Ireland	Rostenkowski
Carr	Jacobs	Roth
Carter	Jeffords	Royer
Cheney	Jeffries	Rudd
Cleveland	Jenkins	Runnels
Clinger	Jenrette	Russo
Coelho	Johnson, Calif.	Sabo
Coleman	Jones, N.C.	Satterfield
Collins, Tex.	Jones, Okla.	Sawyer
Conable	Kastenmeier	Scheuer
Conte	Kazen	Schroeder
Convers	Kelly	Schulze
Corcoran	Kildee	Sebelius
Corman	Kindness	Selberling
Cotter	Kogovsek	Sensenbrenner
Coughlin	Kostmayer	Shannon
Courter	Kramer	Sharp
Crane, Daniel	LaFalce	Shelby
D'Amours	Lagomarsino	Shuster
Daniel, Dan	Latta	Skelton
Daniel, R. W.	Leach, Iowa	Slack
Danielson	Leath, Tex.	Smith, Iowa
Dannemeyer	Lee	Smith, Nebr.
Daschle	Lent	Snowe
de la Garza	Levitas	Snyder
Deckard	Lewis	Solomon
Derrick	Lloyd	Spellman
Derwinski	Loeffler	Spence
Devine	Long, La.	St Germain
Dicks	Long, Md.	Stack
Dingell	Lott	Staggers
Dixon	Lowry	Stangeland
Dornan	Lujan	Stanton
Downey	Luken	Stark
Drinan	Lungren	Steed
Duncan, Tenn.	McClory	Stenholm
Early	McCormack	Stockman
Eckhardt	McDade	Stratton
Edgar	McEwen	Studds
Edwards, Calif.	McHugh	Swift
Edwards, Okla.	McKinney	Symms
Emery	Madigan	Synar
English	Maguire	Taylor
Erdahl	Markey	Thompson
Erlenborn	Marks	Traxler
Ertel	Marlenee	Trible
Evans, Del.	Marriott	Udall
Evans, Ga.	Martin	Ullman
Evans, Ind.	Matsui	Van Deerlin
Fary	Mattox	Vander Jagt
Fascell	Mavroules	Vanik
Fenwick	Mazzoli	Vento
Ferraro	Mica	Volkmer
Fish	Michel	Walgren
Fisher	Miller, Ohio	Walker
Fithian	Mineta	Wampler
Florio	Minish	Watkins
Foley	Mitchell, Md.	Waxman
Ford, Mich.	Mitchell, N.Y.	Weaver
Ford, Tenn.	Moakley	Weiss
Forsythe	Moffett	White
Fountain	Mollohan	Whitehurst
Frenzel	Montgomery	Whitley
Fuqua	Moorhead, Calif.	Whittaker
Gaydos	Moorhead, Pa.	Williams, Mont.
Gephardt	Mottl	Wilson, C. H.
Gibbons	Murphy, N.Y.	Winn
Gilman	Murphy, Pa.	Wirth
Ginglrich	Murtha	Wolff
Ginn	Myers, Ind.	Wolpe
Glickman	Natcher	Wright
Gore	Neizi	Wyatt
Gradison	Nelson	Wydler
Gramm	Nichols	Wylie
Grassley	Nowak	Yatron
Gray	Oakar	Young, Alaska
Green	Oberstar	Young, Mo.
Grisham	Obey	Zablocki
Gudger		

NAYS—5

Heftel	McDonald	Stump
Ichord	Neal	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—88

Abdnor	Edwards, Ala.	Murphy, Ill.
Addabbo	Fazio	Myers, Pa.
Alexander	Findley	Nolan
Ambro	Flippo	O'Brien
Anderson, Ill.	Fowler	Patten
Applegate	Frost	Pepper
AuCoin	Garcia	Peyser
Bevill	Glaimo	Pritchard
Biaggi	Goldwater	Pursell
Boggs	Goodling	Ratchford
Boland	Guarini	Roberts
Brademas	Hammerschmidt	Rodino
Breaux	Holtzman	Rousselot
Burton, John	Huckaby	Roybal
Cavanaugh	Johnson, Colo.	Santini
Chappell	Jones, Tenn.	Shumway
Chisholm	Kemp	Simon
Clausen	Leach, La.	Solarz
Clay	Lederer	Stewart
Collins, Ill.	Lehman	Stokes
Crane, Philip	Leland	Tauke
Davis, Mich.	Livingston	Thomas
Davis, S.C.	Lundine	Whitten
Dellums	McCloskey	Williams, Ohio
Dickinson	McKay	Wilson, Bob
Diggs	Mathis	Wilson, Tex.
Dodd	Mikulski	Yates
Donnelly	Miller, Calif.	Young, Fla.
Dougherty	Moore	Zeferetti
Duncan, Oreg.		

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Abdnor.
Mr. Roberts with Mr. Edwards of Alabama.
Mr. Brademas with Mr. O'Brien.
Mrs. Boggs with Mr. Young of Florida.
Mr. Addabbo with Mr. Moore.
Mr. Biaggi with Mr. Dougherty.
Mrs. Chisholm with Mr. Philip M. Crane.
Mr. John L. Burton with Mr. Livingston.
Mr. Clay with Mr. Tauke.
Mr. Duncan of Oregon with Mr. Rousselot.
Mr. Dellums with Mr. Goodling.
Mr. Lederer with Mr. Cavanaugh.
Mr. Diggs with Mr. Davis of Michigan.
Mr. Jones of Tennessee with Mr. Donnelly.
Mr. Garcia with Mr. Hammerschmidt.
Mr. Myers of Pennsylvania with Mr. Kemp.
Mr. Fazio with Mr. Findley.
Mr. AuCoin with Mr. Anderson of Illinois.
Mr. Ambro with Mr. McCloskey.
Mr. Guarini with Mr. Leach of Louisiana.
Mr. Breaux with Mr. Goldwater.
Mr. Chappell with Mr. Pritchard.
Mr. Alexander with Mr. Shumway.
Mr. Davis of South Carolina with Mr. Pursell.
Mr. Dodd with Mr. Thomas.
Mr. Flippo with Mr. Williams of Ohio.
Mr. Pepper with Mr. McKay.
Mr. Solarz with Mr. Yates.
Mr. Santini with Mr. Bob Wilson.
Mr. Stokes with Mr. Frost.
Mr. Whitten with Mr. Fowler.
Mr. Miller of California with Mr. Nolan.
Mr. Huckaby with Mr. Simon.
Ms. Holtzman with Mr. Stewart.
Mr. Glaimo with Charles Wilson of Texas.
Mr. Boland with Mr. Leland.
Mr. Applegate with Mr. Johnson of Colorado.
Mr. Bevill with Mrs. Collins of Illinois.
Mr. Lehman with Mr. Dickinson.
Mr. Lundine with Mr. Murphy of Illinois.
Mr. Mathis with Mr. Roybal.
Mr. Rodino with Mr. Ratchford.
Mr. Peyser with Ms. Mikulski.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1340

ELECTION AS MEMBER OF COMMITTEE ON ARMED SERVICES

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 601) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 601

Resolved, That Larry J. Hopkins, of Kentucky, be and he is hereby elected a member of the Committee on Armed Services.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION AS MEMBER OF COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 600) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 600

Resolved, That Bob Livingston, of Louisiana, be and he is hereby elected a member of the Committee on Merchant Marine and Fisheries.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1156, SOLID WASTE DISPOSAL ACT AUTHORIZATION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1156) to amend and reauthorize the Solid Waste Disposal Act, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and, without objection, appoints the following conferees: Messrs. STAGGERS, FLORIO, SANTINI, Ms. MIKULSKI, Messrs. MURPHY of New York, MATSUI, BROYHILL, MADIGAN, and LEE.

There was no objection.

PRODUCT LIABILITY RISK RETENTION ACT OF 1980

Mr. PREYER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6152) to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Commitee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6152, with Mr. RAHALL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. PREYER) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, I yield myself such time as I may consume.

The Product Liability Risk Retention Act, H.R. 6152, was unanimously reported by the Subcommittee on Consumer Protection and Finance. In the full Commerce Committee, the legislation passed on a voice vote. The act has been endorsed by manufacturers, wholesalers-distributors, the trial bar, and consumer groups, as well as the administration.

The purpose of the Risk Retention Act is to reduce insurance costs for businesses, particularly small firms, which have had good claims experience, but have not benefited from that experience because of the insurance ratemaking system. The act is also designed to insure the prompt payment of valid claims made by persons injured by products. For example, it will enable companies which cannot afford commercial insurance to join a risk retention group. As a result, these companies will be in a much better position to compensate persons injured by their defective products. In addition, the legislation will promote competition among product liability insurers which should encourage commercial insurers to set rates to reflect exposure as accurately as possible. The final purpose of the act is to reduce the outflow of capital and premiums to offshore jurisdictions which have been attracting a large number of captive insurance companies.

The act is necessary because of the product liability problem many U.S. companies, large and small, face today. Begining in the early 1970's, many businesses found that their premiums for product liability insurance were increasing substantially. By 1976, some companies were reporting premium increases of several hundred percent, while others were unable to obtain coverage at any cost. The subcommittee examined this product liability problem in 9 days of hearings. The overwhelming majority of the witnesses testified that the rising cost of product liability insurance, in the form of higher premiums and larger deductibles, continues to place a severe economic burden upon business, particularly small companies. Furthermore, insurance industry groups predicted a downswing in underwriting profits this year that could aggravate the current availability and affordability problems of product liability insurance.

Three general causes of this problem were identified by the Federal Interagency Task Force On Product Liability: Questionable insurer ratemaking and reserving practices, unsafe products; and uncertainties in the tort litigation system. The Risk Retention Act was drafted by the Department of Commerce to address the insurance aspect of the problem by providing the alternatives of self-insurance and group purchase of insurance where commercial coverage is unavailable, unaffordable or inadequate.

Before adopting the Product Liability Risk Retention Act, the committee carefully considered the existing State and voluntary efforts to address the problem. The committee concluded that these attempts were inadequate. For example some States formed market assistance programs called MAPS to help manufacturers get product liability coverage. However, most manufacturers appearing before our committee testified that the voluntary MAP program was ineffective because it could not provide insurance at affordable rates.

An example of an attempt to deal with the problem on the State level is Colorado's effort to permit the formation of insurance captives in that State. Unfortunately, the Colorado law has high minimum capital requirements in addition to those requirements which other States impose upon Colorado captives. While the law may help some companies based in Colorado, it does not effectively address the problem because of the interstate nature of product manufacturing and sales. The best evidence of the ineffectiveness of this type of solution is the marketplace response. In Colorado, there are 25 captives and none have been formed since mid-1978. This in contrast to Bermuda, in which 150 captives were formed last year alone, for a total of over 1,000.

Having concluded that these State and voluntary efforts were inadequate because of the interstate nature of the problem, the committee proposes Federal legislation to overcome the numerous State barriers to an effective solution. The Risk Retention Act attempts to alleviate the problem in two ways. Title I of the act would enable product manufacturers and sellers to form selfinsurance cooperatives, called "risk retention groups." Members of these cooperatives would be able to pool all or a portion of their product liability and completed operations risk exposure. Title II of the bill would permit the purchase of product liability insurance on a group basis. Currenly, the group purchase of insurance is prohibited in a majority of States.

Before I conclude. let me briefly describe what the Risk Retention Act is not. The act is not another massive Government regulatory program. Although risk retention groups will be supervised by the Secretary of Commerce, H.R. 6152 relies heavily upon marketplace forces and the self-interest of risk retention members to regulate the group. In fact, H.R. 6152 is a deregulatory measure in many respects because it eliminates the State barriers which prevent businessmen from forming self-insurance groups or purchasing product liability insurance on a group basis. There are retained, however, provisions to protect against consumer abuses, undercapitalization and other necessary requirements to protect the general public.

H.R. 6152 is also not a Federal spending program. Although the Department of Commerce will administer this act, the risk retention program will be self-supporting through fees paid by the applicants. In other words, no Federal tax dollars will be used to support the administration of this program.

Mr. Chairman, the need for this legislation has been thoroughly demonstrated by the committee. The bill has been carefully crafted and enjoys widespread support. I urge my colleagues to adopt the Product Liability Risk Retention Act.

Thank you.

□ 1350

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER), chairman of the subcommittee.

Mr. SCHEUER. Mr. Chairman, as chairman of the Subcommittee on Consumer Protection and Finance, I want to express my gratitude, appreciation, and admiration to my colleague from North Carolina for the brilliant way he has handled this legislation from beginning to end and taken total responsibility for it. In the very initial weeks of this Congress I urgently requested the gentleman from North Carolina to take some very major responsibility for our legislative obligations, and he graciously consented to do it. I want to make it very clear to the House this product is entirely his work. He worked on the investigation of the need for this legislation; he wrote the original report; he conducted the subcommittee hearings out of which the legislation was referred to the full committee unanimously. He also handled the matter with the full committee, which reported H.R. 6152 out by voice vote. In general, he has done a truly superb job of working with the total array of manufacturing groups, wholesaler groups, retailer groups, and consumer groups to create a virtual consensus among this entire array of manufacturing and distributive networks in this country and consumers. This is a sound piece of legislation. That was a remarkable achievement that took 9 days of hearings with 40 witnesses, countless meetings with all of these groups, and a very high quality of leadership and thoughtfulness to produce this remarkable consensus.

I want to emphasize the point the gentleman mentioned, that this, in effect, is a move toward deregulation. We are, in effect, encouraging the industry to take some responsibility for their own destinies and the ground rules under which they operate. We are doing it without a nickel's investment by the Government, because the fee structure will cover the very minimal cost to the Federal Government of supervising what is, in effect, a deregulatory process.

I think this is a major achievement. It is totally in sync with the mood of the times and the mood of this Congress.

Lastly, I want to congratulate and thank the gentleman from New Jersey (Mr. RINALDO) and his colleague (Mr. BROYHILL) for the total cooperation, thoughtfulness, resourcefulness, and inventiveness which they have invested in this measure and for helping to create a thoughtful record and assisting my colleague from North Carolina (Mr. PREYER) in putting together this remarkable consensus. I just want to thank them one and all and express to them my admiration and gratitude for a superb job.

Mr. PREYER. I want to thank the

chairman and join him in expressing our appreciation to Mr. RINALDO and Mr. BROYHILL on the minority side for the cooperation and excellent work they have done on this bill also.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the chairman of the subcommittee and the gentleman from North Carolina for their kind remarks, and also congratulate the gentleman from North Carolina for the hard work, the dedication, and diligence he exercised in putting together a piece of legislation that is badly needed.

Mr. Chairman, I rise to speak on behalf of H.R. 6152, the Product Liability Risk Retention Act.

The need for this legislation is clear. Nine days of hearings have been held by the Consumer Protection and Finance Subcommittee, during which we heard from 40 witnesses, including businesses, insurers, consumer organizations, and the administration. Extensive hearings were also held by the Subcommittee on Capital, Investment, and Business Opportunities of the Small Business Committee during the 95th Congress.

Both subcommittees found that the product liability problem is serious. As a matter of fact, it is a problem which many businesses began experiencing in the early 1970's. This problem has manifested itself in several ways.

First, a significant number of businesses have experienced increases in their product liability insurance premiums of several hundred percent. Often these increases have little or no correlation to an individual company's claims experience, no matter how good.

Second, the deductibles on many product liability insurance policies have dramatically risen as well, making the real increase in the cost of this insurance even higher.

Third, some firms have been unable to obtain product liability insurance at any price, thus risking all their assets to the ravages of one or two judgments.

Fourth, this problem has impacted most severely on small businesses. This is readily apparent when one considers the cost of product liability insurance as a percentage of sales.

As the National Association of Wholesaler—Distributors pointed out in their testimony before the subcommittee, net profits before taxes in their industry range from a low of one-half of 1 percent of sales to a high of 4 percent, with an average of about 1.7 percent. While the cost of product liability insurance is generally represented as less than 1 percent of sales, the impact on the profits and the financial stability of small businesses is tremendous.

The National Federation of Independent Business testified that there has been "a decline in both the ability of small firms to provide new technology and products, and a decline in American productivity." They went on to cite the uncertainty and costs surrounding product liability as one of the causes of this trend.

While H.R. 6152 is not a panacea or cure-all, it will provide these businesses with some alternatives. Title I of the act will enable product manufacturers and sellers to form "risk retention groups" for the purpose of pooling all or a portion of their product liability and completed operations liability exposure. Title II will enable businesses to purchase product liability and completed operations insurance on a group basis.

These alternatives will mean that businesses will be better able to compensate any consumers who are injured by their products. For example, the firms who are presently going without product liability insurance altogether are risking all of their assets to one or two large judgments, thereafter providing no compensation to future plaintiffs with valid claims. This bill clearly serves the best interests of both business and consumers.

Furthermore, the need for such alternatives may become increasingly critical if, as some insurance experts predict, there is another downswing in underwriting profits within the next year or so, and product liability insurance premiums spiral again.

While I believe a strong need exists for businesses to be able to form risk retention groups, the subcommittee did hear some testimony that such a provision would not be utilized. Should this be the case, and I do not feel that it will be, this bill provides for the automatic termination of the risk retention program established by title I within 4 years, if at that time no risk retention groups are in existence. Thus, if businesses do not use this provision of the bill, we would not continue to use Federal resources to administer the program.

It is worth noting that the act will not require the expenditure of any Federal tax dollars. The administrative costs incurred by the Department of Commerce will be paid by the risk retention groups themselves who are operating under the act.

Finally, I would like to point out, to date, this bill has had substantial minority support. It was unanimously reported out by the Subcommittee on Consumer Protection and Finance on January 31 at which time Congressmen JIM BROYHILL, SAM DEVINE, and I voted for it. And it was reported out of the Commerce Committee on February 26 by voice vote.

□ 1400

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Utah.

Mr. MARRIOTT. I thank the gentleman for yielding. I have just a couple of questions. Who will be policing the self-insured trust funds now? Will it be the State or the Federal Government?

Mr. RINALDO. It will be the Department of Commerce, the Federal Government.

Mr. MARRIOTT. They will police in each State; is that correct?

Mr. RINALDO. They will police from the Federal level.

Mr. MARRIOTT. Are these trust funds required to be actuarially sound? I am not sure I understand what the provisions are in terms of what you can and cannot do with these self-insured funds now.

Mr. RINALDO. They will be actuarially sound. I can give the gentleman an analogy. It will in effect work at the Federal level in a manner similar to that now in effect very successfully in my State, for example, with workmen's compensation self-insurance groups. They have proved themselves to be extremely beneficial to business, to people who are injured on the job, and we are going to have the same situation here. The groups that will be formed under title II will still purchase the policy from an insurance company, so all the regulations that are currently in effect will continue in effect.

Mr. MARRIOTT. Would they only buy an insurance policy above a large deductible? I am trying to equate this to, say, a self-insuring group plan. Does it work about the same way?

Mr. RINALDO. Yes.

Mr. MARRIOTT. I have one other question. Many of the people in the insurance business are somewhat concerned about the repeal of McCarran-Ferguson and that this may set some future precedent in that regard. Does the gentleman in any way feel that this would be a precedent for getting the Federal Government involved in all of the insurance regulations?

Mr. RINALDO. Absolutely not. This bill does not amend McCarran-Ferguson in any way whatsoever nor does it change the immunity of commercial insurers from the Federal antitrust laws under the McCarran-Ferguson Act. It does not preempt any State regulations of commercial insurers, so if any insurance companies or insurance executives have that fear, the gentleman can assure them that it is an unfounded one.

Mr. MARRIOTT. I thank the gentleman. I congratulate him on his bill, and I support it wholeheartedly.

Mr. RINALDO. Mr. Chairman, at this time I would like to yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. I thank the gentleman from New Jersey.

Mr. Chairman, I rise in opposition to this bill. This product liability bill does not solve the major problem that we have in this country. The major problem is product liability payments. What we are doing here is we are taking and creating a system where we are going to put the Federal Government in the casualty insurance business. These liability claims today are being paid in excessive amounts. There are just tremendous claims that are being paid. They are being determined by juries in amounts beyond any reasonable level of responsibility, and product liability is going into legalities of holding manufacturers responsible far beyond the limits of reason. This places a tremendous cost burden on our manufacturing industry in America.

What this country needs is a solution for product liability excessive claims. We need reasonable established guidelines of when a company is liable for its products. Besides a reasonable standard, we also need some type of reasonable maximum dollar limit. We need some

responsible established guidelines as to when and where a company is liable for its products.

What we need to do is to remember that these juries are not spending their own moneys when they make these awards. Congress confuses the problem, and what they have done here is they have come up with a product liability system. The purpose of this bill is to provide lower costs to insurers through the federal system. The reason product liability insurance is high is because the claims have been high.

Let me give the Members an example. They took 6 years here and compared them. They found that product liability claims are very excessive. Out of $100 of premiums collected for product liability, the insurers are paying out $135 for incurred losses and expenses. From 1969 to 1973 when they checked the situation, they found premiums went up 154 percent, but the losses were up 279 percent. Small business has a problem, we all understand that, about trying to cover these claims. But the thing we need to do is reevaluate public liability and establish some realistic guidelines. What this bill proposes to do is to have companies, these manufacturers, these different businesses, insure themselves through a syndicate arrangement so they can have a very low initial premium until the day when they get one of these stupendous jury claim awards. The concept of the Federal Government's administering any insurance authority has a precedent of complete failure. Any time the Federal Government has gone into running any business, it has been a complete failure. When Washington enters into the insurance business, and when they have in the past, they never provide enough in the way of reserves for losses. Let us point out where they have been before. Let us take the Federal Government's record.

They have gone into the field of retirement. The Federal Government provides for defense retirement for all of our military, but yet they have zero reserves.

The Federal Government provides railroad retirement. Four years ago that retirement plan was completely in disaster. We are now pouring billions into saving it.

The Federal Government provides social security. Last year the deficiency outgo was approximately $5 billion more than the income.

The Federal Government provides civil service retirement, and we all know how many billions of dollars are deficient in that. Every time the Federal Government goes in for insurance it is a complete financial failure.

The reason people have asked the Federal Government to take this product liability over is because they can get a free ride with lower rates. The problem is excessive jury awards in payment of product liability, and we need lower judgments.

The bill before us is another spending bill. They say there is not any finance involved in it. There will not be any finance until the day the deficiencies come up and these so-called syndicates cannot pay these claims.

Remember ERISA. I want to remind the Members of this plan where we guaranteed everybody's pension plan. Only two Members of Congress voted against that plan to guarantee everybody's private pension. Yet this year when Chrysler got into a strained financial condition, it was said on the floor of Congress that unless we save Chrysler, we would bankrupt ERISA and every plan concerned with it.

This Government cannot guarantee everything in the private sector. In other words, we have got to go to the cause of the trouble and correct it.

I would now like to tell the Members about some of the liability awards to give the Members an idea of just what is involved.

Here is one involving a 21-year-old student who injured himself while skiing. He got a $1.5 million award from the ski resort.

Here is one involving a fellow who was injured playing football, who had on a football helmet.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RINALDO. I yield 2 additional minutes to the gentleman.

Mr. COLLINS of Texas. This fellow had an injury. He injured his neck. The jury gave him $5.3 million for the helmet not being adequate.

A woman was in a department store in St. Louis, and she stepped on a clear plastic hanger which was lying out there in the aisle. She fell, and she hurt her back and had spinal discs removed. They gave her $100,000. Although they said she should have seen the hanger, they said it was unsafe to have a plastic hanger drop on the floor.

Here is one for $1.7 million. A fellow was paralyzed in a motorcycle accident, and he said the problem was a defect in design in the motorcycle. The motorcycle company said he was going at an excessive rate of speed. He was on a two-wheel motorcycle, which is the most unsafe vehicle you could ever be on. If you go over 10 mph you are in danger. They held the motorcycle company responsible for $1.76 million.

A 67-year-old man, making $2.65 an hour, lost his arm in the machinery. The machinery was part of his job. They gave him $1.2 million. They gave his wife $500,000. The hearing judge cut it down, but the court of appeals reinstated the full amount again. That is a total of $1.7 million for a man 67 years old, because somehow or another the jury said the machine should have provided safety where he could not hurt himself.

□ 1410

We cannot provide safety for all of the products in this country. We have to set up some realistic guidelines.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield.

Mr. LUKEN. I take it from the gentleman's remarks that the gentleman is advocating a Federal Tort Reform Act.

Mr. COLLINS of Texas. Mr. Chairman, I am not a lawyer.

Mr. LUKEN. The gentleman speaks of Federal legislation to cure the ills he has just described where the small manufacturers are being socked with large claims and judgments, is that not right?

The CHAIRMAN. The time of the gentleman has expired.

Mr. PREYER. Mr. Chairman, I yield to the gentleman from Texas 2 additional minutes.

Mr. COLLINS of Texas. I yield to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. The various States are engaged in the process, and some States have passed Tort Reform Act statutes of repose, statutes of limitation, limitation on the amount of certain judgments through various devices. This is the kind of legislation which I think the gentleman is suggesting should be passed by this Congress. Is that correct?

Mr. COLLINS of Texas. We should study the matter. I do not understand tort law but I do want reasonable limits.

Mr. LUKEN. Mr. Chairman, I tend to like it too. My only problem is, I have the same problem as the gentleman in objecting philosophically and in practice to the Federal Government getting into it. If we pass a Federal law on tort reform, we are overlapping, we are stepping on each other's toes with the State legislatures.

In the same way the gentleman objects to the Secretary of Commerce getting into the business of insurance regulation, which is now, by the McCarran-Ferguson Act relegated to the States, I think we would have the similar problem which the gentleman suggests on tort reform, and therefore I just make that point, that the subcommittee, I think, is going to have that problem when we get to the Tort Reform Act. However, in this case the regulation by the Secretary of Commerce, in my opinion and in the opinion of the subcommittee and in the opinion of the full committee, does not get into the Federal Government running the business, but simply licensing it and permitting the syndicates to operate.

I thank the gentleman.

Mr. COLLINS of Texas. Mr. Chairman, I would just like to add one thing. I am interested in what the gentleman says but this bill takes the Federal Government for the first time into the insurance business with the casualty field. It would be better to keep the Federal Government out of the casualty field and leave it with the States.

Mr. LUKEN. I believe the gentleman has made his point, Mr. Chairman.

Mr. PREYER. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I rise in support of the Product Liability Risk Retention Act.

I first became aware of the problems of product liability insurance during the fall of 1976 when I started receiving complaints concerning the unbelievably high premium increases from small businessmen within my congressional district in upstate New York. In February of 1977, I was elected chairman of a Small Business Subcommittee, and in that capacity, started receiving complaints from across the country. I felt that I would embark on a series of hearings regarding the impact that product liability insurance was having generally,

and especially on the small businessman. I did so, and to make a long story short, we wound up having 16 days of hearings with six volumes of testimony.

Our subcommittee's report to Congress found two principal causes of the product liability "crisis"—deficiencies in the product liability ratemaking mechanisms and uncertainty in the tort-litigation system. While I have introduced in Congress a variety of measures addressed to these primary causes, even if these were adopted today, product liability rates will not be impacted until many years hence.

Thus, it was felt that there was the need to impact the problem of excessively high rates in the short term—an objective the Risk Retention Act is designed to accomplish. It must be emphasized, however, that the Risk Retention Act, does not strike at the root causes: Remedies addressed to the two aforestated principal causes must be adopted if we are to truly solve the product liability problem.

The stated purposes of the Risk Retention Act, which was drafted by the Department of Commerce, are to reduce product liability insurance costs, to insure the prompt payment of legally valid claims, to promote competition among providers of product liability coverage, and to reduce the outflow of capital to offshore captive insurance companies. One additional feature of the act is that it has the effect of preempting State laws which prohibit selling product liability insurance to "fictitious groups;" this would thus facilitate the ability of groups of manufacturers in the commercial marketplace.

This proposal would permit the Department of Commerce to license "risk retention groups." These groups would be organized by businesses for the purpose of insuring themselves against product liability claims. The amount of premiums charged would ultimately reflect the experience of a particular group. Thus, there is a direct incentive for all participants in a group to adopt appropriate loss prevention techniques. Moreover, it is contemplated that premiums paid to the groups will be taxed in a manner similar to insurance companies.

The proposal has the support of virtually all business groups who have considered it, including the National Association of Manufacturers, the National Machine Tool Builders Association, the National Federation of Independent Businesses, the Sporting Goods Manufacturers Association, the Scientific Apparatus Makers Association, and the National Association of Wholesaler Distributors. It also has the support of the Consumer's Union, the National Consumers League, and Congress Watch. In fact, the only interest group which I am aware of which opposes this measure is the property casualty insurance industry.

Considering one of the purposes of the bill—the promotion of competition among providers of product liability coverage—this opposition is not surprising. Presumably, as a result of this measure, many manufacturers will be able to obtain product liability coverage at a cost substantially less than is presently available to them.

While I am extremely pleased that the Carter administration has seen fit to endorse the Risk Retention Act, and that the House Commerce Committee has taken expeditious action, I would note that it was neither the first choice of my small business subcommittee, nor of the Department of Commerce's Task Force on Product Liability, in our respective quests for a remedy which would ease the product liability affordability/availability problems in the short term.

Initially, both my subcommittee and the task force recommended permitting businesses to obtain tax deductions of amounts set aside in trust, the purpose of which was to pay product liability claims and expenses. The effect of such trusts would enable businesses to provide "self-insurance" for their potential product liability exposure with pretax dollars.

During the 95th Congress, the so-called product liability trust concept had considerable support of the House membership. Over 120 different Members were sponsors of one or more of the several trust proposals introduced. In fact, former Representative Joe Waggonner, then chairman of the Miscellaneous Revenues Subcommittee of the Ways and Means Committee convened 2 days of hearing on the approach.

Unfortunately, the Department of Treasury was vigorous in its opposition—an opposition which I believe was unwarranted. Treasury was of the opinion that the trust concept embodies an unacceptable form of subsidy, and as a result, the administration rejected it as an inappropriate remedy.

Thus, while it was not my first choice, I am pleased that we are today considering the Risk Retention Act. The gentleman from North Carolina is to be applauded for his efforts in shepherding this important measure through the House.

Mr. Chairman, I also think it appropriate to give a bit of historical perspective to the product liability problem. Federal consideration of the problem of product liability began in the year 1976 under the Ford administration. At that time, President Ford created an interagency task force, led by the Department of Commerce and whose membership included virtually every department of the Federal administration.

In 1977, Mr. Chairman, when I assumed the chairmanship of a subcommittee of the Committee on Small Business, I began working very closely with the interagency task force, whose working chairman was Prof. Victor Schwartz, and conducted 16 days of hearings on the totality of the product liability problem.

At the conclusion of my hearings, Mr. Chairman, my subcommittee recommended, No. 1, that there should be improvements in the insurance ratemaking mechanism; No. 2, that there should also be uniformity in product liability tort law in order to resolve the ambiguities and differences that exist amongst the many States. These were the primary areas for reform.

Mr. Chairman, we also said, though, that a temporary, a stopgap measure would be needed, pending the more remedial long-term measures.

We recommended the creation of a product liability self-insurance trust fund to enable the independent businessman to insure himself, and to deduct that premium which he would set aside in a product liability self-insurance trust in the same way he is presently able to deduct those premiums he pays to an insurance company.

Although the Department of Commerce was greatly in favor of this proposal, regrettably we were not able to get the Department of Treasury to go along. They argued this would be an improper subsidy to the small businessman.

I thought, Mr. Chairman, in order to harmonize the law, we certainly should permit it.

A lot has evolved since then, Mr. Chairman. Since then, the Carter administration has come in and looked at the recommendations of the interagency task force and they have adopted certain positions as administration positions.

One, they have adopted as an administration position, a uniform product liability law. However, they have only held it out as a model code to be adopted by the individual States.

Mr. Chairman, I have introduced that bill in Congress, not as a model code but as a code to be adopted by the Federal legislative body. It is my judgment—and I say this with absolute moral certitude—that the various States are simply not going to adopt a uniform body of law in the area of product liability as they did in the area of the uniform commercial code. It is beyond the realm of possibility and we ought to understand that. Each State is going its own separate way.

As for the insurance ratemaking mechanisms—and anybody who has followed my hearings and the various discussions in which I have engaged over the past few years realizes—here is where I believe we must give major emphasis.

As for the insurance ratemaking mechanisms, Mr. Chairman, the Department of Commerce is presently studying a recommendation, again to be made to the States, to the State insurance commissioners, and to the National Association of Insurance Commissioners. I am hopeful that the report from the Department of Commerce will be forthcoming within the next few months.

Mr. Chairman, it is with pride but also with deep regret that I say that as of last Friday the Commerce Department hired the Chief Counsel of the Small Business Subcommittee which I chair for the explicit purpose of writing that report.

Mr. Chairman, we must pursue that remedial approach if we are going to do something meaningful about the product liability problem.

In the meantime, Mr. Chairman, as an expedient, as a short-term interim response, this law must be passed. It has the approval of every single person and every single organization concerned about the product liability problem, with one exception, and that, of course, is the insurance industry.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PREYER. Mr. Chairman, I yield the gentleman from New York 2 additional minutes.

Mr. LAFALCE. Mr. Chairman, we can understand that the insurance industry would not want it for many reasons, some real, some imagined. I will not go into them.

Mr. Chairman, let me now, however, make a few comments about some of the arguments that have been raised in opposition to the proposal by the distinguished gentleman from Texas (Mr. COLLINS).

First of all, Mr. Chairman, the gentleman from Texas has said that the number of product liability claims has been increasing unbelievably in number and, second, that the cost of the product liability awards is unconscionably high.

Well, Mr. Chairman, I think the facts will refute that. First of all, that certainly has been the perception of the problem, and people make judgments, not on the basis of reality, but instead on the perception of reality; and so, it becomes imperative for us to distinguish between true reality and the perception of reality. This is especially true because in 1977, for example, over 90 percent of the total product liability premium dollar was based primarily on the subjective judgment of the individual insurance writer, as opposed to the manual of suggested rates which is based on actuarial data and assumptions.

□ 1420

The perception was that there were a million claims per year that were being brought. This figure was used in national advertisements by the insurance industry, by Aetna, by Crum & Foster, by the Insurance Information Institute. In fact, that figure was blatantly in error. The number is more in the vicinity, according to the Insurance Services Office, of approximately 60,000 to 140,000 per year—not 1 million—and yet the insurance underwriter was making his pricing judgments on the basis of that 1 million figure. The perception of reality differed markedly from reality itself.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. PREYER. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. LAFALCE. The gentleman from Texas also made reference to some case where over a million dollars was awarded. Of course, the fact that the individuals became paraplegic is minor. Of course, the fact that there were terrible defects of which the manufacturer was aware is somewhat irrelevant; but let us not look just at the individual case, the specific instance, because we can be so misled by arguing only by specific instance. Let us look at the overall situation, and let us look at the information provided to us by the insurance industry themselves.

ISO, the Insurance Services Office, did a study in the year 1977. They took 70 percent of all the product liability claims that were closed during an 8½-month period, which totaled approximately 24,000 in number, and the statistic for the average actual payment for bodily injury claims was not a million dollars; it was not a half million dollars; it was not $100,000; it was not $50,000. The average actual payment for all bodily injury claims was $3,592. Again, the perception of reality differs markedly from reality itself. Those are the facts, and that is the reason why we need, at the very minimum, the overwhelming passage of the Product Liability Risk Retention Act. We also need, at the earliest possible moment, consideration of the Uniform Product Liability Tort Reform Act, and, most importantly, improvements in the insurance ratemaking mechanisms.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I will yield if I have any time.

Mr. COLLINS of Texas. The gentleman went into some facts on how many cases there are. Of course, when insurance companies settle, they do not base it on how many cases. They base it on dollar amount of the settlements versus premium income. The only figures I have showed that claims were up 270 percent.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. PREYER. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. COLLINS of Texas. The figures I had showed that the claims were up 270 percent, but the premium income was only up 150 percent. This is a losing situation.

Mr. LAFALCE. I beg to differ with the gentleman, but when he was making his introductory remarks in the well, he used the term, "incurred losses" being up 279 percent.

Mr. COLLINS of Texas. That is right.

Mr. LAFALCE. Let us take incurred loss. Incurred loss is not something that is actually paid out. When the insurance companies call something a loss, they include what they pay out, yes, but they also include as a loss that which they set aside in reserve for a claim that has been reported to them but has never been settled. But, more than that, when they talk about incurred losses they include not only that which they have set aside in reserves for claims that have been reported, but they also include that which they have set aside in reserves for claims that they imagine must have occurred but which have never even been reported. It is simply a figment of their imagination. The figures attributed to what is known as IBNR—incurred but not reported—vary with insurance companies, but one insurance company, for example, if you look at the loss on that line, you would find that approximately 70 percent of the losses that they reported were for claims that had not even been reported to them, and about which they knew nothing, but had already established reserves for. I think that totally destroys the myth of the percentage increase to which the gentleman from Texas refers.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, I want to thank the gentleman for what he has contributed to this legislation. The testimony before his Small Business Committee has been a tremendous help to us. The gentleman from Texas pointed out that this bill does not solve the basic problem of product liability insurance. I certainly agree with him.

We do not pretend that this bill does that. One of the basic causes—maybe the basic cause—is problems in the tort liability law. We will be addressing those problems, and the gentleman's work with his subcommittee and the bills he has introduced will be of great help to us in addressing that problem. We are getting to that next. This is a very modest bill. It addresses a part of the problem, and we will be proceeding to address the other parts of the problem in the future.

I thank the gentleman in the well.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, it was only after much thought and investigation that I became an original cosponsor of H.R. 6152, the Product Liability Risk Retention Act of 1979. Long a proponent of States rights, I was extremely hesitant to impinge on the territory of the States and consequently run the risk of increasing Federal regulation in the private sector. However, after examining the many problems associated with the current handling of product liability insurance and the remedies proposed by this bill, I realized the immediate need for such legislation capable of crossing State boundaries to protect business and consumer alike.

Under current law, many businesses are unable to afford the exorbitant rates for product liability insurance, thus not only are they severely hurt by valid liability cases, the consumer is, too. This bill would allow for the formation of interstate risk retention groups, previously denied by many States. These groups could then either bargain collectively for lower product liability insurance rates or create a self-insurance fund. In either case, the incentive for self-regulation would be great.

Contrary to the fears of those opposing this act, the result will not be a furtherance of the already burgeoning Federal bureaucracy. The Secretary of Commerce will be responsible for the initial authorization of such groups as to total assets, reserves, management, loss prevention programs, amount of insurance, and disclosure of all relative information. Once authorized, however, the groups will be subject to the same laws and taxes governing any insurance company in that particular State. Furthermore, H.R. 6152 will not require any Federal tax dollars. All costs will be absorbed through fees paid by the applicants.

With these facts in mind, I wholeheartedly urge my colleagues to join me in supporting the Product Liability Risk Retention Act of 1979.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, as the House considers H.R. 6152, the Risk Retention Act, I would like to take this opportunity to discuss a complementary approach to help resolve the product liability problem.

On February 12, Messrs. GEPHARDT, DUNCAN, HEFTEL, JACOBS, SCHULZE, SHANNON, VANDER JAGT, and I introduced H.R. 6489, which permits companies having severe product liability problems to create product liability self-insurance reserve trusts and to deduct as a business expense limited contributions to those trusts.

The unavailability or unaffordability of product liability insurance is a particularly acute problem for small and medium-sized companies. One association reports that, although the geometric annual increases in product liability insurance premiums, prevalent in the mid-1970's have abated somewhat, one out of every eight of their members is still without affordable product liability insurance and another 40 percent have deductibles or self-retentions averaging $95,000.

The Commerce Department concluded following an extensive year long study that the product liability problem is caused by: First, uncertainties—and in some cases, unfairness—in the tort system; and second, insurance underwriting practices.

H.R. 6489 addresses this second cause of the product liability problem. While H.R. 6152 permits companies to pool all or part of their product liability risks in risk retention groups under the aegis of the Department of Commerce, it may or may not be possible for companies to use this vehicle to relieve their product liability insurance problems. Our proposal, while entirely consistent with H.R. 6152, offers a different option to severely affected businesses. H.R. 6489 permits companies on their own to establish tax free fund reserves against future product liability losses including defense costs.

The two bills, taken together, will go a long way toward resolving the product liability problem for American companies and their employees. H.R. 6489 establishes a "needs test" to determine which companies are eligible to deduct contributions to product liability self-insurance reserve trusts, and it places a limitation of $100,000 on the amount of annual contribution to such trusts which can be deducted for tax purposes. It also places a limitation on the amount of tax-free reserves which can be accumulated in these reserve trusts. Only those corporations who cannot obtain first-dollar product liability coverage for less than 2 percent of sales or those which have seen their premiums doubled without appreciable losses would be eligible for this special tax treatment.

Passage of H.R. 6152 is a much needed first step in the solution of the product liability insurance problem. Speedy consideration of our bill, H.R. 6489, would supplement the remedy for small businesses offered by H.R. 6152.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER).

□ 1430

Mr. BEREUTER. Mr. Chairman, in the best interests of the thousands of small businessowners across the Nation, I strongly urge my colleagues to support H.R. 6152, the Product Liability Risk Retention Act of 1979. Passage of this bill would complete one step toward the resolution of the product liability insurance problems confronting many businessmen and consumers in this country.

A response born of an 18-month Federal study of the product liability insurance problem, this measure has undergone months of study, review and refinement. It carries bipartisan support; in addition, the Department of Commerce and the administration also endorse this bill.

The problems regarding the product liability risk exposure of manufacturers and sellers have been brewing for many years. In 1975, they culminated in an apparent product liability insurance "crisis," a time when insurance either became unavailable or unaffordable to many businesses.

As a State legislator, I learned firsthand about this frightening development. Being the first Nebraska State legislator to introduce product liability reform legislation, I was deluged by legitimate "horror stories" describing the product liability insurance market. One Nebraska firm reported a 500-percent premium cost increase in 1976, followed by a 300-percent jump in its premiums the next year. These increases forced them to impose a 3-percent per unit price increase in their products.

Another company reported that the cost of its umbrella coverage skyrocketed from $1,100 for $2,000,000 of coverage to $59,000 for $1,000,000—although no claim had been filed against the company during that period. Obviously, rate increases did not reflect loss experience, a tremendous injustice to many businesses. A more severe injustice was suffered by those companies which simply could not pass on these increased costs. Small businesses producing high-risk products suffered most under these distressing developments.

In response to these calamitous conditions, the Federal Government formulated a study group, chaired by the U.S. Department of Commerce, to probe this situation.

The final report of the Federal Interagency Task Force on Product Liability, issued in late 1977, provided invaluable insight into the problem. The task force found that some product liability insurers had engaged in "panic pricing." Moreover, in an overwhelming majority of cases, the insurance companies did not rely on adequate data, in terms of the number or the size of claims, to justify the exorbitant price increases they imposed. Although a lack of data prohibited the task force from reaching definite conclusions regarding the existence or degree of overpricing, the conclusions which many others draw from these findings are obvious.

The task force did, however, identify three causes of the chaos in the product liability insurance market:

First. Insurance ratemaking practices;

Second. Uncertainties in the tort-litigation system; and

Third. The manufacture of unsafe products.

Although current increases in product liability insurance premiums do not equal the outrageous spurts exhibited just a few years ago, I do not believe that the problem has disappeared; nor has it been solved. The underlying causes which allowed such a price distortion to occur still remain; moreover, the excessive premium burdens endured by many have not been lessened. Experts predict significant increases in the near future; thus, action must be taken now to halt this outrage.

The Product Liability Risk Retention Act of 1979 is a long overdue step in providing relief to a beleaguered segment of American commerce. This measure:

Allows manufacturers and product sellers to form risk retention groups—subject to the approval of the Secretary of Commerce—to assume and to spread all or a portion of their product liability and "completed operations" risk exposure; and

Permits persons engaged in business to purchase product liability insurance on a group basis, by exempting them from laws which prohibit insurers from giving preferential rates, premiums and coverage to groups.

House Resolution 6152 would accomplish its objectives through the utilization of specific exemptions to State insurance laws. The exemptions are narrowly drawn, however, in order to protect State regulatory authority while allowing the implementation of a Federal solution to this essentially multi-State insurance problem.

In addition, I believe the bill contains carefully drawn procedures to insure the financial viability and the management capability of the newly formed groups—an initial, legitimate concern of many unfamiliar with this measure.

The risk retention groups formed under the authority of this measure will promote more equitable product liability insurance pricing by allowing experience rating on a group (not nationwide) basis. Moreover, this system will encourage loss prevention initiatives of group members, thereby further promoting cost control. In addition, companies now operating without adequate coverage can perhaps be drawn back into the protective fold, thereby removing an unreasonable and unnecessary financial risk to themselves and to any consumer injured by a product.

This measure accomplishes these objectives, yet it avoids the harsh anticonsumer aspects of tort-law reforms advanced by others as a solution to the problem.

Without an effective, economical product liability insurance system, this country may suffer several adverse long-term developments. Some businesses have simply terminated their operations rather than endure the constant threat of product liability lawsuits which they can not insure themselves against; injured persons may go uncompensated by uninsured or underinsured businesses; and manufacturers may fail to produce use-

ful products because of an inability to economically spread the risks of their innovation and initiative.

Under the authority of this act, the formation of risk retention groups will offer some short-term relief to the business community, while long-term solutions to the underlying causes of the product liability insurance problem are pursued.

This bill offers an effective, yet reasonable, program for partially addressing the product liability insurance problem.

Mr. Chairman, I commend the gentleman from North Carolina (Mr. PREYER) and the Members on the minority side for bringing this measure to us, and I urge my colleagues to support this vital piece of legislation.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I rise in support of H.R. 6152, the Product Liability Risk Retention Act.

The problems that this legislation seeks to address developed to alarming dimensions over the course of the past decade. Primary product liability coverage costs soared from an average annual cost of $10,000 in the early seventies to the 1979 average of $143,000.

While the geometric increases of the midseventies have leveled off, the plateau reached during that time has left many small businesses strapped with high premium costs and sizable deductibles. In fact, since 1975, I am told that the number of companies asked to take deductibles has quadrupled, while the actual level of these deductibles has tripled.

Mr. Chairman, my able predecessor, the late William Steiger, worked hard to find some way to alleviate the problems faced by small businessmen in regard to product liability insurance coverage. In continuing his work, I see this legislation as a necessary first step toward providing some relief from these problems.

The need for this legislation is clear and well documented, and I urge its adoption.

Finally, there are a few points relating to the substance of this bill that are worth noting.

First, the amount that any member of a risk-sharing pool pays into this account would be deductible as a business expense. At present, if an entrepreneur decides to guard against the possibility of future product liability claims, the funds set aside to cover these risks are, in business terminology, "100-cent dollars."

Second, it was pointed out during the course of consideration of the bill in subcommittee that the net effect of H.R. 6152 will be to reduce regulation of these particular insurance concerns. Risk retention groups, as described in the bill, would not be in the general insurance business, and so would not be subject to the myriad of complex regulations imposed on full-line commercial insurers. While the regulatory authority over risk retention groups would be vested in the Department of Commerce, it is important to note that this is a simplified, direct-line authority.

And third, the Congressional Budget Office asserts that H.R. 6152 could be implemented at no extra cost to the Federal Government, and that the only conceivable impact of the bill on the horrifying rate of inflation that has recently been logged would be to decrease this rate.

Mr. Chairman, my colleagues on both sides of the aisle, I urge you all to vote for this important innovation that will benefit small and large businesses, and ultimately the average American consumer.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Chairman, I rise in support of H.R. 6215, the Risk Retention Act.

Mr. Chairman, New England business is primarily composed of small enterprises which have had very great difficulty in obtaining product liability coverage, at reasonable cost to them and providing adequate protection to the consumer.

This legislation succeeds in accommodating the diverse needs of consumers, to be able to reclaim their costs and damages in product liability cases and the needs of small businesses to meet what are in some cases inestimable costs.

In recent years, we have witnessed a dramatic increase in the capacity of consumers to recover damages, particularly with the application of strict tort liability. The legislation before us is an important means of ensuring that consumers will continue to be able to recover for damages.

A study by the National Federation of Independent Businesses in 1976, found that two out of five small manufacturers did not carry product liability insurance. That means that 40 percent of them had no such insurance; 9 percent simply could not afford any insurance coverage, and 17 percent could not afford the insurance coverage which they considered adequate.

The import of these uninsured manufacturers becomes particularly significant in view of the increase in liability claims filed. Between 1971 and the first half of 1976, there was a 250-percent increase in new claims filed against companies with less than 2.5 million in sales; there was a 44-percent increase in new claims against companies with $2.5 to $100 million in sales. And there was a 46-percent increase in claims against companies with sales over $100 million.

If the trend of rising premiums and increasing claims continues as it has in the past, the burden will fall on consumers and smaller businesses. For smaller businesses, which saw the greatest percentage increase in the number of claims filed, and who are often least able to afford insurance, will become increasingly unable to pay the rightful claims of consumers.

The mechanism set up by the bill allows companies to purchase insurance on a group basis, which lowers the cost of coverage for the companies, in addition to allowing the creation of insurance cooperatives. This lowered cost is essential to the continued ability of smaller businesses to maintain adequate product liability insurance.

I urge the passage of this legislation in order to lessen the disproportionate burden of products liability on smaller businesses, and to insure that consumers will continue to be able to recover their claims.

I would like to offer my congratulations to the distinguished chairman of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, and to Mr. SCHEUER, chairman of the Consumer Protection and Finance Subcommittee, as well as those Members who were involved in drafting this legislation, especially the gentleman from North Carolina (Mr. PREYER), and my good friend, the gentleman from New Jersey (Mr. RINALDO), who has been so instrumental in the development of this legislation.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to point out some of the highlights that emphasize the need for this legislation.

The product liability problem has placed severe economic burdens on business, particularly small business, and regardless of what was stated here, it is my sincere belief, after many discussions with experts in the insurance field, that this legislation will create no real problems for the insurance industry.

Some businesses are presently operating with no product liability insurance, at great risk to themselves and their customers. This bill will particularly help these small businesses by providing alternatives which will enable them to obtain protection against their product liability risks. The bill will also help consumers by providing for the compensation of their product liability claims. Finally, and most importantly, no Federal tax dollars will be used to support this program because it is self-supporting, with fees paid by participants.

Mr. Chairman, I urge the Members to vote for what is a desperately needed piece of legislation, and I yield back the balance of my time.

Mr. PREYER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, I come from Cincinnati, the machine-tool capital of the world. There are many small machine-tool businesses in Cincinnati which have suffered the pangs as described by the gentleman from New York (Mr. LA FALCE).

I also serve on the subcommittee. I have served on the gentleman's subcommittee which made the extensive investigation, and I point out that this is a balanced bill.

The gentleman from New Jersey (Mr. RINALDO), among others, brought in the inference that it is the cooperation of the insurance companies which helped to balance this bill out so that it does not represent a Federal instrusion into the field of insurance.

I think that we should recognize the gentleman from New York (Mr. LA FALCE) and his subcommittee, and I believe their work has been recognized because we are witnessing a correction in the writing of the excessive insurance premiums to some extent. That testimony did come out.

Finally, Mr. Chairman, this is a balanced bill. There are questions as to whether this bill will be implemented,

but it deserves a fair trial. It provides an opportunity for the small companies, and there is a 4-year sunset provision in the bill in the event the bill is not implemented and goes off the books.

Mr. Chairman, I rise in support of H.R. 6152, the Product Liability Risk Retention Act of 1979. This is a temporary, short-term program that will allow a number of companies to acquire product liability insurance.

Under rules and regulations established by the Secretary of Commerce, manufacturers and sellers will be allowed to form self-insurance cooperatives or groups. These groups will spread and assume all or part of the product liability and completed operations risk exposure. There is also a provision that will allow these groups to buy additional insurance.

We have witnessed in the recent past an increase in the costs of product liability insurance. These increases have forced a number of companies to continue operation with no insurance at all. The National Machine Tool Builders Association has pointed out that about half of its members have no insurance or have substantial deductibles under their 1979 policies. About 40 percent of these companies were faced with similar problems in 1978. In 1976 the average premium for machine-tool companies was $71,000. In the earlier seventies's the average was $10,000. This the average premium is $143,900. These trends are particularly disturbing when we consider that the smaller the company, the more devastating these increases are. Furthermore, the smaller the operation the greater likelihood that there will be no coverage. This lack of coverage is as harmful to the consumer as it is to company involved.

This bill does nothing to relieve the problems in product liability that only a comprehensive tort reform bill will accomplish. This bill does provide to all sellers and manufacturers the opportunity to afford coverage. The Congress cannot stop working on this problem with passage of this bill. We must continue to work on legislation that will eliminate the unnecessary and expensive court actions that have forced premiums to increase substantially.

Furthermore, there is some concern about the effects of this Federal program on the insurance industry. This a problem that requires a special program. It is clear from the evidence taken by the subcommittee that only a limited, specific, Federal program will solve the problems that confronts many of the industries in the United States. In no way should anyone consider this a change in the McCarran-Ferguson Act. State regulation of the business of insurance is a policy that I firmly support. I am sure that the Congress will not support any expansion by the Commerce Department beyond the specific limits fixed within H.R. 6152. Proof of this is the "sunset provision" that was added by the subcommittee. If no risk retention group is in existence at 4 years after enactment, the program will cease to exist. We do not want to see a self-perpetuating Federal program that will flood over its boundaries into areas where Congress never intended for it to go.

Passage of this bill is important for American industry, relief from the problems of product liability insurance will enable us to go back to a more efficient operation of our economy. I call upon all of my colleagues to support this bill.

● Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 6152, the Risk Retention Act. This legislation would finally help businesses deal with the availability and affordability problems of product liability insurance.

The Risk Retention Act addresses one of the main causes of the product liability problem—current insurer ratemaking and reserving practices. H.R. 6152 offers a solution by providing an alternative of self-insurance where commercial coverage is unavailable, unaffordable, or inadequate.

This bill would permit product sellers and manufacturers to form self-insurance cooperatives, called "risk retention groups," allowing members to share all, or a portion of their product liability exposure. Furthermore, members would be permitted to negotiate with commercial insurers as a group for premium discounts, coverage plans, and other benefits not available to firms individually. Currently, group purchase of insurance is prohibited in most States.

This act depends mainly on marketplace forces, and the self-interest of the insurance group members to regulate its own activities. While the Commerce Department will administer certain aspects of this program, the total cost in administering the act will be recovered through annual fees paid by risk retention groups. Furthermore, this legislation should promote competition amongst product liability insurance providers.

The Subcommittee on Consumer Protection and Finance, of which I am a member, has heard extensive testimony in support of this legislation. It has widespread support from the business community, particularly smaller firms many of which have gone without product liability insurance and coverage for compensating injured consumers. This legislation which has been endorsed by manufacturers, wholesaler-distributors, consumer groups, the trial bar as well as the administration, deserves our support. I strongly urge my colleagues to support this important piece of legislation.●

● Mr. GRASSLEY. Mr. Chairman, in considering H.R. 6152, we are addressing the problem faced by every small business in obtaining product liability risk insurance. Let us not minimize this difficulty.

As my colleagues are undoubtedly aware, the Interagency Task Force on Product Liability, established in the Department of Commerce, found three principle causes of the product liability problem. In no particular order, these problems are: Unsafe products, uncertainties in the tort litigation system due to inconsistencies in liability laws between the States, and questionable insurer ratemaking and reserving practices. It is this last issue, questionable ratemaking and reserving practices, that the Product Liability Risk Retention Act of 1980 attempts to resolve.

The single largest problem faced by the purchaser of liability insurance is rising costs in the form of higher premiums. Yet, the market assistance programs (MAPS) set up by the insurance industry to make liability insurance more easily obtainable, do not even address the problem of cost. Instead, they are targeted to companies who cannot receive estimates at any cost. Even at that, businesses do not regard them as a realistic alternative.

Efforts on the part of the States to alleviate the problem have proven ineffective. Only two States, for example, have even attempted to encourage the formation and operation of captive insurance companies and in one of those, Colorado, State law contains regulatory standards which make it difficult for trade associations or small business groups to utilize them. In addition, the States can only enact laws regarding their own insurance regulations, whereas many coinsurance groups consist of members from a number of different States.

I believe that the issue of product liability is of sufficient scope and gravity to call for Federal action on behalf of the beleaguered small businessman. H.R. 6152, I believe, strikes a happy medium by addressing a significant part of the problem of product liability on a nationwide basis, yet retains a sense of perspective by preempting State laws only to the extent necessary to carry out the purpose of the act.●

● Mr. SENSENBRENNER. Mr. Chairman, I rise in support of this bill.

In recent years, many businessmen have found that product liability insurance has become unavailable or prohibitively expensive. The burden has fallen most critically upon small businessmen, as the cost of their products have become noncompetitive as insurance costs have skyrocketed.

This bill is designed to make insurance available in cases where it is presently not, so that some protection can be afforded to businessmen against bankruptacy should a major product liability suit against them be successful.

However, this bill only addresses the question of insurance availability. It does not address the question of increased insurance costs.

Therefore, it is important that everybody know that today, only the first step towards the solution of the product liability insurance problem is being taken. The next step must include a major examination of the tort system in order to provide fairness to both manufacturers of products sold in the marketplace and also to people who are injured as a result of a defective product.

This examination must include a study of the effect of statutes of limitations on the difficulty of accurately predicting future losses, problems caused by the alteration of products not defective when manufactured and also whether the tort system requires that the party truly responsible for causing the defect assumes the ultimate liability in case of injury of a user.

Meanwhile, commendation is in order to the gentlemen from North Carolina (Messrs. PREYER and BROYHILL) and the gentleman from New Jersey (Mr. RIN-

ALDO) for a job well done in taking this first step.●

● Mr. BROYHILL. Mr. Chairman, I would like to express my strong support for H.R. 6152, the Product Liability Risk Retention Act.

For several years now, I have been aware of the problem that many American businesses have had trying to obtain product liability insurance at reasonable rates. During this time letters have poured into my office from manufacturers who are experiencing this problem. Some firms have indicated that they are going without product liability insurance altogether because they either cannot find it or cannot afford it.

During this Congress, the Subcommittee on Consumer Protection and Finance held several days of hearings on this subject, one of which was held in Greensboro, N.C. We received extensive testimony from manufacturers, insurers, professors of law, and the trial bar. The testimony generally confirmed the existence of a serious problem which has begun to impact negatively on our economy in several ways. Specifically, it is inhibiting the development of innovative products and technology. It is also curtailing employment in those product lines affected. At the same time it is creating a climate which is more favorable to foreign products in this country. This is a most unfortunate trend, caused in part by the product liability problem.

H.R. 6152 will be a first step in addressing the problem. It is a very important step because it will enable businesses to obtain product liability coverage at more reasonable rates. At the same time it will assure that there are funds available to compensate claimants who have been injured by a product. We will continue to consider other proposed solutions as well.

This legislation is particularly needed by smaller businesses. I urge you to support it.●

Mr. PREYER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6152

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Product Liability Risk Retention Act of 1980".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) facilitate the formation and sound operation of risk retention groups organized for the primary purpose of assuming and spreading the product liability or completed operations liability risk exposure of product sellers;

(2) facilitate the purchase of product liability and completed operations liability insurance on a group basis;

(3) reduce insurance costs for product sellers;

(4) ensure the prompt payment of valid claims made by persons injured by products;

(5) promote competition among providers of product liability and completed operations liability coverage; and

(6) reduce the outflow of capital and premiums to offshore jurisdictions which have been attracting captive insurance companies of United States parent corporations.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "affiliate" means—

(A) any person who, directly or indirectly, controls or is controlled by another person; or

(B) any person under direct or indirect common control with such other person.

For purposes of this paragraph, the term "control" means ownership or control, directly or indirectly, of more than 50 percent of the total combined voting power of all classes of stock entitled to vote in a corporation or other entity, or actual control where exercised other than through ownership of stock.

(2) The term "approved risk retention group" means a risk retention group which, pursuant to this Act, has been issued a certificate of approval by the Secretary.

(3) The term "completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by—

(A) any person who performs such work; or

(B) any person who hires an independent contractor to perform such work.

Such term shall include liability only for activities which are completed or abandoned before the date of the occurrence giving rise to the liability.

(4) The term "Federal antitrust laws" means—

(A) the laws included within the definition of the term "antitrust laws" under section 1 of the Clayton Act (15 U.S.C. 12); and

(B) the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(5) The term "group participant" means—

(A) a member of a risk retention group; or

(B) any affiliate of a member whose product liability or completed operations liability risk exposure has been assumed by a risk retention group.

(6) The term "insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance by the Secretary under applicable State or Federal law.

(7) The term "member" means, only for purposes of title I of this Act, a person who, directly or indirectly, has an interest in a risk retention group as the result of having made a contribution to the capital of such group.

(8) The term "product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product. Such term does not include the liability of any person for such damages if the product involved was in the possession of such person when the incident giving rise to the claim occurred.

(9) The term "risk agreement" means the contract between a risk retention group and one or more group participants thereof, under which the risk retention group agrees to assume a specified portion, or all, of the product liability or completed operations liability risk exposure of any such person.

(10) The term "risk retention group" means any corporation, or other limited liability association taxable as a corporation—

(A) whose principal activity consists of assuming and spreading all, or any portion, of the product liability or completed operations liability risk exposure of its group participants;

(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A); and

(C) which is organized under the laws of a State.

(11) The term "Secretary" means the Secretary of Commerce.

(12) The term "State" means any State of the United States or the District of Columbia.

(13) The term "title II group" means any group which has as one of its purposes the purchase of product liability or completed operations liability insurance on a group basis.

TITLE I—RISK RETENTION GROUPS

REQUIREMENTS FOR APPROVAL

SEC. 101. (a) Any risk retention group may submit to the Secretary an application seeking a certificate of approval under this Act. Each application shall be in such form and contain such information as the Secretary, by regulation, may prescribe. Each application shall include—

(1) such information as the Secretary may require to permit the Secretary to evaluate the factors specified in subsection (b); and

(2) a detailed description of the plan of operation of the applicant.

(b) The Secretary shall consider the following factors for purposes of determining the overall soundness of the plan of operation of the applicant:

(1) The amount and liquidity of the assets of the applicant relative to the risks to be retained by the applicant. The assets of the applicant may include irrevocable letters of credit on behalf of the applicant in the form prescribed by the Secretary by regulation and issued by a national bank or a State bank approved for that purpose by the Secretary.

(2) Whether the reserves established, or to be established, by the applicant comply with the requirements of section 104.

(3) The adequacy of the expertise and experience of any person who shall be responsible for the management of the applicant.

(4) The adequacy of the loss prevention programs of the applicant and the group participants of the applicant.

(5) Whether the insurance coverage obtained by the applicant is adequate to satisfy the requirements of section 102.

(6) Whether the applicant has failed to disclose in its application material facts or circumstances bearing upon its qualifications for approval by the Secretary.

(c)(1) Subject to subsection (d), the Secretary shall issue a certificate of approval to any risk retention group which—

(A) has submitted an application under this section; and

(B) is determined by the Secretary, in accordance with standards promulgated by regulation by the Secretary for the purpose of evaluating information contained in such applications, to have a sound plan of operation.

(2) Any refusal by the Secretary to issue a certificate of approval under paragraph (1) shall be made by a written order issued by the Secretary, which order shall specify the reasons for the refusal.

(3) The Secretary shall issue a certificate of approval or issue a written order refusing to issue such a certificate within 90 days after the date of the receipt of the application submitted under this section.

(d)(1) The Secretary shall not issue a certificate of approval to any of the following risk retention groups:

(A) Any risk retention group in which the risk coverage afforded to any one person exceeds 5 percent of the total risks assumed by the risk retention group. For the purpose of determining the risk coverage afforded to any one person, the risk exposure of persons who

are affiliates shall be aggregated and considered attributable to only one affiliate.

(B) Any risk retention group which fails to permit, and pay the reasonable cost of, any audits and examinations requested or conducted under subsection (e).

(C) Any risk retention group which, as determined by the Secretary, would exclude any person from membership therein solely to provide for members of such group a competitive advantage over the person excluded from membership.

(2) The Secretary may waive the provisions of paragraph (1)(A) if the Secretary determines that, notwithstanding the failure of the risk retention group to comply with such paragraph, the group is likely to be financially sound and capable of functioning to shift and distribute the risks of its group participants.

(e) In conducting reviews of applications submitted under this section, the Secretary may make such audits or examinations of an applicant and its group participants as may be necessary to determine whether to approve an application submitted under this section. The cost of such audits or examinations shall be paid for by the applicant.

REINSURANCE

SEC. 102. (a) The Secretary may require, as a condition for the approval of a risk retention group, that a risk retention group agree to—

(1) limit the maximum amount of risk it retains (A) in the aggregate, (B) with respect to any one incident, or (C) with respect to one or more of its group participants; and

(2) acquire and maintain insurance coverage for losses in excess of any limitation required under paragraph (1) by procuring reinsurance which satisfies the requirements of this section.

(b) Any reinsurance policy obtained by an approved risk retention group shall explicitly provide that—

(1) proceeds of the reinsurance policy shall be payable to a receiver or other officer of a court if the risk retention group is determined by a court of competent jurisdiction to be insolvent because it is unable to pay its debts when due; and

(2) the person providing reinsurance to the risk retention group shall give written notice to the risk retention group and to the Secretary of any cancellation or substantial modification of the reinsurance policy not less than 45 days before any such cancellation or substantial modification takes effect.

(c) Any approved risk retention group which has obtained a reinsurance policy shall provide the Secretary with a copy of the policy, the applicable certification of the insurer with respect to the policy, and any documents which substantially modify the coverage afforded under the policy.

(d) No approved risk retention group shall, directly or indirectly, acquire reinsurance from any of its members or from any affiliate of its members.

REQUIREMENTS OF MEMBERSHIP; FEES

SEC. 103. (a)(1) No person shall become a member of an approved risk retention group unless all or a portion of its product liability or completed operations liability risk exposure, or that of one or more of its affiliates, is to be assumed by that group pursuant to a risk agreement.

(2 No person shall continue to be a member of an approved risk retention group for more than 60 days after such group has ceased to assume all or a portion of its product liability or completed operations liability risk exposure, or that of one of its affiliates, pursuant to a risk agreement.

(b)(1) Except as provided in paragraph (2), an approved risk retention group shall not assume, directly or indirectly, the product liability or completed operations liability risk exposure of persons other than its members and affiliates of its members.

(2) An approved risk retention group may assume any product liability or completed operations liability risk exposure of group participants arising from the operation of a hold harmless agreement, an indemnity agreement, or any other similar agreement executed by a group participant and any of the following:

(A) A supplier of products or services to the group participant.

(B) A purchaser of products or services from the group participant.

(C) A person who holds the products of the group participant on consignment for sale.

(c) An approved risk retention group may not make non-pro-rata assessments or retroactive adjustments, based on an individual group participant's loss experience, to the fees paid by such group participant for coverage.

(d) The Secretary shall prescribe regulations which provide for the return of the capital contribution of any person who withdraws from an approved risk retention group. These regulations shall provide that—

(1) the withdrawing member's capital contribution shall be increased or decreased, as appropriate, to reflect the claims experience (including incurred but not reported losses), earnings, losses, and distributions of the group, all determined through the application of generally accepted accounting principles, during the period the withdrawing person was a group member; and

(2) the member's adjusted capital contribution shall be returned, together with interest at the rate provided for in the risk agreement, or if no rate was provided for, at the prevailing prime rate in the United States, accruing from the date of withdrawal, in installments over such a period of time as is necessary (but not longer than the 5-year period beginning on the date of withdrawal) in order to determine the appropriate adjustments under paragraph (1), without jeopardizing the financial condition of the group.

(e) No approved risk retention group shall, directly or indirectly, acquire any securities of, make or guarantee any loans to, receive loans from, or otherwise acquire any interest in, any of its members or affiliates of its members.

RESERVES

SEC. 104. (a) The Secretary shall require an approved risk retention group to establish and maintain reasonable and adequate reserves to meet incurred losses (including losses which have not been reported) and loss adjustment expenses. The Secretary shall not permit such reserves to exceed levels determined through computations using accepted actuarial methods and based on reasonable actuarial assumptions.

(b)(1) In addition to the reserves required under subsection (a), the Secretary shall require an approved risk retention group to establish and maintain a reasonable and adequate reserve for unearned premiums paid or to be paid to the group by its group participants. Such reserve shall not be less than 50 percent of the annual net premiums paid or to be paid to the group by its group participants. Each approved risk retention group shall include this reserve and the reserves required under subsection (a) as a liability in all its financial statements.

(2) As used in paragraph (1), the term "net premiums" means the difference between—

(A) the aggregate amount of premiums received by an approved risk retention group as consideration for assuming and retaining the risks of its group participants (exclusive of nonrecruiting items, such as contributions to capital); and

(B) the sum of—

(i) amounts returned to group participants of such risk retention group (other than in payment for covered losses) such as risk-agreement dividends, refunds, and returns for risk-agreement cancellations; and

(ii) the portion of the gross compensation of the group which is allocable to risks ceded to excess insurers or reinsurers.

(c) The reserves of an approved risk retention group shall be invested in the same manner and with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

ANNUAL AND OTHER REPORTS

SEC. 105. (a) Each approved risk retention group shall submit to the Secretary an annual report and such other reports as the Secretary considers appropriate in order to carry out the purposes of this Act, except that the Secretary shall insure that the number of reports required by the Secretary under this subsection does not constitute an undue burden upon approved risk retention groups. An approved risk retention group may be required to provide in such reports any information relevant to the administration of this Act which is in the possession, or subject to the control, of the risk retention group or its group participants.

(b) The reports required to be submitted pursuant to this section shall be in such form and contain such information and certifications as the Secretary, by regulation, may prescribe. The annual report shall include a statement of financial condition and operations substantially similar to the annual statement approved by the National Association of Insurance Commissioners.

(c) Each approved risk retention group shall submit to the Secretary information regarding any change in the plan of operation of such group from the plan described in the application submitted under section 101.

APPLICABILITY OF STATE LAW

SEC. 106. (a) This Act shall preempt any State law to the extent that such law would—

(1) make unlawful the formation or operation of approved risk retention groups;

(2) regulate, directly or indirectly, the formation or operation of approved risk retention groups with respect to—

(A) the assumption, spreading, or ceding of all, or any portion, of the product liability or completed operations liability risk exposure of their group participants;

(B) any functions related to the activities described under subparagraph (A); or

(C) such other functions conducted by an approved risk retention group as are permitted by the Secretary;

(3) make it unlawful for any person to provide or sell product liability or completed operations liability insurance, insurance-related services, or management services to an approved risk retention group; or

(4) regulate, directly or indirectly, the provision or sale of product liability or completed operations liability insurance, insurance-related services, or management services by any person to an approved risk retention group.

(b) Nothing contained in this Act shall be deemed to bar a State from collecting, on a nondiscriminatory basis, from an approved risk retention group applicable premium and other taxes which are levied on admitted insurers and surplus lines insurers under State law.

(c) Not later than the date this Act takes effect, the Secretary shall promulgate regulations containing requirements with respect to claims settlement practices of approved risk retention groups. In formulating such regulations, the Secretary shall take into consideration the provisions of State laws respecting claims settlement practices.

APPLICATION OF ANTITRUST LAWS

SEC. 107. (a) Notwithstanding any other law, the Federal antitrust laws shall be applicable to approved risk retention groups, their group participants, activities of risk retention groups and their group participants, and to any person engaged in such activities (including persons providing management services to such groups).

(b) Nothing contained in this Act shall be deemed to create any immunity or defense to any civil or criminal action under any Federal antitrust law.

APPLICATION OF SECURITIES LAWS

SEC. 108. (a) The ownership interests of members in approved risk retention groups shall not be considered securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or for purposes of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(b) Approved risk retention groups shall not be considered to be investment companies for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

DISCLOSURE OF INFORMATION

SEC. 109. (a)(1) The Secretary, any other officer or employee of the Department of Commerce, and any person referred to in section 110(c), shall not—

(A) use the information furnished under this Act for any purpose other than the administrative or statistical purposes for which it is supplied;

(B) disclose any data obtained pursuant to this Act that is exempt from disclosure under section 552(b)(4) of title 5, United States Code; or

(C) permit any person, other than officers or employees of the Department of Commerce or any person referred to in section 110(c), to examine any application or report submitted under this Act.

(2) Nothing contained in paragraph (1) of this subsection shall limit the access of the Congress to any information referred to in such paragraph if such information could be obtained by the Congress under any law or other authority.

(b) Copies of applications or reports which have been submitted under this Act, and copies of applications submitted by any person seeking membership or participation in an approved risk retention group, may not be compelled to be disclosed, and cannot be admitted in evidence, in any administrative or judicial proceeding related to the adjudication of a product liability or completed operations liability claim brought against any risk retention group which has submitted an application under section 101 of this Act or its group participants. Notwithstanding the preceding sentence, such applications or reports may be disclosed or admitted in evidence in such proceedings with the consent of the person or persons whom such applications or reports concern.

(c) The Secretary may require each approved risk retention group to collect and provide to the Secretary such data regarding its product liability and completed operations liability claims experience as the Secretary may consider appropriate. Notwithstanding subsection (a), the Secretary may disclose the data collected pursuant to this section in a format which does not directly or indirectly identify the individual product liability claims experience of any group participant of an approved risk retention group.

AUDIT AND MANAGEMENT

SEC. 110. (a) The financial records of each approved risk retention group, its members, and the affiliates of its members may be audited or examined by the Secretary in order to gather information relevant to the administration of this Act. The Secretary, or any duly authorized representative of the Secretary, shall have access for the purpose of the audit or examination to any books, documents, papers, and records of such groups, members, or affiliates (or any agent thereof) which the Secretary considers relevant to the formation or operation of the approved risk retention group. Such audits and examinations may be conducted without advance notice at such times as the Secretary may determine to be appropriate.

(b)(1) The Secretary may require that each approved risk retention group engage an independent certified public accountant to conduct such examination of financial statements of the group (and of other relevant books, documents, papers, and records of the group) as the accountant may consider necessary to enable the accountant to determine whether the financial statement and schedules of the group are presented in conformity with generally accepted accounting principles applied on a basis consistent with the accounting method employed by the group during the preceding year. Such examinations shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the group as are considered necessary by the accountant.

(2) In administering this Act, the Secretary may rely upon financial statements prepared by independent certified public accountants for approved risk retention groups in lieu of conducting audits or examinations under subsection (a), but only if such statements—

(A) are prepared in the manner described in paragraph (1); and

(B) were prepared in response to a request therefor made by the Secretary or were prepared within a reasonable time before such request.

(c) In administering this Act, the Secretary may utilize personnel of other agencies of the Federal Government, or personnel of State or local governments, subject to the consent of the heads of the entities involved. The Secretary also may utilize employees of private organizations to perform ministerial functions under this Act, such as conducting audits and examinations.

ADMINISTRATIVE FEES

SEC. 111. (a) Each applicant for approval under section 101 shall pay to the Secretary a nonrefundable application fee to cover the cost of processing an application for a certificate of approval. This fee shall be in addition to any amount required under section 101(e).

(b) The Secretary shall establish and collect from each approved risk retention group a nonrefundable annual fee in an amount sufficient to reimburse the Secretary for the direct costs of supervising the approved risk retention group.

(c) There is established in the Treasury a revolving fund which shall be available to the Secretary, without fiscal year limitation, to carry out this Act. There shall be deposited in the fund amounts received by the Secretary under this section and under section 101(e).

REVOCATION OF APPROVAL

SEC. 112. (a) The Secretary may revoke the certificate of approval of an approved risk retention group—

(1) upon the request of the group;

(2) upon the refusal of the group to permit an audit or examination of its books and records pursuant to section 110;

(3)(A) upon the violation by the approved risk retention group of any provision of this Act, or any regulation promulgated under this Act; or

(B) upon a determination by the Secretary that the risk retention group has altered its plan of operation in such a manner that the Secretary would not have approved the application of the risk retention group if the plan of operation had been submitted in the application in such altered form;

(4) upon the Secretary's determination that the group is primarily engaged in the business of investing, reinvesting, or trading in securities; or

(5) upon the Secretary's determination that the primary purpose or principal activity of the group has ceased to consist of assuming and spreading all, or any portion, of the product liability and completed operations liability risk exposure of its group participants.

(b) The Secretary may not revoke the certificate of approval of a risk retention group unless the Secretary provides—

(1) to the risk retention group not less than 30 days' written notice of the intention of the Secretary to revoke such certification, including a statement of the reasons for the proposed revocation;

(2) an opportunity, during such period, for the risk retention group to correct any alleged deficiencies in its operation identified in the written notice as grounds for revocation; and

(3) upon the written request of such group or any group participant thereof, an opportunity for an informal hearing, to be held before the revocation of the certification, to appeal such proposed revocation.

(c) The Secretary may revoke a certificate of approval only by written order. Any such order shall be served upon the risk retention group and shall set forth the reasons for the revocation.

(d)(1) Any risk retention group whose certificate of approval is revoked under this section shall commence dissolution proceedings under the applicable laws of the State in which the group is incorporated within 30 days after such revocation. The Secretary shall take such action as may be necessary to ensure compliance with this paragraph. Under the State dissolution proceedings, the return of the capital contributions of members of the group shall be done in a manner consistent with paragraph (2) of this subsection.

(2) Any risk retention group whose certificate of approval is revoked under this section shall provide for the return of capital contributions to its members in installments, payment of which shall be completed not later than the date 3 years after the date of revocation of the certificate. The Secretary shall determine the amount of the members' capital contributions which are to be returned, which amount shall be increased or decreased, as appropriate, to reflect the claims experience (including incurred but not reported losses), earnings, losses, and distributions of the risk retention group, as determined by the Secretary through the application of generally accepted accounting principles.

HEARINGS AND JUDICIAL REVIEW

SEC. 113. (a) Any revocation hearing provided for under section 112(b)(3) shall be informal and shall be held in the District of Columbia. The Secretary shall promulgate regulations which specify the persons who may participate in such hearings.

(b) Any order issued by the Secretary pursuant to this Act shall be final except that an approved risk retention group, an applicant for a certificate of approval, or a group participant of such group or applicant, may appeal any order by filing in the United States District Court for the District of Columbia, within 60 days after the date of service of such order, a written petition requesting that the order of the Secretary be modified, terminated, or set aside. Such order shall be reviewed in accordance with the provisions of section 706 of title 5, United States Code.

TITLE II—GROUP PURCHASE OF PRODUCT LIABILITY INSURANCE AND COMPLETED OPERATIONS LIABILITY INSURANCE

EXEMPTION FROM STATE LAW

SEC. 201. The persons specified in section 202 shall be exempt from any State law to the extent that such law would—

(1) make it unlawful—

(A) for insurers to provide or offer to provide product liability or completed opera-

tions liability insurance on a basis which provides, to title II groups or members thereof, advantages not afforded to other persons with respect to rates, coverage, or other matters; or

(B) to act, or offer to act, as an agent or broker with respect to the provision of such insurance on such basis to title II groups or members thereof;

(2) prohibit the establishment of any title II group;

(3) prohibit any title II group or member thereof from purchasing product liability or completed operations liability insurance on the basis described in paragraph (1)(A), provide that such group may not purchase such insurance on such basis unless the group has been in existence for a minimum period of time, or provide that a member of such group may not purchase such insurance on such basis unless the member has belonged to the group for a minimum period of time;

(4) require that any policy of product liability or completed operations liability insurance provided to any title II group or member thereof be countersigned by an insurance agent or broker residing in that State; or

(5) otherwise discriminate against title II groups or members thereof.

APPLICATION OF EXEMPTIONS

SEC. 202. The exemptions specified under section 201 shall be applicable with respect to—

(1) any title II group;

(2) any person who is a member of a title II group; and

(3) any person who provides product liability or completed operations liability insurance, insurance-related services, or management services to any group or person described in paragraph (1) or (2).

TITLE III—MISCELLANEOUS PROVISIONS

STATE TORT LAW

SEC. 301. Nothing in this Act shall affect the tort law of any State. The provisions of this Act shall not be construed to express the sense of the Congress regarding the desirability of modifying the provisions of the tort law of any State.

REGULATIONS

SEC. 302. The Secretary shall prescribe such rules and regulations as may be necessary or appropriate to implement this Act.

REPORT TO THE CONGRESS

SEC. 303. The Secretary, not later than 150 days after the date of the enactment of this Act, shall submit a report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate which shall contain a detailed statement of the Secretary's preparations and other activities to implement this Act.

EFFECTIVE DATE

SEC. 304. (a) This Act shall take effect on the date 180 days after the date of its enactment.

(b) Title I of this Act shall cease to be in effect on the date 4 years after the effective date of this Act, but only if, on such date, there exists no approved risk retention group.

Mr. PREYER (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1440

The CHAIRMAN. Are there any amendments? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. RAHALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6152) to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes, pursuant to House Resolution 596, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RINALDO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 17, answered "present" 1, not voting 82, as follows:

[Roll No. 127]

YEAS—332

Akaka	Brooks	Dickinson
Albosta	Broomfield	Dicks
Ambro	Brown, Calif.	Dingell
Anderson, Calif.	Brown, Ohio	Dixon
Andrews, N.C.	Broyhill	Dornan
Andrews, N. Dak.	Buchanan	Downey
Annunzio	Burgener	Drinan
Anthony	Burlison	Duncan, Tenn.
Ashley	Burton, Phillip	Early
Aspin	Butler	Eckhardt
Atkinson	Byron	Edgar
Badham	Campbell	Edwards, Calif.
Bafalis	Carney	Edwards, Okla.
Bailey	Carr	Emery
Baldus	Carter	English
Barnard	Cheney	Erdahl
Barnes	Clausen	Erlenborn
Beard, R.I.	Cleveland	Ertel
Beard, Tenn.	Clinger	Evans, Del.
Bedell	Coelho	Evans, Ga.
Bellenson	Coleman	Evans, Ind.
Benjamin	Conable	Fary
Bennett	Conte	Fascell
Bereuter	Conyers	Fenwick
Bethune	Corcoran	Ferraro
Biaggi	Corman	Fisher
Bingham	Cotter	Fithian
Blanchard	Coughlin	Florio
Bolling	Courter	Foley
Boner	D'Amours	Ford, Mich.
Bonior	Daniel, Dan	Ford, Tenn.
Bonker	Daniel, R. W.	Forsythe
Bouquard	Danielson	Fountain
Bowen	Daschle	Frenzel
Brinkley	de la Garza	Fuqua
Brodhead	Deckard	Gaydos
	Derwinski	Gephardt
	Devine	Giaimo
Gibbons	Lott	Rudd
Gilman	Lowry	Russo
Gingrich	Luken	Sabo
Ginn	Lungren	Satterfield
Glickman	McClory	Sawyer
Goldwater	McCormack	Scheuer
Gonzalez	McDade	Schroeder
Goodling	McEwen	Schulze
Gore	McHugh	Sebelius
Gradison	McKinney	Seiberling
Gramm	Madigan	Sensenbrenner
Grassley	Maguire	Shannon
Gray	Markey	Sharp
Green	Marks	Shelby
Grisham	Marlenee	Shuster
Guarini	Marriott	Skelton
Gudger	Martin	Slack
Guyer	Matsui	Smith, Iowa
Hagedorn	Mattox	Smith, Nebr.
Hall, Ohio	Mavroules	Snowe
Hall, Tex.	Mazzoli	Snyder
Hamilton	Mica	Solomon
Hance	Michel	Spellman
Hanley	Mineta	Spence
Harkin	Minish	St Germain
Harris	Mitchell, Md.	Stack
Harsha	Mitchell, N.Y.	Stangeland
Hawkins	Moakley	Stanton
Heckler	Moffett	Stark
Hefner	Mollohan	Steed
Heftel	Moorhead, Calif.	Stenholm
Hightower	Moorhead, Pa.	Stockman
Hillis	Mottl	Stratton
Hinson	Murphy, Pa.	Studds
Holland	Murtha	Stump
Hollenbeck	Myers, Ind.	Swift
Hopkins	Natcher	Synar
Horton	Neal	Taylor
Howard	Nedzi	Thompson
Hubbard	Nelson	Traxler
Hughes	Nichols	Trible
Hutto	Nowak	Ullman
Hyde	Oakar	Van Deerlin
Ichord	Oberstar	Vander Jagt
Ireland	Obey	Vanik
Jacobs	Ottinger	Vento
Jeffords	Panetta	Volkmer
Jeffries	Pashayan	Walgren
Jenkins	Patterson	Walker
Jenrette	Pease	Wampler
Johnson, Calif.	Perkins	Watkins
Jones, N.C.	Petri	Waxman
Jones, Okla.	Pickle	Weaver
Kastenmeier	Porter	Weiss
Kazen	Preyer	White
Kildee	Price	Whitehurst
Kindness	Quayle	Whitley
Kogovsek	Rahall	Whittaker
Kostmayer	Railsback	Williams, Mont.
Kramer	Rangel	Wilson, C. H.
LaFalce	Regula	Winn
Lagomarsino	Reuss	Wirth
Latta	Rhodes	Wolff
Leach, Iowa	Richmond	Wolpe
Leath, Tex.	Rinaldo	Wright
Lee	Ritter	Wyatt
Leland	Roberts	Wydler
Lent	Robinson	Wylie
Levitas	Roe	Yates
Lewis	Rose	Yatron
Lloyd	Rostenkowski	Young, Fla.
Loeffler	Roth	Young, Mo.
Long, La.	Royer	Zablocki
Long, Md.		

NAYS—17

Archer	Hansen	Montgomery
Ashbrook	Holt	Paul
Bauman	Kelly	Runnels
Collins, Tex.	Lujan	Symms
Crane, Daniel	McDonald	Young, Alaska
Dannemeyer	Miller, Ohio	

ANSWERED "PRESENT"—1

Quillen

NOT VOTING—82

Abdnor	Crane, Philip	Garcia
Addabbo	Davis, Mich.	Hammer-schmidt
Alexander	Davis, S.C.	Holtzman
Anderson, Ill.	Dellums	Huckaby
Applegate	Derrick	Johnson, Colo.
AuCoin	Diggs	Jones, Tenn.
Bevill	Dodd	Kemp
Boggs	Donnelly	Leach, La.
Boland	Dougherty	Lederer
Brademas	Duncan, Oreg.	Lehman
Breaux	Edwards, Ala.	Livingston
Burton, John	Fazio	Lundine
Cavanaugh	Findley	McCloskey
Chappell	Fish	McKay
Chisholm	Flippo	Mathis
Clay	Fowler	Mikulski
Collins, Ill.	Frost	

Miller, Calif.	Pursell	Stewart
Moore	Ratchford	Stokes
Murphy, Ill.	Rodino	Tauke
Murphy, N.Y.	Rosenthal	Thomas
Myers, Pa.	Rousselot	Udall
Nolan	Roybal	Whitten
O'Brien	Santini	Williams, Ohio
Patten	Shumway	Wilson, Bob
Pepper	Simon	Wilson, Tex.
Peyser	Solarz	Zeferetti
Pritchard	Staggers	

□ 1450

The Clerk announced the following pairs:

Mr. Staggers with Mr. Abdnor.
Mr. Addabbo with Mr. Pritchard.
Mr. Zeferetti with Mr. Bob Wilson.
Mr. Stokes with Mr. Livingston.
Mr. Santini with Mr. Findley.
Mr. Rodino with Mr. Edwards of Alabama.
Mr. Chappell with Mr. Davis of Michigan.
Mr. Brademas with Mr. Rousselot.
Mr. Boland with Mr. Pursell.
Mr. Breaux with Mr. Fish.
Mr. Pepper with Mr. Hammerschmidt.
Mr. Patten with Mr. Kemp.
Mr. Jones of Tennessee with Mr. McCloskey.
Mr. Flippo with Mr. O'Brien.
Mr. Dodd with Mr. Moore.
Mrs. Boggs with Mr. Williams of Ohio.
Mr. Bevill with Mr. Philip M. Crane.
Mr. AuCoin with Mr. Anderson of Illinois.
Mrs. Chisholm with Mr. Shumway.
Mr. Peyser with Mr. Tauke.
Mr. Ratchford with Mr. Thomas.
Mr. Whitten with Mr. Dougherty.
Mr. Udall with Mr. Simon.
Mr. Nolan with Mr. Solarz.
Mr. Myers of Pennsylvania with Mr. Charles Wilson of Texas.
Mr. Murphy of New York with Mr. Murphy of Illinois.
Mr. Lederer with Mr. McKay.
Ms. Mikulski with Mr. Mathis.
Mr. Miller of California with Mr. Lundine.
Mr. Duncan of Oregon with Mr. Lehman.
Mr. Fazio with Mr. Diggs.
Mr. John L. Burton with Mr. Derrick.
Mr. Alexander with Mr. Dellums.
Mr. Clay with Mr. Frost.
Mrs. Collins of Illinois with Mr. Fowler.
Mr. Garcia with Mr. Leach of Louisiana.
Mr. Huckaby with Mr. Donnelly.
Ms. Holtzman with Mr. Davis of South Carolina.
Mr. Cavanaugh with Mr. Stewart.
Mr. Applegate with Mr. Rosenthal.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PREYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE ALL-VOLUNTEER FORCE

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RHODES. Mr. Speaker, since 1974, we have had a voluntary Armed Forces program. In a very perceptive, and constructive, article in the Washington Post of March 10, Melvin Laird, who was Secretary of Defense when the draft ended, explains why the concept of volunteerism is in danger, and makes several recommendations to remedy the problem.

Mr. Laird suggests that pay scales be made more realistic in line with today's economy. I think it is obvious that if we are to depend on voluntary enlistments, we must make them attractive. The cost of upgrading our voluntary forces would, in the long run, be far less than the massive expenditure needed to gear up to the kind of war-time force we will need if we are not strong enough to deter aggression.

To get qualified enlistees, and to keep those who have been trained, we must look realistically at what we offer and make it applicable to our economic times.

I urge my colleagues to read carefully Mr. Laird's analysis of our military manpower dilemma. Text of the article is as follows:

THE ALL-VOLUNTEER FORCE

(By Melvin R. Laird)

Congress and the Carter administration should act now to drastically increase the pay and benefits of U.S. military personnel.

This action—more than any being proposed by the president to upgrade our defense posture—is necessary to restore the services to the effective forces that this nation demands and deserves. The All-Volunteer Force is beset with severe and growing problems of both quality and quantity. And these problems are directly attributable to our failure to keep military compensation comparable with the civilian sector.

In January 1973, one of my last acts as secretary of defense was to end draft calls. With that step, the United States embarked on one of the more important ventures in its recent history: we would endeavor to become the first nation in modern times to maintain a large standing military on an all-volunteer basis. It would make up about 2.5 percent of the labor force and rely completely on the equitable considerations of the competitive marketplace.

My confidence that this would succeed was based on the expectation that the president, Congress and the American people would honor a commitment to provide a meaningful standard of living and quality of life for men and women who volunteered, and for their families. We have reneged on this commitment.

Since 1972, the Consumer Price Index has risen 75 percent, while military compensation has risen only 51 percent. This means a decline of over 14 percent in purchasing power for all military personnel, and a decline approaching 25 percent for some enlistees in the lower grades. The average compensation for an enlisted person, including pay and benefits, currently is $9,900. That is 17 percent below the "lower" standard of living for a family of four as calculated by the Bureau of Labor Statistics. At least 100,000 and possibly 275,000 military families qualify for welfare payments. (Many who qualify are too proud to apply; they leave the service instead.) Military commissaries take in over $10 million a year in food stamps.

A few concrete examples are even more shocking. An E4 plane handler on the nuclear carrier Nimitz, deployed to the Indian Ocean during the Iranian crisis, normally works 16 hours a day, or about 100 hours per week. He handles the F14 aircraft, which costs $25 million, and helps operate a $2 billion ship. Yet he makes less per hour than a cashier at McDonalds, lives below the poverty level, is eligible for food stamps and probably has not seen his wife and child for six months. A chief petty officer on that same ship with 17 years' service makes the same salary as a janitor on union scale and puts in twice as many hours.

It is little wonder, then, that the services last year fell short of their recruiting goals by 25,000 people. They have experienced qualitative as well as quantitative shortfalls. Nearly 50 precent of all male volunteers tested mentally in the lower half of the U.S. population. Five years ago that figure was 32 percent.

Yet recruiting is only half of the military personnel dilemma. Retaining qualified people after their first, second and third enlistments is an acute problem and will get worse unless remedial action is taken. The services have been losing over 75 percent of those completing their first enlistment since 1976. About 30 percent of males enlisting do not even complete the first term.

To restore our defense readiness and meet our commitment to the All-Volunteer Force concept, I propose the following specific actions:

An across-the-board 17 percent pay increase for all military grades to make up for the loss in purchasing power since 1972.

Legislation indexing increases in military pay to increases in the Consumer Price Index.

A mandate that pay levels be applied to all forms of compensation—basic pay, housing allowance and subsistence (food). Presently, a portion of an increase may be applied to housing or subsistence, and basic pay does not increase by the full amount.

Separation, or decoupling, of the computation of military pay from that of federal civil service workers. The demand for jobs in the federal civil service far outweighs the supply, and civil service workers generally are not subject to long hours of unpaid overtime, frequent moves and family separation.

A variable housing allowance keyed to actual housing costs in the local area, and a crash program to build more military housing. Government housing is available to only 20 percent of the enlisted force; it should be available to 50 percent.

Reimbursement to military families for the full cost of their moves. The present entitlement is 10 cents per mile; the actual cost is about 21 cents per mile.

Special skill pay to enlisted and officer ratings where shortfalls are expected—narrowing the gap, for example, between what an enlistee receives and what he or she could earn on the outside in areas such as computer programming.

Improved medical benefits and coverage, which have been reduced for dependents.

An increased bonus to $5,000 (now $2,500) for joining the combat arms, and indexing future increases to the CPI.

A cost-of-living allowance for all personnel stationed overseas, even if they live in military barracks.

These initiatives will be expensive—several billion dollars per year. But the amount will be offset to some degree through decreased costs of recruiting and training. More important, we will have taken some necessary steps toward restoring and maintaining our required military capability.

The United States must provide these individuals and their families with a quality of life commensurate with the sacrifices we demand from them. The primary ingredient in providing that quality is competitive pay and benefits.

□ 2210

SOVIET CHEMICAL WARFARE

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEACH of Iowa. Mr. Speaker, in

the past month there has been a growing number of reports that nerve gas and other lethal chemical agents have been used by Soviet forces against Afghans resisting the invasion of their country. Moscow has predictably denied these charges, and it is most unlikely that any outside investigation will be permitted. But Afghan refugees arriving in Pakistan are bringing lurid accounts of the effects of these terrifying weapons. I have personally reviewed the information available to our Government and am convinced that the Soviets are using poison gas in Afghanistan.

Last December 20 the House passed a resolution I authored which which condemned lethal chemical warfare by Soviet-assisted forces in Indochina. Unfortunately, even with the international attention which has been drawn to poison gas attacks in Laos and Cambodia, there is reliable evidence that chemical warfare is continuing in these countries despite Communist assertions to the contrary.

Since its widespread use in WWI, lethal chemical warfare has been condemned by the international community. The fact that its use since then has been extremely infrequent makes the reports from Indochina and Afghanistan all the more worrisome, for in many ways chemical weapons present as great a threat to our country and our NATO allies as do nuclear weapons.

The Soviet Union has massive chemical stockpiles and Soviet forces are well-prepared to use chemical weapons in combat. Our chemical capabilities, and those of our allies, are very modest by comparison. In the absence of international agreement to dismantle existing chemical warfare arsenals, we could well see the increasing use of such weapons in remote Third World battlefields with grave implications for their potential use against our forces in combat.

The administration should urgently take steps to correct this situation, including:

Major improvements in the ability of our forces to defend against chemical attacks;

Renewed efforts to negotiate a verifiable ban on the development, production, stockpiling, and transfer of these weapons and the means for their production. These negotiations should proceed even without the Soviet Union if Moscow continues its present unwillingness to allow the current negotiations with the United States in Geneva to reach fruition, and

Finally, the Soviet Government should be firmly warned that unless a chemical weapons convention is promptly concluded, the United States will have little choice but to upgrade significantly our chemical weapons capabilities.

Unfortunately, a new round in the arms race between the United States, its NATO allies and the Warsaw Pact countries appears in the making, with the risk that both sides will give increased emphasis to chemical warfare. Such a development, in combination with the continued usage of lethal chemicals in Indochina and Afghanistan, will almost certainly spur lesser developed countries to develop these relatively cheap but highly lethal weapons as well. Chemical weapons, in fact, could become the poor country's weapons of mass destruction. A verifiable treaty prohibiting the development, production, and stockpiling of these weapons is therefore in the enlightened self-interest of the entire international community. Negotiation of such a treaty should be given the highest emphasis by our Government in the coming months.

□ 1500

PASSING OF FORMER CONGRESSMAN J. IRVING WHALLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 10 minutes.

● Mr. MURTHA. Mr. Speaker, it is my sad duty to report to the Members the death over the weekend of former Congressman J. Irving Whalley who represented Pennsylvania's 12th Congressional District from 1960 to 1972.

Congressman Whalley had a long and distinguished career of public service starting on the Windber School Board and stretching over 35 years. Mr. Whalley also served in the Pennsylvania State House and State Senate.

Legislatively, he was a leader in the establishment of Pennsylvania's tough strip mining law, introducing the first complete backfill legislation in the United States in 1951. He was a member of the Foreign Affairs Committee in the House and represented the United States throughout the world, meeting with the era's world leaders including the Soviet Union's Nikita Khrushchev, Israel's David Ben-Gurion, and all the leaders of Europe.

He constantly worked to represent his district, including work on the Raystown Flood Control Dam, the Windber Community Building, and the Hiram G. Andrews Center. The Windber Borough Counsel named a downtown section as "Whalley Plaza."

I had regular communication with Congressman Whalley over strip mining rules and regulations as he was very active in business. He died Saturday at age 77 while vacationing in Florida. I know the Members who served with him and remember him join with me in expressing our sadness at his death.●

HOUSING INDUSTRY THREATENED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, we are presently confronted with what might be considered one of the most serious economic crises of our time, and the housing industry will suffer greatly if Congress does not take immediate action.

We all know that if we allow the bottom to fall out of the housing market we will end up with widespread unemployment not only in the construction trades, but the ripple effect will spread across the Nation into many other industries both directly and indirectly related to housing. Thus, Mr. Speaker, I am offering a bill today that calls for the reactivation of the emergency mortgage purchase assistance program which worked so well in 1974 and 1975 when our country suffered from a similar, but not quite as serious, increase in mortgage interest rates as we are experiencing today.

As my colleagues know, this allows the purchase of mortgages at up to a 7½ percent interest ceiling, when the Secretary finds that inflationary conditions and related governmental actions or other economic conditions are having a severely disproportionate effect on the housing industry and that a resulting reduction in the volume of home construction and acquisition threatens to seriously affect the economy and to delay the achievement of national goals.

I am sure that all of my colleagues saw the article on the front page of the Washington Post this morning announcing that several savings and loan institutions in Washington have raised their mortgage interest rates to 17 percent, a sure sign to everyone that our housing market is going to suffer and with it those people who are dependent on this industry for their livelihood.

The bill I am proposing, calls for several things and the first is to extend the borrowing authority presently on the books to allow the Government National Mortgage Association access to $10,000,000,000 for purchases and commitments under section 313 of the National Housing Act. My bill also calls for extending the program authority from October 1, 1980, to October 1, 1982. As far as mortgage limits are concerned, they would be raised to the applicable FHA ceiling, with an add-on of 10 percent for high cost areas. And, finally, the bill makes the construction of multifamily rental housing a primary objective under this act.

Mr. Speaker, I am strongly convinced that the reactivation of this emergency program is absolutely necessary and we must act quickly to prevent a collapse of the housing market. The gloomy assessment for 1980, and I believe this was predicted when mortgage rates were a mere 13 percent, was that housing starts would be off around 900,000 units which would bring starts down to 1.1 million from the 2 million new homes built in 1977 and 1978. I do not know what the prediction is today, but it certainly cannot be any better. And with this downturn the predictions are that we can count on losing more than 1.4 million jobs, $25 billion in wages, and $6.7 billion in tax revenue. Congress cannot sit idly by and let this catastrophe occur, especially when we already have the mechanism in place to turn this situation around.

I want to bring to the attention of the Members that when Chairman Volcker of the Federal Reserve appeared before the Senate Banking Committee, and gave his tacit support to reactivating this emergency program. He said, "if housing starts fall sharply, maintaining a certain level of activity in the industry is not at all inconsistent with an attack on inflation over time. You do not want to close down the whole industry and

then have to build it up again as soon as money becomes more fully available.

Mr. Speaker, I believe that Chairman Volcker's comments place this whole situation in perspective. It is not in anyone's best interest to allow the housing industry to collapse and since we have the tools in place to keep this from happening we should utilize them. By enacting my bill, we would not only stabilize the economy, but continue to provide the jobs needed by those in the construction industry as well as provide homes for those families who have been priced out of the housing market.

We need to act quickly, and I hope I can have my colleagues support on this issue.●

NO INCENTIVE FOR THE SMALL SAVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, with the big push on to help the small saver by giving him a break on high interest rates, I find we are really overlooking the "small saver."

Financial institutions are setting very poor examples for the "younger generation"—the kids who put their allowance in the bank to save for that new 10-speed bike, skateboard, clothes or whatever, only to find several months later that while they thought they were earning interest, the bank was busily penalizing them with service charges because their accounts did not meet the minimum balance requirement or because of the inactivity of their account.

In one such case, a 12-year-old girl had a balance in her savings account of $46.70 in August 1977. In July 1979 when she decided to close out her account and spend her money, she found that the bank had deducted $30 from her account as a service charge for an inactive account. This bank's policy was to charge a $30 service charge on all savings accounts that did not have at least one transaction a year. To me, this figure seemed extremely high, and also to the poor little girl, who now had only $16.70 to spend instead of $46.70. She now wishes she had left the money in her piggybank.

In another instance, an 11-year-old girl saved her $2-a-week allowance until she had saved $20. With the $20 she went to the bank and opened a savings account. Two months later when she went to the bank to deposit more money, she found a balance of $19.69—31 cents less than she had started with. This particular bank's policy was to collect a 50-cent service charge per month on all accounts with balances below $50. Thus, deducting $1 in service charges for 2 months and paying interest of 69 cents over the same period.

With this bank's service charge policy, at the end of 6 months with faithful deposits of $2 a week you would have deposited $48. But, because of the monthly 50 cents service charge, your balance would only amount to $45—a $3 service charge over a 6-month period—because the balance was below $50.

This seems like an extremely high price to pay because a person does not have the "big bucks" to deposit into an account on a weekly or monthly basis.

Now, in this time of spiraling inflation is when the financial institutions of this country should speak out and say that they are supporting the small saver and they welcome their accounts instead of charging for the use of their money.

Give the young child who is just beginning to learn the value of money an opportunity and incentive to experience the benefits of having a little "nest egg" in the bank for that rainy day.●

SUBCOMMITTEE ON CRIME TO HOLD HEARINGS ON THE OPERATIONS OF THE PRETRIAL SERVICES AGENCIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, on Tuesday, March 11, 1980, at 9:30 a.m., in room 2237, Rayburn House Office Building, the Subcommittee on Crime of the House Committee on the Judiciary will hold its second oversight hearing on the operations of the pretrial services agency program and on recommendations for the expansion of the program to all districts. The program, which is a demonstration program operating in 10 U.S. district courts was established by title II of the Speedy Trial Act of 1974 to provide better information to the courts concerning accused persons at the bail hearing.

Witnesses scheduled to testify are Honorable Thomas C. Platt, U.S. district court judge for the eastern district of New York; Magistrate Olga Jurco of the northern district of Illinois; Magistrate William F. Hall, Jr., of the eastern district of Pennsylvania; Magistrate Aran Simon Chrein of the eastern district of New York; Probation Officer Thomas W. Jones of the middle district of North Carolina at Greensboro; Madeleine Crohn, director of the Pretrial Services Resource Center; Bruce Beaudin, director of the D.C. Pretrial Services Agency; John A. Carver, III, on behalf of the National Association of Pretrial Services Agencies; and Mr. Herbert S. Miller on behalf of the American Bar Association.

All interested persons wishing to submit testimony for the record or desiring further information should address their inquiries to the Subcommittee on Crime, House Committee on the Judiciary, 207E Cannon House Office Building, Washington, D.C. 20515. Telephone: (202) 225–1695.●

GASOHOLICS ANONYMOUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

● Mr. DOWNEY. Mr. Speaker, I wanted to have us take specific note of a letter from the Secretary of Transportation to Senator BIRCH BAYH in which Secretary Goldschmidt details the effects on the highway trust fund of the exemption for gasohol from the normal Federal taxation on gasoline. The letter is dated January 20, 1980.

Over the next 10 years, the net revenues expected to be raised from taxes on gasoline are approximately $83.5 billion. Secretary Goldschmidt expects the revenue loss from the gasohol exemptions to be between $2.7 and $4 billion over that same period. Most of the shortfall will occur in the later part of the decade. In percentage terms, this is a revenue loss of only 3 to 5 percent.

Mr. Speaker, if we are to meet our national goals of conservation and production of substitute fuel, this revenue loss is relatively small and efficient. We have found time and time again this year that the small tax incentives we included in the National Energy Act can encourage homeowners to spend millions on conservation equipment.

Speaking as a member of the Ways and Means Committee for a moment, I would just like to say that the compromise in the present agreement does represent some giving on both sides. Also, language will be included in the report which will stress the need for a reasonable reauthorization in 1984 which not only makes up for the loss, but will encourage ways to shore up the trust fund further.

Gasohol represents one significant way we can help beat our addiction to imported OPEC oil. By going full-fledged into programs which will make this alternative fuel available, we will be moving closer to the day when our balance of payments deficit stops growing and begins to level off.

This past weekend, like many other Members, I held an energy forum in my district to discuss conservation, and alternatives to gasoline. One thing was clear. The people want gasohol incentives. They were literally demanding them. Given what I saw in my district last Saturday as overwhelming support for all alternative energy research programs and specifically gasohol, in my opinion, any Member who would vote for this motion is out of touch. The name of the game here is to provide an incentive that gives certainty to investors.

Our sacred highway trust fund is not worth saving if it means sacrificing a meaningful part of the most promising alternative fuels program anyone has been able to come up with to replace Arab oil.

Inflation is running about 18 percent now. There is a very good reason that it is so high; we import $80 billion worth of imported crude oil.

Making a dent of 3 percent in an aging program is not going to solve this problem, but it will help. Gasohol sales in my district were very high last summer when it became available. I have seen evidence of significant private commitment to this effort. It is time for the Federal Government to move solidly toward gasohol. The 4-cent tax exemption included now in the windfall profit tax conference agree-

ment is one clear way to do this. There are many others, of course, but this tax credit is important.

We in the "frostbelt" welcome the contribution of the "cornbelt" in helping us see some hope in what appears to be a national emergency situation. For all of us who are earnestly trying to find ways for the Federal Government to relieve the pressure on our economy of imported oil, we should oppose this motion to instruct. Let us be gasoholics unanimous in this effort.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 30, 1980.

Hon. BIRCH BAYH,
Chairman, Subcommittee on Transportation, Senate Appropriations Committee, Washington, D.C.

DEAR BIRCH: On several occasions, we have discussed the growing use of gasohol and its importance as a substitute fuel to help meet supply shortages over the coming decade. I am aware of your concern for gasohol in your capacity as Chairman of the National Alcohol Fuels Commission as well as your continuing support for the highway program, and I am pleased to respond to your request for information on the relationship between gasohol and highway financing.

As you know, there are various measures of Federal assistance being made available to encourage the greater use of gasohol. Among them is the exemption of this fuel from the normal Federal taxation on gasoline, which is one of the key revenue sources for the Highway Trust Fund. Extension of this exemption is part of the current conference discussions over the energy tax bill.

Concerns have been raised over the impact the gasohol exemption may have on the Highway Trust Fund and its ability to sustain needed programs in the construction and rehabilitation of the Nation's highway network. Present estimates place the total tax revenues into the Highway Trust Fund from all sources (excluding interest on the fund balances), at $83.5 billion over the decade 1981–1990, before allowing for revenue loss due to gasohol. While precise data is not yet available, the revenue loss is now expected to fall between $2.7 and $4.0 billion, with most of the shortfall occurring in the latter years of the decade. In percentage terms, the gasohol exemption represents a revenue loss of between 3 and 5 percent.

While this is a matter of concern, it is only one of several trends affecting the future of the highway program revenue stream. A lessened rate of travel growth, more fuel efficient auto and truck fleets, potential reliance on electric vehicles, and many other factors are combining to depress trust fund revenues growth well below the levels experienced in earlier time periods.

As part of the 1978 Surface Transportation Assistance Act, the Department of Transportation was directed to undertake a number of revenue related studies, including specific review of the proper allocation of highway expenses among classes of users and the most efficient and effective ways of raising revenue. We have these studies well underway and look forward to reporting their results to the next Congress. At that time, it will be important to assess the future highway programs and the ways in which revenue can be produced for those programs, balancing transportation objectives and other national goals such as the production and use of domestic substitute fuel supplies.

I know you have been a strong supporter of progress in the highway program during your tenure as Chairman of the Senate Transportation Appropriations Subcommittee, and I am sure that you will lend support to the measures necessary to assure that such progress continues in the future. I look forward to working with you on these concerns.

Sincerely,

NEIL GOLDSCHMIDT.

TABLE 1.—ESTIMATED EFFECT OF THE GASOHOL EXEMPTION ON THE HIGHWAY TRUST FUND AT A NOMINAL CONVERSION RATE

[In millions of dollars]

	Net estimated revenue without gasohol exemption	Estimated decrease due to gasohol exemption	Net revenue after gasohol exemption
1980	6,974	40	6,934
1981	7,158	76	7,082
1982	7,527	98	7,429
1983	7,851	140	7,711
1984	7,919	191	7,728
1985	7,888	243	7,645
1986	8,264	284	7,980
1987	8,751	341	8,410
1988	9,069	376	8,693
1989	9,396	436	8,960
1990	9,753	497	9,256
Total	90,500	2,722	87,828

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ARTHUR SCHOENHAUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 10 minutes.

● Mr. BROOKS. Mr. Speaker, I would like to bring to the Members' attention the retirement of one of the most dedicated public servants I have met. Mr. Arthur Schoenhaut, executive secretary of the Cost Accounting Standards Board, has retired from the Federal service as of February 29, 1980.

Mr. Schoenhaut has had a long and varied career in Government service. When I first became acquainted with him, he headed the General Accounting Office's audit effort at the Bureau of Public Roads. He and his team were responsible for numerous management reviews of the Bureau in general and the interstate highway program, in particular. There is no doubt in my mind that the efforts of Mr. Schoenhaut and his staff saved the taxpayers millions of dollars in the construction of the interstate highway program and resulted in a safer and more effective system of highways.

Mr. Schoenhaut left his audit effort to become Deputy Director of the GAO's Civil Division. There he had the technical responsibility for all of GAO's audits, investigations, and reviews of accounting systems in all of the civil agencies of the Government.

Mr. Schoenhaut left GAO to become Deputy Controller of the Atomic Energy Commission, now part of the Department of Energy. In no small part due to his efforts, the Atomic Energy Commission became widely known throughout the Government, financial management and procurement communities as one of the most efficient and effective agencies in the Government.

In 1970, Mr. Schoenhaut was offered a new and challenging position: Executive Secretary of the Cost Accounting Standards Board. This newly created Board was charged with developing a body of cost accounting standards that would bring a degree of uniformity and consistency to Government procurement. During his tenure, the Board essentially developed the body of standards envisioned by the Congress. It was a notable achievement in the history of accounting thought.

In addition to his outstanding work within the Government, Mr. Schoenhaut has participated in other professional activities devoted to improving the accounting profession. Most notably, Mr. Schoenhaut served as national president of the Association of Government Accountants during the 1978–79 fiscal year.

It is an unhappy day for the Government when a public servant as skilled and dedicated as Mr. Schoenhaut leaves it. I wish him well in his retirement and take this opportunity to thank him, on behalf of the American people, for a job well done.●

A DEPARTMENT OF INDUSTRY AND TRADE TO IMPROVE OUR ECONOMIC STRUCTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, we ought to upgrade and give a real mission to the present Department of Commerce by creating in its place a new Department of Industry and Trade (DIT). Such a Department to revitalize the American economy could be achieved under the President's reorganization power. Although that power expires next month, Congress is now wisely moving to renew it.

For years the Department of Commerce has been a weak, ineffectual organ of the executive branch. As long as our economy was stable and prosperous, this vacuum was not too serious. Indeed, several attempts to do in the Department of Commerce have come close to succeeding.

But inflation, unemployment, stagnant productivity, a steadily more obsolete industrial structure, a progressive worsening of our international terms of trade, have now produced something approaching a crisis.

We will not begin to get a handle on inflation until we reform our ramshackle economic structure.

That structural reform must be our main economic fortress. It needs to be surrounded by at least five auxiliary outworks:

First. A fiscal policy that aims at a balanced budget now, as much for its symbolic as its substantive effect.

Second. A monetary policy that continues firm control over the monetary aggregates, though with the lower interest rates that will come from not concentrating the whole burden of fighting in-

flation on monetary policy, and from bringing inflation down generally.

Third. An employment policy that focuses on the structure of the labor market in our central cities and in our pockets of rural poverty.

Fourth. Gasoline rationing, to cut down on our debilitating oil-induced foreign trade deficits.

Fifth. A temporary wage-price freeze, to exercise inflationary psychology while structural reform is being put in place.

I have been making the point for a long time that what is needed is an across-the-board anti-inflation policy. For some recent examples, see my remarks to the Women's Economic Round Table, CONGRESSIONAL RECORD, December 10, 1979, p. 35209; my supplementary Joint Economic Committee views, CONGRESSIONAL RECORD, February 28, 1980, p. 4357; and my Los Angeles Times article, CONGRESSIONAL RECORD, March 4, 1980, p. 4525.

Such a comprehensive anti-inflation program needs leadership at the highest level—the White House. And right below the President, it needs a Cabinet-level location. The Department of Industry and Trade I propose is designed to provide that highly visible location.

The central mission of the Department of Industry and Trade would be the reform and revival of the American economic structure. Its technique would frequently involve the use of government-business-labor teams to make indicative plans and to propose solutions for those sectors of our economy that are lagging in productivity.

This takes a leaf from the successful experience in Germany and Japan, whose economic miracles of the last 20 years are in no small part due to this team approach.

Here in America, the current rebuilding of the downtowns of a dozen leading cities also shows what can be done when government-business-labor cooperate, rather than confront each other.

Here are some of the things a Department of Industry and Trade, frequently in conjunction with other departments, would be doing:

In automobiles, working toward the recapture by American plants of our compact car industry.

In steel, finding the capital needed to convert to the vastly more efficient continuous casting process of steelmaking.

In mass transit, evolving an effective bus, light rail vehicle, and commuter self-propelled vehicle.

In railroads, proceeding with the electrification of high traffic rail routes, using coal-generated electricity and thus saving imported oil; and rationalizing rail systems generally.

In food distribution, discerning new efficiencies that can bring about lower prices.

In housing, attempting to lower the excessive cost of land, and to insure an appropriate share of the Nation's capital for housing uses.

In a whole range of industries, consumer electronics, conductors, textiles among them, determining why we are losing competitiveness, and what can be done.

In health care, working for more rational delivery systems.

A high-level team approach, under the overall guidance of the Department of Industry and Trade, could give us a sense of purpose now lacking.

Bringing into the new Department the Small Business Administration, in coordination with the economic development, regional commissions, science and technology, minority business development, and trade adjustment activities now in the Department of Commerce, would provide a more unified approach. Operating economies can be obtained for the new Department of Industry and Trade by utilizing the personnel of the Federal Reserve System. Without in any way compromising the independence of the Federal Reserve System, the new productivity-increasing, structure-reforming, reindustrializing activities of the Department of Industry and Trade could be enhanced by drawing on the expertness and prestige of the 40,000 Federal Reserve employees now at work in Washington, in the 12 cities that house the Federal Reserve district banks, and in their 26 branches and 40 centers.

The Department of Industry and Trade would do two main things—first, bring under one tent all of our export-aiding activities; and second, put into place an entirely new concept of structural reform. The first activity is now headed by the Under Secretary of Commerce for International Trade. The new Department should contain a second Under Secretary for Domestic Industry and Trade.

As to the first, or export-enhancing function, all the export functions need to be concentrated in the new Department of Industry and Trade. The President has already moved last November to consolidate many of the Government's export-promotion functions in the existing Department of Commerce. There needs to be added, as the Department of Commerce becomes the Department of Industry and Trade, the Office of the U.S. Trade Representative, now in the Executive Office of the President. Other trade-oriented entities now outside the Department of Commerce need to be brought into the new Department of Industry and Trade, including the Export-Import Bank and the Overseas Private Investment Corporation.

The second major function of the Department of Industry and Trade, structural reform, is a task that no one is now attending to. Our ramshackle economy shows this lack of attention. By asserting overall a new team effort at sectoral planning and structural problem-solving, the Department of Industry and Trade can be an important part of a new economic policy. The country needs such a policy if we are to master the economic challenges of the 1980's.●

TRIBUTE TO THE LATE ROBERT L. RIGGS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, I take this occasion to record the passing on February 19 of Robert L. Riggs who was for a quarter century one of the best known and most distinguished newspaper correspondents in Washington.

Mr. Riggs represented the Courier-Journal of Louisville, Ky., in Washington from 1942 until his retirement in 1967. He was widely known among the top newspapermen in this city, and was a frequent interrogator on NBC's "Meet the Press."

He had known and covered every President of the United States from Franklin Roosevelt to Richard Nixon.

During the first 2 years after his retirement from newspapering, Bob Riggs was my administrative assistant. And for 5 years he held a similar position with Senator John Sherman Cooper of Kentucky.

He brought to his second career on Capitol Hill the same fairness and integrity that had characterized his long career as a newspaperman.

Mr. Speaker, I insert in the RECORD the following obituary notice that appeared on February 20 in the Courier-Journal, the columns of which he graced by his writing and editing for nearly four decades.

Mr. Riggs had many friends in Congress and in the country. And they are all saddened by his death at age 78. I extend my sympathy to his gracious wife, the former Dorothy Harrison, and to his son, attorney Russell H. Riggs, both of Louisville.

EX-NEWSMAN ROBERT RIGGS DIES AT 78 IN LOUISVILLE

Robert L. Riggs, who was chief of The Courier-Journal's Washington Bureau for 24 years, died Tuesday at Highlands Baptist Hospital in Louisville. He was 78 and lived at 2500 Glenmary Ave., Louisville.

Riggs, a native of Joplin, Mo., worked for The Courier-Journal 37 years before retiring in 1967. He started as assistant state editor and eventually handled each editor's job in the newsroom before going to Washington in 1942.

His tenure in Washington spanned much of World War II and continued through the McCarthy era, the Korean War and much of the Vietnam War.

Riggs, who sometimes lamented his unruly shock of hair, prided himself on his frankness. He was known as a tough questioner and one of Washington's top analytical writers.

Riggs reported on issues affecting Kentucky and also followed and interpreted national politics with a tenacity that brought him stature among the Washington press corps. He appeared as a panelist on many NBC "Meet the Press" programs.

Between 1944 and 1964, he covered every national convention of the two major political parties. He also made recordings of interviews with President Harry Truman, with whom he was especially close, for the Truman Library.

Riggs' colleagues nicknamed him "The Asp" because of his caustic wit. And his devotion to the same lunch each day for more than 20 years produced "the Riggs Special"—a thick well-done hamburger, a dish of cot-

tage cheese, a square of Liederkranz cheese and black coffee.

He was elected president of the Gridiron Club in 1961. The club, a society for newspaper correspondents, produces a satirical musical review annually for the president and other Washington officials.

When Riggs, as toastmaster, rose to introduce President John F. Kennedy that year, he brought laughter by taking his notes out of a paper sack.

He was a frequent public speaker on journalism and on The Battle of Gettysburg.

"There was a time when it was considered outrageous for a reporter to have strong personal views about political questions," Riggs said in a speech about four years before his retirement.

"If a man were known to be a Democrat, he was considered to be disqualified from covering Republicans, and vice versa. Personally, I've never thought there was any merit in a reporter pretending he had no opinion."

Riggs continued. "The proudest badge that I wear is the remark the late (Sen.) Robert A. Taft made to me: 'I know you are a New Dealer, and I'm not going to try to convert you. But you've always been fair to me.' "

Riggs' love affair with Gettysburg began when a friend gave a temporarily bedridden Riggs a book about the battle. Riggs would recount—to nearly anyone who would listen—what really happened during the Battle of Gettysburg.

After he retired from The Courier-Journal, he became an administrative assistant to U.S. Rep. Carl D. Perkins, D–7th District, and later held a similar post with Kentucky Republican Sen. John Sherman Cooper.

Riggs graduated from the University of Missouri in 1927. He came to The Courier-Journal about two years later, after working in Wisconsin with The Associated Press and The Milwaukee Journal.

Survivors include his wife, the former Dorothy Harrison; a son, Russell H. Riggs; a brother, Mr. Dudley Riggs of Missouri; and two grandchildren.

The funeral will be at 11 a.m. Friday at Highland Presbyterian Church, with private burial in Cave Hill Cemetery.

The family will be at the residence from 5 to 8 p.m. tomorrow.

The family requests that expressions of sympathy take the form of contributions to the memorial fund at Highland Presbyterian Church.

Pearson's, 149 Breckenridge Lane, is in charge of arrangements.●

WE CANNOT LICK INFLATION WITHOUT CONTROLS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, until late last year, most Americans, most economists, and most Members of Congress appeared to share the President's hope that a combination of voluntary wage and price guidelines, continuing reductions in Federal budget deficits, and increased conservation of energy would lower the inflationary spiral. Unfortunately, these expectations have not been fulfilled, and, as we all know, inflation is soaring upward at an accelerated pace.

It should not surprise anyone, therefore, that the last couple of months have seen a massive shift in public opinion, as well as the opinion of many economic experts. The public now overwhelmingly supports the imposition of economic controls over prices and wages.

There are sound reasons for the shift First and foremost is the rapid rise in the Cost of Living Index, which for the past 2 months has been running at almost 20 percent, if projected for the full 12 months. Second, the continued escalation of interest rates, in response to actions of the Federal Reserve Board, have brought them to an alltime high, with disastrous effects on the housing, automobile, savings and loan, and other industries that depend on the availability of credit at interest rates that most people can afford. A third factor has been the likelihood of a new spurt in defense spending, precipitated by the Russian invasion of Afghanistan and the threat it poses to the world's major sourec of oil.

In the past, confronted with similar combinations of circumstances, Democratic Congresses and Democratic administrations have faced up to the necessity of imposing controls on prices, wages and credit, not because they had any illusion that such controls would solve the underlying causes of inflation but because, without such action, prices would run wild until they finally brought on an economic collapse. Even conservative economists are now recognizing that we have reached the point where only wage and price controls can break the inflationary momentum and buy us time to make the necessary structural changes to reduce the inflationary pressures to manageable proportions.

In these circumstances, it is nothing short of tragic that the sounds coming from the White House suggest that the President and his advisers are way behind both the economists and the people in the measures that they are recommending to deal with the economy in its present state. Clearly, the 1981 budget must be brought into balance, as Congress itself promised to do. But balancing the budget will have almost no immediate affect on inflation. Without controls, interest rates will continue to soar and actually make inflation worse, since the cost of money underlies the cost of almost everything else. The White House approach is altogether too reminiscent of that taken in the days of Herbert Hoover. Surely we must have learned by now that we do not need to destroy our economy in order to save it.

Mr. Speaker, an article by Clayton Fritchey in the Washington Post for Friday, March 7, contains an excellent summary of the situation and of the inadequacy of the methods apparently being considered. The full text of Mr. Fritchey's article follows these remarks:

DEFLATING THE DREAM

(By Clayton Fritchey)

Gunter Schmolders, the West German economist who made an unusual economic study of the decade between 1963 and 1973, discovered that of 40 countries whose inflation reached 15 percent in that period, 38 "abolished their democratic institutions in one way or another."

Today, in the United States, the inflation rate is already over 18 percent, and still climbing. Nevertheless, the Carter administration continues to dwell in a dream world when it comes to inflation and how to cope with it.

Listening to Jimmy Carter on this subject is like hearing a replay of Herbert Hoover's reassurances during the Great Depression that "prosperity is just around the corner." This time a year ago, Carter told America that his anti-inflation program was "beginning to take hold." Last October, calling for "a little patience," he predicted that both interest and inflation rates would go down before the end of 1979.

Although both rates have since shot up to record highs, the administration keeps making soothing statements. Only a few days ago, the secretary of the Treasury, William Miller, sent a telegram to the top executives of the nation's 500 largest corporations. It said that the Council on Wage and Price Stability "will intensify its monitoring activities to make certain that both the price and wage standards continue to be effective."

The operative word is "continue," which must have convulsed the executives in view of the latest inflation headlines, such as: "Major Banks Raise Price Rates to 17.25 Percent." "Administration Seeks $58 Billion Boost in Debt Ceiling." "Dollar Plunges Against Japanese Yen."

The White House talks about cutting expenditures by $15 billion and aiming at balancing the budget, not this year, of course, but in 1981. At most, that would reduce inflation by two-tenths of 1 percent. It's like combating a raging four-alarm blaze with proposals for long-range, minor improvements in the fire department.

Both Carter and Congress seem susceptible to panaceas that are more likely to inflame inflation than douse it. The president puts nearly all of the blame for inflation on the increase of oil prices, yet his decision to decontrol domestic oil is responsible for much of the recent runaway cost of gasoline. In fact, the price of decontrolled oil has been rising even faster than the price of imported oil.

Congress, like Carter, preaches but does not practice a balanced federal budget, one reason being that it knows the total government budget (federal, state, municipal) is already in balance. The federal budget appears to be in deficit not because of federal spending; but because Washington gives the states and cities over $80 billion a year in handouts of one kind or another, some of it called "revenue sharing." If it weren't for that, the federal budget would already be in surplus.

Despite this, the president and Congress condemn deficit financing as if it were the principal source of inflation. There is little recent evidence, however, to support this notion.

In Gerald Ford's last two years in the White House, the federal deficit was $45.2 billion in 1975 and $66.4 billion (the all-time record) in 1976, for a total of $111.6 billion. Yet when Ford left office, the inflation rate had dropped to around 4.8 percent. Under the Carter administration, the deficit was $30.3 billion in 1979 and is projected at $33.2 billion for 1980, for a total of $63.5 billion, or $48.1 billion less than under Ford. Nonetheless, the inflation rate under Carter has more than tripled.

Another way of assessing deficits, and their whimsical effect on inflation, is to compare them with the gross national product—output of goods and services. On this basis, Carter's four-year deficit total is equal to 1.8 percent of the GNP, just half of Ford's 3.6 percent, but look at the respective inflation rates.

More and more conservative economists are coming to believe that, at this advanced stage of inflation, only wage and price controls will enable the government to zero in on the worst price offenders—energy, food, housing and medical care. Higher inflation in the basic necessities is what cries for relief.

Not long ago, President Carter said, "Whatever it takes to control inflation, that's what

I will do." Whatever it takes, that is, except embracing the kind of controls Ted Kennedy is now campaigning for.●

CONFERENCE REPORT ON H.R. 3919

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

CONFERENCE REPORT (H. REPT. No. 96-817)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

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

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

(c) TABLE OF CONTENTS.—

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

SEC. 101. WINDFALL PROFIT TAX.

(a) IN GENERAL.—

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

"CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

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

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

"SEC. 4987. AMOUNT OF TAX.

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

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

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

"Tier 1 ---------- 70
"Tier 2 ---------- 60

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

"Tier 1 ---------- 50
"Tier 2 ---------- 30

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

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

"SEC. 4988. WINDFALL PROFIT; REMOVAL PRICE.

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

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

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

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

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

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

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

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

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

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

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

"(i) depletion,

"(ii) the tax imposed by section 4986,

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

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

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

"(i) all—

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

"(II) qualified tertiary injectant expenses to which an election under subparagraph (E) applies, incurred by the taxpayer had been capitalized and taken into acocunt in computing cost depletion, and

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

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

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

"(i) IN GENERAL.—Any taxpayer may elect, with respect to any property, to capitalize qualified tertiary injectant expenses for purposes of this paragraph. Any such election shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made, and may be revoked only with the consent of the Secretary. Any such election shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

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

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

"(A) IN GENERAL.—In the case of any proven oil or gas property transfer which (but for this subparagraph), would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied

with respect to the transferee by taking into account only those amounts which would have been allowable with respect to the transferor under paragraph (3)(C) and those costs incurred during periods after such transfer.

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

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

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

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

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

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

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

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

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

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

"SEC. 4989. ADJUSTED BASE PRICE.

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

"(1) such base price, multiplied by

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

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

"(b) INFLATION ADJUSTMENT.—

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

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

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

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

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

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

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

"(2) 21 cents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"SEC. 4990. PHASEOUT OF TAX

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

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

"(2) the phaseout percentage for such month.

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

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

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

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

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

"(A) December 1987, or

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

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

"(d) DETERMINATION OF AGGREGATE NET WINDFALL REVENUE.—

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

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

"(3) AGGREGATE NET WINDFALL REVENUE DEFINED.—For purposes of this subsection, the term 'aggregate net windfall revenue' means the amount which the Secretary estimates to be the excess of—

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

"(B) the sum of—

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

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

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

"SUBCHAPTER B—CATEGORIES OF OIL

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

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

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

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

"(2) any exempt Indian oil,
"(3) any exempt Alaskan oil, and
"(4) any exempt front-end oil.

"(c) TIER 1 OIL.—For purposes of this chapter, the term 'tier 1 oil' means any taxable crude oil other than—
"(1) tier 2 oil, and
"(2) tier 3 oil.

"(d) TIER 2 OIL.—For purposes of this chapter—
"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'tier 2 oil' means—
"(A) any oil which is from a stripper well property within the meaning of the June 1979 energy regulations, and
"(B) any oil from an economic interest in a National Petroleum Reserve held by the United States.
"(2) EXCLUSION OF CERTAIN OIL.—The term 'tier 2 oil' does not include tier 3 oil.

"(e) TIER 3 OIL.—For purposes of this chapter—
"(1) IN GENERAL.—The term 'tier 3 oil' means—
"(A) newly discovered oil,
"(B) heavy oil, and
"(C) incremental tertiary oil.
"(2) NEWLY DISCOVERED OIL.—The term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.
"(3) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—
"(A) the last month before July 1979 in which crude oil was produced and sold from such property, or
"(B) the taxable period,
had a weighted average gravity of 16 degrees API or less (corrected to 60 degrees Fahrenheit).
"(4) INCREMENTAL TERTIARY OIL.—
"For definition of incremental tertiary oil, see section 4993.

"SEC. 4992. INDEPENDENT PRODUCER OIL.

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

"(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—
"(1) IN GENERAL.—The term 'independent producer' means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).
"(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 631A(d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied—
"(A) by substituting 'quarter' for 'taxable year' each place it appears in such paragraphs, and
"(B) by substituting '$1,250,000' for '$5,000,000' in paragraph (2) of section 613A(d).

"(c) INDEPENDENT PRODUCER AMOUNT.—For purposes of this section—
"(1) IN GENERAL.—A person's independent producer amount for any quarter is the product of—
"(A) 1,000 barrels, multiplied by
"(B) the number of days in such quarter (31 in the case of the first quarter of 1980).
"(2) PRODUCTION EXCEEDS AMOUNT.—If a person's qualified production for any quarter exceeds such person's independent producer amount for such quarter, the independent producer amount shall be allocated—
"(A) between tiers 1 and 2 in proportion to such person's production for such quarter of domestic crude oil in each such tier, and
"(B) within any tier, on the basis of the removal prices for such person's domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

"(d) QUALIFIED PRODUCTION OF OIL DEFINED.—For purposes of this section—
"(1) IN GENERAL.—An independent producer's qualified production of oil for any quarter is the number of barrels of taxable crude oil—
"(A) of which such person is the producer,
"(B) which is removed during such quarter,
"(C) which is tier 1 oil or tier 2 oil, and
"(D) which is attributable to the independent producer's working interest in a property.
"(2) WORKING INTEREST DEFINED.—
"(A) IN GENERAL.—The term 'working interest' means an operating mineral interest (within the meaning of section 614(d))—
"(i) which was in existence as such an interest on January 1, 1980, or
"(ii) which is attributable to a qualified overriding royalty interest.
"(B) QUALIFIED OVERRIDING ROYALTY INTEREST.—For purposes of subparagraph (A)(ii), the term 'qualified overriding royalty interest' means an overriding royalty interest in existence as such an interest on January 1, 1980, but only if on February 20, 1980, there was in existence a binding contract under which such interest was to be converted into an operating mineral interest (within the meaning of section 614(d)).
"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—
"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of a transfer on or after January 1, 1980, of an interest in any property, the qualified production of the transferee shall not include any production attributable to such interest.
"(B) SMALL PRODUCER TRANSFER EXEMPTION.—
"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of an interest in property if the transferee establishes (in such manner as may be prescribed by the Secretary by regulations) that at no time after December 31, 1979, has the property been held by a person who was a disqualified transferor for any quarter ending after September 30, 1979, and ending before the date such person transferred the interest.
"(ii) DISQUALIFIED TRANSFEROR.—The term 'disqualified transferor' means, with respect to any quarter, any person who—
"(I) had qualified production for such quarter which exceeded such person's independent producer amount for such quarter, or
"(II) was not an independent producer for such quarter.
"(iii) SPECIAL RULES.—For purposes of this paragraph—
"(I) PROPERTY HELD BY PARTNERSHIPS.—Property held by a partnership at any time shall be treated as owned proportionately by the partners of such partnership at such time.
"(II) PROPERTY HELD BY TRUST OR ESTATE.—Property held by any trust or estate shall be treated as owned both by such trust or estate and proportionately by its beneficiaries.
"(III) CONSTRUCTIVE APPLICATION.—This chapter shall be treated as having been in effect for periods after September 30, 1979, for purposes of making any determination under subclause (I) or (II) of clause (ii).
"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply in the case of—
"(i) a transfer of property at death,
"(ii) a change of beneficiaries of a trust which qualifies under clause (iii) of section 613A(c)(9)(B) (determined without regard to the exception at the end of such clause), and
"(iii) any transfer so long as the transferor and transferee are required by subsection (e) to share the 1,000 barrel amount contained in subsection (c)(1)(A).
The preceding sentence shall apply in the case of any property only if the production from the property was qualified production for the transferor.
"(D) TRANSFERS INCLUDE SUBLEASES, ETC.—For purposes of this paragraph—
"(i) a sublease shall be treated as a transfer, and
"(ii) an interest in a partnership or trust shall be treated as an interest in property held by the partnership or trust.

"(e) ALLOCATION WITHIN RELATED GROUP—
(1) IN GENERAL.—In the case of persons who are members of the same related group at any time during any quarter, the 1,000 barrel amount contained in subsection (c)(1)(A) for days during such quarter shall be reduced for each such person by allocating such amount among all such persons in proportion to their respective qualified production for such quarter.
"(2) RELATED GROUP.—For purposes of this subsection, persons shall be treated as members of a related group if they are described in any of the following clauses:
"(A) a family,
"(B) a controlled group of corporations,
"(C) a group of entities under common control; or
"(D) if 50 percent or more of the beneficial interest in 1 or more corporations, trusts, or estates is owned by the same family, all such entities and such family.
"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—
"(A) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given such term by section 613A(c)(8)(D)(i).
"(B) GROUP OF ENTITIES UNDER COMMON CONTROL.—The term 'group of entities under common control' means any group of corporations, trusts, or estates which (as determined under regulations prescribed by the Secretary) are under common control. Such regulations shall be based on principles similar to the principles which apply under subparagraph (A).
"(C) FAMILY.—The term 'family' means an individual and the spouse and minor children of such individual.
"(D) CONSTRUCTIVE OWNERSHIP.—For purposes of paragraph (2)(D), an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly by the entity and proportionately by its shareholders, partners, or beneficiaries, as the case may be.
"(E) MEMBERS OF MORE THAN 1 RELATED GROUP.—If a person is a member of more than 1 related group during any quarter, the determination of such person's allocation under paragraph (1) shall be made by reference to the related group which results in the smallest allocation for such person.

"SEC. 4993. INCREMENTAL TERTIARY OIL.

"(a) IN GENERAL.—For purposes of this chapter, the term 'incremental tertiary oil' means the excess of—
"(1) the amount of crude oil which is removed from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over
"(2) the base level for such property for such month.

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

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

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

"(2) MINIMUM AMOUNT IN CASE OF PROJECTS CERTIFIED BY DOE.—In the case of a project described in subsection (c)(1)(A), for the period during which the project is in effect, the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(B) the date on which—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) such interest is—

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

"(ii) held—

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

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

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

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

"(c) FRONT-END TERTIARY OIL—

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

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

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

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

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

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

"(ii) the tertiary incentive revenue,

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

"(B) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the payment determined under subparagraph (A) with respect to any producer shall not exceed the aggregate tax imposed by section 4986 with respect to front-

end oil of that producer removed after February 1980 and before October 1981.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Subchapter C—Miscellaneous Provisions.

"Sec. 4995. Withholding; depositary requirements.

"Sec. 4996. Other definitions and special rules.

"Sec. 4997. Records and information; regulations.

"Sec. 4998. Cross references.

"(a) WITHHOLDING BY PURCHASER.—

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

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

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

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

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

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

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

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

"(3) ADJUSTMENTS FOR WITHHOLDING ERRORS.—

"(A) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, withholding errors made by a purchaser with respect to the crude oil of a producer removed during any calendar year shall be corrected by that purchaser by making proper adjustments in the amounts withheld from subsequent payments to such producer for crude oil removed during the same calendar year.

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

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

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

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

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

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

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

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

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

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

"(i) the operator shall be substituted for the purchaser for purposes of applying this subsection and subsection (b) (and so much of subtitle F as relates to such subsections), and

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

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

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

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

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

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

"(b) DEPOSITARY REQUIREMENTS.—

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

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

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

shall be made twice a month.

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

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

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

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

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

"(3) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means a taxpayer described in paragraph (2) or (4) of section 613A(d) who is not an independent refiner.

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

"(c) CROSS REFERENCE.—

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

"SEC. 4996. OTHER DEFINITIONS AND SPECIAL RULES.

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

"(1) PRODUCER.—

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

"(B) PARTNERSHIPS.—

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

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

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

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

"(2) OPERATOR.—

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

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

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

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

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

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

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

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

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

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

"(A) March 1980, and

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

"(8) ENERGY REGULATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(3) LIMITATIONS.—

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

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

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

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

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

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

"(2) TAPS ADJUSTMENT.—

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

"(i) $6.26, over

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

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

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

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

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

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

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

"(h) CROSS REFERENCE.—

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

"SEC. 4997. RECORDS AND INFORMATION; REGULATIONS.

"(a) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the oil) with respect to such oil as the Secretary may by regulations prescribe.

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

"SEC. 4998. CROSS REFERENCES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(b) CROSS REFERENCE.—

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

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

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

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

"(d) CROSS REFERENCES.—

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

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

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

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

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

(d) CERTAIN INFORMATION REQUIRED TO BE FURNISHED.—

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

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

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

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

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

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

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

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

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

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

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

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

"(d) CROSS REFERENCES.—

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

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

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 6652(b) is amended—

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

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

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

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

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

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

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

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

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

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

(f) DEFICIENCY PROCEDURES.—

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

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

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

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

"(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) SPECIAL RULES FOR STATUTE OF LIMITATIONS.—

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

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

"(1) OIL SUBJECT TO WITHHOLDING.—

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

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

"(2) EXTENSION OF LIABILITY ATTRIBUTABLE TO DOE RECLASSIFICATION.—

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

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

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules subsection (o) shall apply to the tax imposed by section 4986."

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

"(h) SPECIAL RULES FOR WINDFALL PROFIT TAXES.—

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

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

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986."

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

"(h) SPECIAL RULE FOR WINDFALL PROFIT TAX.—

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

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

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

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

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

(i) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the sum of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 201. GENERAL PROVISIONS RELATING TO CREDIT.

(a) JOINT OWNERSHIP OF ENERGY ITEMS.—Section 44C(d) (relating to special rules) is amended by redesignating paragraph (4) as

paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

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

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

(b) SECRETARIAL AUTHORITY.—

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

"(9) LIMITATIONS ON SECRETARIAL AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(C) ACTION ON REQUESTS.—

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

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

"(D) EFFECTIVE DATE.—

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

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

SEC. 202. RENEWABLE ENERGY SOURCE EXPENDITURES.

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

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

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

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

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

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

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

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

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

(e) EFFECTIVE DATES.—

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

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

SEC. 203. PROVISIONS TO PREVENT DOUBLE BENEFITS.

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

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

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

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

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

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

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

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

(b) RETURN REQUIREMENT.—

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

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

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

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

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

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

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

PART II—BUSINESS ENERGY INVESTMENT CREDITS

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

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

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

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

"Column A—Description	Column B—Percentage	Column C—Period	
		For the period	
In the case of:	The energy percentage is:	Beginning on:	And ending on:
I. General rule.—Property not described in any of the following provisions of this column	10 percent	Oct. 1, 1978	Dec. 31, 1982.
II. Solar, wind, or geothermal property.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(viii).	A. 10 percent	Oct. 1, 1978	Dec. 31, 1979.
	B. 15 percent	Jan. 1, 1980	Dec. 31, 1985.
III. Ocean thermal property.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1980	Dec. 31, 1985.
IV. Qualified hydroelectric generating property.—Property described in section 48(l)(2)(A)(vii)	11 percent	Jan. 1, 1980	Dec. 31, 1985.
V. Qualified intercity buses.—Property described in section 48(l)(2)(A)(ix)	10 percent	Jan. 1, 1980	Dec. 31, 1985.
VI. Biomass property.—Property described in section 48(l)(15)	10 percent	Oct. 1, 1978	Dec. 31, 1985.

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

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

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

"(II) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

SEC. 222. CHANGES IN ENERGY PROPERTY ITEM DESCRIPTIONS.

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

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

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

"(vii) qualified hydroelectric generating property,

"(viii) cogeneration equipment, or

"(ix) qualified intercity buses,".

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

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

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

"(v) equipment to convert—

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

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

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

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

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

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

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

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

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

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

"(C) to provide solar process heat."

(d) SPECIALLY DEFINED ENERGY PROPERTY.—

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

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

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

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

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

(e) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

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

"(13) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

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

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

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

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

"(i) at which—

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

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

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

"(C) LIMITATION ON CREDIT WHEN INSTALLED CAPACITY EXCEEDS 25 MEGAWATTS.—For purposes of applying the energy percentage to any qualified hydroelectric generating property placed in service in connection with a site the installed capacity of which exceeds 25 megawatts, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by a fraction—

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

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

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

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

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

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

"(14) COGENERATION EQUIPMENT.—

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

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

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

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

"(I) start-up,

"(II) flame control, or

"(III) back-up, or

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

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

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

(g) BIOMASS PROPERTY.—

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

"(15) BIOMASS PROPERTY.—

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

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

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

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

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

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

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

"(i) any synthetic solid fuel, and

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

(2) STORAGE OF FUEL DERIVED FROM GARBAGE.—Subparagraph (A) of section 48(1)(3) (defining alternative energy property) is amended by adding at the end thereof the following new sentence:

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

(h) QUALIFIED INTERCITY BUSES.—Subsection (1) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(16) QUALIFIED INTERCITY BUSES.—

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

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

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

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

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

"(ii) which has—

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

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

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

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

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

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

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

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

(i) TECHNICAL AMENDMENTS.—

(1) PUBLIC UTILITY PROPERTY.—

(A) Paragraph (3) of section 48(1) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) Subsection (1) of section 48 is amended by adding at the end thereof the following new paragraph:

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

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

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

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

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

"(xi) any property described in subsection (1)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States.".

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

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

(j) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

(A) in subparagraph (A)—

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

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

(iii) by striking out clause (iii);

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

(C) by striking out subparagraph (C).

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

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

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

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

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

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

"(i) subsidized energy financing, or

"(ii) the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103,

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

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

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

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

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

provide subsidized financing for projects designed to conserve or produce energy."

(2) EFFECTIVE DATES.—

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

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

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

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

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

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

(v) expanded energy credit property,

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

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

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

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

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

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

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

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

SEC. 231. PRODUCTION TAX CREDIT.

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

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

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

"(1) $3, multiplied by

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

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

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

"(b) LIMITATIONS AND ADJUSTMENTS.—

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

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

"(B) $6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(B) gas produced from—

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

"(ii) biomass,

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

"(D) qualifying processed wood fuels, and

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

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

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

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

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

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

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

"(4) QUALIFYING PROCESSED WOOD FUEL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(i) REFERENCE PRICE FOR DEVONIAN SHALE.—For purposes of this section, the term 'reference price' for gas from Devonian shale sold during calendar years 1980, 1981, and 1982 shall be the average wellhead price per thousand cubic feet for such year of high cost natural gas (as defined in section 107(c) (2), (3), and (4) of the Natural Gas Policy Act of 1978 and determined under section 503 of that Act) as estimated by the Secretary after consultation with the Federal Energy Regulatory Commission.

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

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

"(A) qualifying processed wood fuel,

or

"(B) steam from solid agricultural byproducts,

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

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

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

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

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

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

"(f) APPLICATION OF SECTION.—

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

"(A) which are—

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

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

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

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

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

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

"(I) October 1, 1983, or

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

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

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

SEC. 232. ALCOHOL FUELS.

(a) EXTENSION OF EXEMPTION THROUGH 1992.—

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

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

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

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

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

(b) CREDIT AGAINST INCOME TAX.—

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

"SEC. 44E. ALCOHOL USED AS FUEL.

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

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.

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

"(1) ALCOHOL MIXTURE CREDIT.—

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

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

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

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

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

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

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

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

"(2) ALCOHOL CREDIT.—

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

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

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

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

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

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

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

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

"(1) ALCOHOL DEFINED.—

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

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

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

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

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

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

"(A) MIXTURES.—If—

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

"(ii) any person—

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

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

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

"(B) ALCOHOL.—If—

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

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

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

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

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

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

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

the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).

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

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

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

"(2) CARRYOVER OF UNUSED CREDIT.—

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

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

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

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

"(f) TERMINATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 231, is amended by striking out "and 44D" and inserting "44D, and 44E".

(c) CREDIT TO BE INCLUDED IN INCOME.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 86. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the amount of the credit allowable to the taxpayer under section 44E for the taxable year (determined without regard to subsection (e) thereof)."

(2) TECHNICAL AMENDMENT.—Subparagraph (B) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out "section 667" and inserting in lieu thereof "section 86 or 667".

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

"Sec. 86. Alcohol fuel credit."

(d) REFUND OF TAX ON GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) GENERAL RULE.—Section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(B) by inserting after subsection (e) the following new subsection:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1)."

(2) QUARTERLY REFUND ALLOWED WHERE $200 OR MORE IS PAYABLE.—

(A) Subparagraph (A) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) $200 or more is payable under subsection (f),".

(B) Subparagraph (B) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter."

(3) TREATMENT OF SUBSEQUENT SEPARATION.—Paragraph (2) of section 4081(c)

(relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1))" after "this subsection".

(4) TECHNICAL AMENDMENTS.—

(A) Subsections (a)(4) and (b) of section 39 are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

(B) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

(C) Subsection (g)(1) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(D) Subsection (i)(2) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

(E) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) EXEMPTION FROM DISTILLED SPIRITS RULES.—

(1) IN GENERAL.—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section:

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE.

"(a) IN GENERAL.—

"(1) PURPOSES FOR WHICH PLANT MAY BE ESTABLISHED.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

"(A) producing, processing, and storing, and

"(B) using or distributing,

distilled spirits to be used exclusively for fuel use.

"(2) REGULATIONS.—In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

"(A) expedite all applications;

"(B) establish a minimum bond; and

"(C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

"(b) AUTHORITY TO EXEMPT.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) SPECIAL RULES FOR SMALL PLANT PRODUCTION.—

"(1) APPLICATIONS.—

"(A) IN GENERAL.—An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

"(B) RECEIPT OF APPLICATION.—Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

"(C) MULTIPLE APPLICATIONS.—If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence: if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

"(2) DETERMINATION.—

"(A) IN GENERAL.—In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

"(B) FAILURE TO MAKE DETERMINATION.—If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

"(C) REJECTION OF APPLICATION.—If the Secretary determines under subparagraph (A) that a permit should not be issued—

"(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

"(ii) such determination shall not prejudice any further application for such operating permit.

"(3) BOND.—No bond shall be required for an eligible distilled spirit plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.

"(4) ELIGIBLE DISTILLED SPIRITS PLANT.—The term 'eligible distilled spirits plant' means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

"(d) WITHDRAWAL FREE OF TAX.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

"(e) PROHIBITED WITHDRAWAL, USE, SALE, OR DISPOSITION.—

"(1) IN GENERAL.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

"(2) RENDERING UNFIT FOR USE. —For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(f) DEFINITION OF DISTILLED SPIRITS.—For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE, OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells, or otherwise disposes of distilled spirit produced under section 5181 for other than fuel use;".

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181."

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(D) Section 5005(d) (relating to person liable for tax) is amended, by striking out "or (11)," and inserting "(11), or (12),".

(E) Section 221(d) of the Energy Tax Act of 1978 is repealed.

(F) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"Sec. 5181. Distilled spirits for fuel use.

"Sec. 5182. Cross references."

(f) STUDY OF IMPORTED ALCOHOL.—Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall furnish to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the United States House of Representatives recommendations as to what methods, if any, may be used to limit the importing of alcohol into the United States for fuel purposes, including, but not limited to—

(1) denial of the exemption under sections 4081(c) and 4041(k) of the Internal Revenue Code of 1954 or of the credit under section 44E of such Code to fuels produced from imported alcohol,

(2) import quotas and duties on such alcohol, and

(3) strict surveillance of such imports to monitor their effect on the domestic fuel alcohol industry.

(g) REPORTS.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

"(c) REPORTS.—On April 1 of each year, beginning with April 1, 1981, and ending with April 1, 1992, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

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

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels.

"(3) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954 and the credit allowable under section 44E of such Code and the impact of such revenue loss on the Highway Trust Fund, and

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol."

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to sales or uses after September 30, 1980, in taxable years ending after such date.

(2) SUBSECTION (d).—

(A) IN GENERAL.—The amendments made by subsection (d) shall take effect on January 1, 1979.

(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of

the Internal Revenue Code of 1954 (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.

(3) DISTILLED SPIRITS PLANTS.—The amendments made by subsection (e) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act.

PART IV—ENERGY-RELATED USES OF TAX EXEMPT BONDS

SEC. 241. SOLID WASTE DISPOSAL FACILITIES.

(a) IN GENERAL.—Section 103 (relating to interest on governmental obligations) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) QUALIFIED STEAM-GENERATING OR ALCOHOL-PRODUCING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (b)(4)(E), the term 'solid waste disposal facility' includes—

"(A) a qualified steam-generating facility, and

"(B) a qualified alcohol-producing facility.

"(2) QUALIFIED STEAM-GENERATING FACILITY DEFINED.—For purposes of paragraph (1), the term 'qualified steam-generating facility' means a steam-generating facility for which—

"(A) more than half of the fuel (determined on a Btu basis) is solid waste or fuel derived from solid waste, and

"(B) substantially all of the solid waste derived fuel is produced at a facility which is—

"(i) located at or adjacent to the site for such steam-generating facility; and

"(ii) owned and operated by the person who owns and operates the steam-generating facility.

"(3) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of paragraph (1), the term 'qualified alcohol-producing facility' means a facility—

"(A) the primary product of which is alcohol,

"(B) more than half of the feedstock for which is solid waste or a feedstock derived from solid waste, and

"(C) substantially all of the solid waste derived feedstock for which is produced at a facility which is—

"(i) located at or adjacent to the site for such alcohol-producing facility, and

"(ii) owned and operated by the person who owns and operates the alcohol-producing facility.

"(4) SPECIAL RULE IN CASE OF STEAM-GENERATING FACILITY.—A facility for producing solid waste derived fuel shall be treated as a facility which meets the requirements of clauses (i) and (ii) of paragraph (2)(B) if—

"(A) such facility and the steam-generating facility are owned and operated by or for a State or the same political subdivision or subdivision of a State, and

"(B) substantially all of the solid waste used in producing the solid waste derived fuel at the facility producing such fuel is collected from the area in which the steam-generating facility is located."

(b) CERTAIN SOLID WASTE AND ENERGY-PRODUCING FACILITIES.—

(1) GENERAL RULE.—For purposes of section 103 of the Internal Revenue Code of 1954, any obligation issued by an authority for 2 or more political subdivisions of a State which is part of an issue substantially all of the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as an obligation of a political subdivision of a State which meets the requirements of section 103(b)(4)(E) of such Code (relating to solid waste disposal, etc., facilities). Nothing in the preceding sentence shall be construed to override the limitations of section 103(c) of such Code (relating to arbitrage bonds).

(2) SOLID WASTE-ENERGY PRODUCING FACILITIES.—For purposes of paragraph (1), the term "solid waste-energy producing facilities" means any solid waste disposal facility and any facility for the production of steam and electrical energy if—

(A) substantially all of the fuel for the facility producing steam and electrical energy is derived from solid waste from such solid waste disposal facility,

(B) both such solid waste disposal facility and the facility producing steam and electrical energy are owned and operated by the authority referred to in paragraph (1), and

(C) all of the electrical energy and steam produced by the facility for producing steam and electricity which is not used by such facility is sold, for purposes other than resale, to an agency or instrumentality of the United States.

(3) SOLID WASTE DISPOSAL FACILITY.—For purposes of paragraph (2), the term "solid waste disposal facility" means any solid waste disposal facility within the meaning of section 103(b)(4)(E) of the Internal Revenue Code of 1954 (determined without regard to section 103(g) of such Code.)

(4) OBLIGATIONS MUST BE IN REGISTERED FORM.—This subsection shall not apply to any obligation which is not issued in registered form.

(c) SPECIAL RULE FOR CERTAIN ALCOHOL-PRODUCING FACILITIES.—

(1) IN GENERAL.—Subparagraph (C) of section 103(g)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any facility for the production of alcohol from solid waste if—

(A) substantially all of the solid waste derived feedstock for such facility is produced at a facility which—

(i) went into full production in 1977,

(ii) is located within the limits of a city, and

(iii) is located in the same metropolitan area as the alcohol-producing facility, and

(B) before March 1, 1980, there were negotiations between a governmental body and an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 with respect to the utilization of a special process for the production of alcohol at such alcohol-producing facility.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) with respect to any project shall not exceed $30,000,000.

(3) TERMINATION.—This subsection shall not apply to obligations issued after December 31, 1985.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsections (b) and (c) shall apply with respect to obligations issued after October 18, 1979.

SEC. 242. QUALIFIED HYDROELECTRIC GENERATING FACILITIES.

(a) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

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

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

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) qualified hydroelectric generating facilities."

(2) DEFINITIONS.—Subsection (b) of section 103 is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—For purposes of this section—

"(A) QUALIFIED HYDROELECTRIC GENERATING FACILITY.—The term 'qualified hydroelectric generating facility' means any qualified hydroelectric generating property which is owned by a State, political subdivision thereof, or agency or instrumentality of any of the foregoing.

"(B) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified hydroelectric generating property' has the meaning given to such term by section 48(l)(13).

"(ii) DAM MUST BE OWNED BY GOVERNMENTAL BODY.—The term 'qualified hydroelectric generating property' does not include any property installed at the site of any dam described in section 48(l)(13)(B)(i)(I) unless such dam was owned by one or more governmental bodies described in subparagraph (A) on October 18, 1979, and at all times thereafter until the obligations are no longer outstanding.

"(C) LIMITATION.—Paragraph (4)(H) of this subsection shall not apply to any issue of obligations (otherwise qualifying under paragraph (4)(H) if the portion of the proceeds of such issue which is used to provide qualified hydroelectric generating facilities exceeds (by more than an insubstantial amount) the product of—

"(i) the eligible cost of the facilities being provided in whole or in part from the proceeds of the issue, and

"(ii) the installed capacity fraction.

"(D) INSTALLED CAPACITY FRACTION.—The term 'installed capacity fraction' means the fraction—

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

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

For purposes of the preceding sentence, the term 'installed capacity' has the meaning given to such term by section 48(l)(13)(E).

"(E) ELIGIBLE COST.—

"(i) IN GENERAL.—The eligible cost of any facilities is that portion of the total cost of such facilities which is reasonably expected—

"(I) to be the cost to the governmental body described in subparagraph (A), and

"(II) to be attributable to periods after October 18, 1979, and before 1986 (determined under rules similar to the rules of section 48(m)).

"(ii) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, clause (i)(II) shall be applied with respect to such property by substituting '1989' for '1986'.

"(F) CERTAIN PRIOR ISSUES TAKEN INTO ACCOUNT.—If the proceeds of 2 or more issues (whether or not the issuer of each issue is the same) are or will be used to finance the same facilities, then, for purposes of subparagraph (C), in determining the amount of the proceeds of any later issue used to finance such facilities, there shall be taken into account the proceeds used to finance such facilities of all prior such issues which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue)."

(b) APPLICATION OF SECTION 103(b)(4)(H) TO CERTAIN FACILITIES.—

(1) IN GENERAL.—For purposes of section 103(b)(4)(H) of the Internal Revenue Code of 1954 (relating to qualified hydroelectric generating facilities), in the case of a hydroelectric generating facility described in paragraph (2)—

(A) the facility shall be treated as a qualified hydroelectric generating facility (as de-

fined in section 103(b)(8)(A) of such Code) without regard to clause (ii) of section 48(1)(13)(B) of such Code (relating to maximum generating capacity), and

(B) the fraction referred to in subparagraph (C) of section 103(b)(8) of such Code shall be deemed to be 1.

(2) FACILITIES TO WHICH PARAGRAPH (1) APPLIES.—A facility is described in this paragraph if—

(A) it would be a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) if clause (ii) of section 48(1)(13)(B) did not apply,

(B) it constitutes an expansion of generating capacity at an existing hydroelectric generating facility,

(C) such facility is located at 1 of 2 dams located in the same county where—

(i) the rated capacity of the hydroelectric generating facilities at each such dam on October 18, 1979, was more than 750 megawatts,

(ii) the construction of the first such dam began in 1956, power at such first dam was first generated in 1959, and full power production at such first dam began in 1961, and

(iii) the construction of the second such dam began in 1959, power at such second dam was first generated in 1963, and full power production at such second dam began in 1964,

(D) acquisition or construction of the existing facility referred to in subparagraph (B) was financed with the proceeds of an obligation described in section 103(a)(1) of such Code,

(E) the existing facility is owned and operated by a State, political subdivision of a State, or agency or instrumentality of any of the foregoing,

(F) no more than 60 percent of the electric power and energy produced by such existing facility and of the qualified hydroelectric generating facility is to be sold to anyone other than an exempt person (within the meaning of section 103(b)(3) of such Code), and

(G) the agency of the State in which the facility is located which has jurisdiction over water rights had granted, before October 18, 1979, a water right under which expanded power and energy generating capacity for the facility was contemplated.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsection (b) shall apply with respect to obligations issued after October 18, 1979.

SEC. 243. RENEWABLE ENERGY PROPERTY.

(a) CERTAIN STATE OBLIGATIONS FOR RENEWABLE ENERGY PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of subsection (b) of section 103 of the Internal Revenue Code of 1954 shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide renewable energy property, if—

(A) the obligations are general obligations of a State,

(B) the authority for the issuance of the obligations requires that taxes be levied in sufficient amount to provide for the payment of principal and interest on such obligations,

(C) the amount of such obligations, when added to the sum of the amounts of all such obligations previously issued by the State which are outstanding, does not exceed the smaller of—

(i) $500,000,000 or

(ii) one-half of 1 percent of the value of all property in the State,

(D) such obligations are issued pursuant to a program to provide financing for small scale energy projects which was established by a State the legislature of which, before October 18, 1979, approved a constitutional amendment to provide for such a program, and

(E) such obligations meet the requirements of paragraph (1) of section 103(h) of the Internal Revenue Code of 1954.

(2) RENEWABLE ENERGY PROPERTY.—For purposes of this subsection, the term "renewable energy property" means property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy sources (including wind, solar, and geothermal energy, waste heat, biomass, and water).

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to obligations issued after the date of enactment of this Act.

SEC. 244. CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.

(a) GENERAL RULE.—Section 103 (relating to interest on governmental obligations), as amended by section 241, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.—

"(1) IN GENERAL.—An obligation to which this subsection applies shall be treated as an obligation not described in subsection (a) if—

"(A) such obligation is not issued in registered form,

"(B) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

"(C) the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

"(2) OBLIGATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(A) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(B) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued on or after October 18, 1979.

PART V—TERTIARY INJECTANTS

SEC. 251. TERTIARY INJECTANTS.

(a) DEDUCTION FOR TERTIARY INJECTANTS.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC 193. TERTIARY INJECTANTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the qualified tertiary injectant expenses of the taxpayer for tertiary injectants injected during such taxable year.

"(b) QUALIFIED TERTIARY INJECTANT EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary injectant expenses' means any cost paid or incurred during the taxable year (whether or not chargeable to capital account) for any tertiary injectant (other than a hydrocarbon injectant which is recoverable) which is used as a part of a tertiary recovery method.

"(2) HYDROCARBON INJECTANT.—The term 'hydrocarbon injectant' includes natural gas, crude oil, and any other injectant which is comprised of more than an insignificant amount of natural gas or crude oil. The term does not include any tertiary injectant which is hydrocarbon-based, or a hydrocarbon-derivative, and which is comprised of no more than an insignificant amount of natural gas or crude oil. For purposes of this paragraph, that portion of a hydrocarbon injectant which is not a hydrocarbon shall not be treated as a hydrocarbon injectant.

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

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations (as defined by section 4996(b)(8)(C)), or

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

"(c) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under subsection (a) with respect to any expenditure—

"(1) with respect to which the taxpayer has made an election under section 263(c), or

"(2) with respect to which a deduction is allowed or allowable to the taxpayer under any other provision of this chapter."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

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

"Sec. 193. Tertiary injectants."

(B) Section 263(a)(1) (relating to capital expenditures) is amended—

(i) by striking out "or" at the end of subparagraph (E),

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

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

"(G) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193."

(C) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(i) by striking out "or 190" each place it appears in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "190, or 193",

(ii) by inserting "193," after "190," each place it apepars in paragraph (2), and

(iii) by inserting "or 193" after "190" in the last sentence of paragraph (2).

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190, or 193"

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

TITLE III—LOW-INCOME ENERGY ASSISTANCE

SHORT TITLE

SEC. 301. This title may be cited as the "Home Energy Assistance Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 302. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income, and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health, or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

(b) It is the purpose of this title to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

SEC. 303. As used in this title—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means a source of heating or cooling in residential dwellings:

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, and nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor,

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 304. (a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States on behalf of eligible households to assist such households to meet the rising costs of home energy.

(b) There are authorized to be appropriated $3,000,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(c) For the purpose of affording adequate notice of assistance available under this title, appropriations under this title are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 305. (a) Eligible household means any household which the State determines is—

(1) a household in which one or more individuals are eligible for (A) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act). (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act, but not eligible under subsection (a)(1)(A), (C), or (D) of this section, shall not be considered eligible for home energy assistance under this title if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(c) In verifying income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act.

ALLOTMENTS

SEC. 306. (a)(1) From 95 per centum of the sums appropriated pursuant to section 304(b) for the fiscal year 1981, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States.

(2) From 95 per centum of such sums, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level, bears to the sum of such products for all States.

(3)(A) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is less than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection, be the greater of its allotment as so determined under paragraphs (1) and (2) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(B) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is equal to or more than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection and subparagraph (C) of this paragraph, be the greater of its allotment as so determined under such paragraphs (6) and (8) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(C) There is authorized to be appropriated amounts not in excess of $90,000,000 for the fiscal year 1981 for the additional amounts to be allocated pursuant to subparagraph (B) of this paragraph.

(4) The alternative allotment percentage for any State shall be equal to (A) the percentage of 95 per centum of the total amount appropriated for the fiscal year pursuant to section 304(b) which the State would receive if its allotment were increased from the $25,000,000 authorized under this subsection to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120, or, unless the percentage determined under subparagraph (A) would be higher, (B) the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 304(b) which would be allotted to such State if—

(i) of such 90 per centum (I) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (II) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the word "squared" were deleted and the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(ii) the allotment of each State as determined under subdivision (i) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120.

There are authorized to be appropriated $25,000,000 for the fiscal year 1981 for the additional amounts to be allocated to States pursuant to the application of subparagraph (A) of this paragraph. In the event that the aggregate of such additional amounts would exceed the amount appropriated under the preceding sentence, the additional amount applicable to each State shall be reduced on a pro rata basis.

(5) For purposes of this subsection, the term "recipient household" means—

(A) a household that is an eligible household under section 3(i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph;

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93-66.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(6) The allotment of any State shall be increased under paragraph (3) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraph (A) or (B)(ii) of paragraph (4).

(7) If the allotment for any State determined under paragraphs (1) and (2) of this subsection (without the application of paragraph (8)), is less than the lower of—

(A) the amount which would be allotted to such State if "one-half" in paragraph (1) of this subsection were replaced by "one-quarter" and "one-half" in paragraph (2) of this subsection were replaced by "three-quarters"; or

(B) the amount which would be allotted to such State if the word "squared" in paragraph (2) of this subsection were deleted,

then the allotment of such State shall, subject to paragraph (8) of this subsection, be increased to the lower of the allotment it would receive under subparagraph (A) or (B).

(8) The allotments for any fiscal year determined under paragraphs (1) and (2) of this subsection which are not increased pursuant to paragraphs (3)(A) and (7) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (3)(A) and (7) of this subsection do not exceed the sum of (A) 95 per centum of the sums appropriated for such fiscal year pursuant to section 304(b) plus (B) the amount appropriated pursuant to the authorization in paragraph (4).

(9) If the amount appropriated for fiscal year 1981 is less than the sum of $3,000,000,000 plus such additional amounts as are necessary to carry out paragraphs (3) and (4), then each State's allotment shall be determined on the basis of an appropriation of such sum and shall be reduced on a pro rata basis as necessary.

(b)(1) From the remainder of the sums appropriated pursuant to section 304(b) for each fiscal year, the Secretary shall—

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage alloted to such State under this section for the total amounts available for allotment to States under subsection (a) of this section. Twenty per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the preceding sentence.

(2) Each jurisdiction to which paragraph (1)(A) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 308(b) of this title.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 304(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this title.

(ii) No grant may be made under this subparagraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) That part of the remainder of the sums appropriated pursuant to section 304(b) which is not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

(4)(A) From the sums appropriated pursuant to section 304(b) and made available under paragraph (1)(B) of this subsection, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this title. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities under section 308(b)(16).

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this title, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States based on need and ability to expend the funds consistent with the provisions of this title and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this title, and the total reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this title. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this title that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

USES OF HOME ENERGY GRANTS

SEC. 307. Grants for fiscal year 1981 under this title may be used for home energy assistance in accordance with plans approved under section 308.

STATE PLANS

SEC. 308. (a) Each State desiring to receive a home energy grant under this title shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables, and standards established by the Secretary pursuant to subsection (d)(4) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this title and describe local administrative arrangements;

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent times of quotient of the exact costs of residential fuel costs paid as an undesignated part of rent divided by the number of tenants, the amount of such monthly quotient not to exceed a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households, if such operators give assurances to the State that tenants eligible for assistance under this title are not discriminated against with respect to rent;

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(i) the average home energy expenditure,

(ii) the proportional burden of energy costs in relation to ranges of income,

(iii) the variation in degree days in regions of the State in any State where appropriate, and

(iv) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which—

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6) and shall notify each participating household of the amount of assistance paid on its behalf;

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) subject to such subsection (f) of this section the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this title will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A)(ii) and (iii) of clause (3) applies;

(9) provide for public participation in the development of the plan;

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this title;

(11) provide that—

(A) the State may use for planning and administering the plan an amount of the funds received by such State under this title not to exceed 5 per centum of the cost of carrying out the plan except that—

(i) upon proof of unusual circumstances and upon application to the Secretary, the State may use an additional amount for planning and administering the plan not to exceed 2½ per centum of the cost of carrying out the plan, and

(ii) in no case may the Federal share of the cost of planning and administering the plan exceed 50 per centum of such cost, and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(12) describe the administrative procedures to be used in carrying out the plan;

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedures for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this title in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this title by using community action agencies, area agencies on aging, State and local welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will not reduce regular benefit levels, from the levels of such benefits as of February 26, 1980, in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program for the purposes of this paragraph;

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this title;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 309; and

(21) provide assurances in the case described in section 305(a)(2) that the State will not establish any standards of eligibility under this title based on an assets test which counts cars, household and personnel belongings, or primary residences and in the case of a household which the State determines to be eligible under section 305(a)(1), no such test will be established under this title.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this title without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan.

(2) Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this title, the Secretary may waive compliance with any of the requirements of subsection (b) to the extent and for the period the Secretary finds necessary to enable any such State to carry out the program assisted under this title.

(3) The Secretary shall carry out the functions of the Secretary under this section promptly.

(4) The Secretary, as soon as possible after the date of enactment of this title, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities relating to the development of a State plan and for other activities under this title in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 306(a) when funds are appropriated to carry out the provisions of this title.

(f) A state agency may exempt small home energy suppliers from the requirements of subsection (b)(7)(D), of this section if the State agency determines that compliance with such subsection, will seriously jeopardize the ability of the small home energy supplier to conduct such business.

(g) A State may use funds available under this title for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to eligible households and suppliers will not be impeded by the implementation of such plan.

(h) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households (except for individuals described in section 305(b)(1), (2), and (3)) containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

(i) At the option of the State, payments described in subsection (b) of this section may be made, without limitation, in the form of a duly issued coupon, stamp, or certificate.

UNIFORM DATA COLLECTION

SEC. 309. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this title.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income

levels of households assisted by this title, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

(2) In carrying out this section, the Secretary shall analyze information supplied by the Secretary of Energy on the price structure of various types of fuel, particularly the increases in such price structure as it relates to the financial assistance provided under this title.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

SEC. 310. (a) From the amount allotted to each State pursuant to section 306, the Secretary shall pay to the State which has an application approved under section 308 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this title may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

SEC. 311. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a substantial failure to comply with any provision set forth in the State plan of that State approved under section 308, the Secretary shall notify the State that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

CRIMINAL PENALTIES

SEC. 312. Whoever violates provisions of this title or who knowingly provides false information in any report required under this title shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

SEC. 313. (a)(1) The Secretary may delegate any functions under this title, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this title, within sixty days after the date of enactment of this title.

(b) In administering the provisions of this title, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(c)(1) Notwithstanding any other provision of law, the amount of any fuel assistance payments or allowances provided to an eligible household under this title shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) during fiscal year 1981, any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this title.

(e) The Secretary shall coordinate the administration of the program established under this title with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 308(b)(15).

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed.

(b) REVIVAL OF PRIOR LAW.—Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted.

(c) CONFORMING CHANGES.—

(1) Subsection (c) of section 1016 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

"(B) an additional estate tax is imposed on such conversion under section 2032A(c),

then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange."

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 is amended to read as follows:

"Sec. 1040. Use of farm, etc., real property to satisfy pecuniary bequest."

(3) The second sentence of section 2614(a) (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a).".

(d) ELECTION OF CARRYOVER BASIS RULES BY CERTAIN ESTATES.—Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within 120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury or his delegate shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

SEC. 402. DISAPPROVAL OF PRESIDENTIAL ACTIONS ADJUSTING OIL IMPORTS.

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e)(1) An action taken by the President under subsection (b) to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

"(2)(A) This paragraph is enacted by the Congress—

"(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

"(B) For purposes of this subsection, the term 'disapproval resolution' means only a joint resolution of either House of Congress the matter after the resolving clause of which

is as follows: 'That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ———— dated ————.', the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

"(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance

"(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent"

SEC. 403. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

(a) TREATMENT OF QUALIFIED LIQUIDATIONS.—

(1) IN GENERAL.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 473. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

"(a) GENERAL RULE.—If for any liquidation year—

"(1) there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and

"(2) the taxpayer elects to have the provisions of this section apply with respect to such liquidation,

then the gross income of the taxpayer for such taxable year shall be adjusted as provided in subsection (b).

"(b) ADJUSTMENT FOR REPLACEMENTS.—If the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be—

"(1) decreased by an amount equal to the excess of—

"(A) the aggregate replacement cost of the liquidated goods so replaced during such year, over

"(B) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

"(2) increased by an amount equal to the excess of—

"(A) the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over

"(B) such aggregate replacement cost.

"(c) QUALIFIED LIQUIDATION DEFINED.—For purposes of this section—

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

"(A) a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if

"(B) the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

"(2) QUALIFIED INVENTORY INTERRUPTION DEFINED.—

"(A) IN GENERAL.—The term 'qualified inventory interruption' means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B).

"(B) DETERMINATION BY SECRETARY.—Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

"(i) that—

"(I) any Department of Energy regulation or request with respect to energy supplies, or

"(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

"(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

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

"(1) LIQUIDATION YEAR.—The term 'liquidation year' means the taxable year in which occurs the qualified liquidation to which this section applies.

"(2) REPLACEMENT YEAR.—The term 'replacement year' means any taxable year in the replacement period; except that such term shall not include any taxable year after the taxable year in which replacement of the liquidated goods is completed.

"(3) REPLACEMENT PERIOD.—The term 'replacement period' means the shorter of—

"(A) the period of the 3 taxable years following the liquidation year, or

"(B) the period specified by the Secretary in a notice published in the Federal Register with respect to that qualified inventory interruption.

Any period specified by the Secretary under subparagraph (B) may be modified by the Secretary in a subsequent notice published in the Federal Register.

"(4) LIFO METHOD.—The term 'LIFO method' means the method of inventorying goods described in section 472.

"(5) ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall be made subject to such conditions, and in such manner and form and at such time, as the Secretary may prescribe by regulation.

"(B) IRREVOCABLE ELECTION.—An election under this section shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under this section.

"(e) REPLACEMENT; INVENTORY BASIS.—For purposes of this chapter—

"(1) REPLACEMENTS.—If the closing inventory of the taxpayer for any replacement year reflects an increase over the opening inventory of such goods for such year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a qualified liquidation) and not previously replaced.

"(2) AMOUNT AT WHICH REPLACEMENT GOODS ARE TAKEN INTO ACCOUNT.—In the case of any qualified liquidation, any goods considered under paragraph (1) as having been acquired in replacement of the goods liquidated in such liquidation shall be taken into purchases and included in the closing inventory of the taxpayer for the replacement year at the inventory cost basis of the goods replaced.

"(f) SPECIAL RULES FOR APPLICATION OF ADJUSTMENTS.—

"(1) PERIOD OF LIMITATIONS.—If—

"(A) an adjustment is required under this section for any taxable year by reason of the replacement of liquidated goods during any replacement year, and

"(B) the assessment of a deficiency, or the allowance of a credit or refund of an overpayment of tax attributable to such adjustment, for any taxable year, is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises),

then such deficiency may be assessed, or credit or refund allowed, within the period prescribed for assessing a deficiency or allowing a credit or refund for the replacement year if a notice for deficiency is mailed, or claim for refund is filed, within such period.

"(2) INTEREST.—Solely for purposes of determining interest on any overpayment or underpayment attributable to an adjustment made under this section, such overpayment or underpayment shall be treated as an overpayment or underpayment (as the case may be) for the replacement year.

"(g) COORDINATION WITH SECTION 472.—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this section with the provisions of section 472."

(2) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 473. Qualified liquidations of LIFO inventories."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to qualified liquidations (within the meaning of section 473(c) of the Internal Revenue Code of 1954) in taxable years ending after October 31, 1979.

(b) RECOGNITION OF GAIN ON CERTAIN DISPOSITIONS OF LIFO INVENTORIES.—

(1) AMENDMENT OF SECTION 336.—Section 336 (relating to general rule for liquidations) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) GENERAL RULE.—Except as provided in subsection (b) of this section and in section 453(d) (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in partial or complete liquidation.

"(b) LIFO INVENTORY.—

"(1) IN GENERAL.—If a corporation inventorying goods under the LIFO method distributes inventory assets in partial or complete liquidation, then the LIFO recapture amount with respect to such assets shall be treated as gain to the corporation recognized from the sale of such inventory assets.

"(2) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION 334(b)(1).—Paragraph (1) shall not apply to any liquidation under section 332 for which the basis of property received is determined under section 334(b)(1).

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

"(A) the inventory amount of the inventory assets under the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

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

"(A) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472 (relating to last-in, first-out inventories).

"(B) OTHER DEFINITIONS.—The term 'inventory assets' has the meaning given to such term by subparagraph (A) of section 311(b)(2), and the term 'inventory amount' has the meaning given to such term by subparagraph (B) of section 311(b)(2) (as

modified by paragraph (3) of section 311 (b))."

(2) SECTION 337 LIQUIDATIONS.—

(A) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR LIFO INVENTORIES.—

"(1) IN GENERAL.—In the case of a corporation inventorying goods under the LIFO method, this section shall apply to gain from the sale or exchange of inventory assets (which under subsection (b)(2) constitute property) only to the extent that such gain exceeds the LIFO recapture amount with respect to such assets.

"(2) DEFINITIONS.—The terms used in this subsection shall have the same meaning as when used in section 336(b).

"(3) CROSS REFERENCE.—

"For treatment of gain from the sale or exchange of an installment obligation as gain resulting from the sale or exchange of the property in respect of which the obligation was received, see the last sentence of section 453(d)(1)."

(B) Subparagraph (B) of section 453(d)(4) (relating to liquidations to which section 337 applies) is amended by adding at the end thereof the following new sentence: "In the case of any installment obligation which would have met the requirements of clauses (i) and (ii) of the first sentence of this subparagraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the day of such distribution."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to distributions and dispositions pursuant to plans of liquidation adopted after December 31, 1981.

SEC. 404. EXEMPTION OF CERTAIN INTEREST INCOME FROM TAX.

(a) IN GENERAL.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) a dividend from a domestic corporation, or

"(2) interest.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $200 ($400 in the case of a joint return under section 6013).

"(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

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

(1) INTEREST DEFINED.—The term 'interest' means—

(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

"(ii) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to any dividend from—

"(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

"(B) real estate investment trust, subject to the limitations provided in section 857(c).

"(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b)."

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116(c) to the extent such interest is excludable from gross income under section 116".

(3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the caption and text thereof.

(4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each place it appears in the caption or text thereof.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends".

(6) Subsection (b) of section 854 (relating to other dividends) is amended—

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS",

(B) by striking out the caption of paragraph (1) and inserting in lieu thereof "DEDUCTION UNDER SECTION 243.—",

(C) by striking out "the exclusion under section 116 and" in paragraph (1),

(D) by redesignating paragraphs (2) and (3) as (3) and (4),

(E) by inserting after paragraph (1) the following new paragraph:

"(2) EXCLUSION UNDER SECTION 116.—In the case of a dividend (other than a dividend described in subsection (a)) received from a regulated investment company—

"(A) which meets the requirements of section 852(a) for the taxable year in which it paid the dividend,

"(B) the aggregate interest received by which during the taxable year is less than 75 percent of its gross income, and

"(C) the aggregate dividends received by which during the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income. For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year."

(F) by striking out "section 116(b)" in subparagraph (B) of paragraph (4) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "section 116(b)(2)",

(G) by striking out "section 116(c)" in subparagraph (B) of paragraph (4) (as so redesignated) and inserting in lieu thereof "section 116(c)(2)".

(H) by adding at the end of paragraph (4) (as redesignated) the following new subparagraph:

"(C) The term 'aggregate interest received' includes only interest described in section 116(c)(1)."

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

"(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

"(1) CAPITAL GAIN DIVIDEND.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined as subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS.—In the case of a dividend received from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest received by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as aggregate interest received bears to gross income.

"(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

"(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received for the taxable year, and

"(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

"(4) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, the term 'aggregate interest received' means only interest described in section 116(c)(1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243(c)(2)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980 and before January 1, 1983.

And the Senate agree to the same.

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

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES VANIK,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
WILLIAM R. COTTER,
PETE STARK,
BARBER B. CONABLE, Jr.,
Managers on the Part of the House.

RUSSELL B. LONG,
H. E. TALMADGE,
HARRY F. BYRD, Jr.,
GAYLORD NELSON,
MIKE GRAVEL,
LLOYD BENTSEN,
DAN MOYNIHAN,
BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and Senate at the conference on the disagreeing votes of the two-Houses on the amendment of the Senate to the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil submit the following joint statement to the House and the Senate as an explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

I. WINDFALL PROFIT TAX

The windfall profit tax is a temporary excise, or severance, tax applying to domestically produced crude oil. All taxable oil is classified into one of several tiers. The structure of the tax is essentially the same for all tiers: the tax equals the tax rate times the taxable windfall profit, which equals the selling price of the oil minus an adjusted base price and minus a deduction for State severance taxes on the windfall profit. The tiers differ in the tax rate which is applied, in the adjusted base price which is used, and in some other respects. Certain kinds of producers are either entirely exempt from the tax, or eligible for reduced tax rates, on part or all of their production.

1. Tier One Oil

House bill.—Under the House bill, oil which would have been controlled as lower or upper tier oil under pre-June 1979 Department of Energy (DOE) price control regulations (i.e., the regulations in effect prior to the Administration's phased decontrol program) is taxed in one of two tiers. Tier one includes oil produced on a property which would have been lower tier oil under the old regulations and which is below the amount represented by a 1.5-percent decline curve. Tier two includes oil which would have been upper tier oil under the old regulations, oil in excess of the decline curve, marginal oil, and front-end tertiary oil. Alaskan oil, stripper oil, newly discovered oil and incremental tertiary oil are included in tier three. Tier two merges into tier three between 1986 and 1990.

The tax rate is 60 percent for both tier one and tier two. The tier one base price is the May 1979 lower tier ceiling price (which averaged $5.91 per barrel), and the tier two base price is the May 1979 upper tier ceiling price (which averaged $13.02).

Senate amendment.—The Senate amendment adds several new categories of oil to tier two: high water-cut oil, Cook Inlet oil, oil from the Sadlerochit Reservoir on Alaska's North Slope, and deep marginal oil. It makes some technical changes to the 1.5-percent decline curve. It also raises the tax rate on tier one and tier two to 75 percent, eliminates the merger of tier two into three between 1986 and 1990, and reduces the tier two base price to the May 1979 upper tier ceiling minus 25 cents.

Conference agreement.—The conference agreement combines tiers one and two into a new, expanded tier one of the tax. The merged tier one includes essentially all of the oil taxed in either tier one or tier two of the Senate amendment. More precisely, tier one includes all taxable oil except oil specifically included in a higher tier; i.e., stripper oil, oil from a National Petroleum Reserve, newly discovered oil, heavy oil and incremental tertiary oil. The merger of tiers one and two in the conference agreement eliminates about one-half the complexity of the House and Senate versions of the tax.

The tax rate on the new tier one in the conference agreement is 70 percent. (However, independent producers are given a special 50-percent rate, described in item 25 below, on up to 1,000 barrels a day.) The tier one base price on a property is the May 1979 upper tier ceiling price for the property reduced by 21 cents. The conference agreement follows the Senate amendment in not phasing out this tier between 1986 and 1990.

Although the conferees have eliminated special tax treatment for high water-cut crude oil through the merger of tier one and tier two, the conferees reemphasize the important contribution of high water-cut crude oil to our domestic supplies.

The conferees want to make clear that consideration by the Department of Energy, through rule-making or otherwise, of special price treatment for this important category of oil is deemed appropriate. The conferees were satisfied that the mechanism in the Senate bill requiring the taxpayer's affirmative qualification is administratively workable and could, therefore, be utilized by the Department of Energy.

2. Front-End Tertiary Oil

House bill.—Under a DOE rule adopted in August 1979, producers who invest in enhanced oil recovery projects before October 1981 are allowed to deregulate the price of specified volumes of price-controlled oil (called front-end tertiary oil) to finance that investment. The additional revenue received by the producer for the deregulated front-end tertiary oil is limited to the lesser of 75 percent of specified tertiary expenses actually incurred or $20 million per project or property. Under this DOE rule, producers may deregulate oil produced from properties other than the one on which the project is located.

Under the House bill, front-end tertiary oil is taxed in tier two.

Senate amendment.—The Senate amendment generally is the same as the House bill. However, front-end tertiary oil sold after September 30, 1980, to finance projects using carbon dioxide or chemical surfactant processes is exempt from tax.

Conference agreement.—Oil that DOE deregulates as front-end tertiary oil is generally exempt from the windfall profit tax if the project is controlled by producers who were independent producers (as defined for purposes of reduced windfall profit tax rates) for the fourth quarter of 1979. For these projects, all of the front-end tertiary oil deregulated in connection with the project (including any produced by a major company) is exempt with two exceptions. First, oil which could have been released from crude oil price controls under any other part of the DOE pricing regulations cannot qualify for this exemption. Second, oil deregulated to finance prepaid expenses cannot qualify.

If the tertiary project for which front-end oil is being deregulated is controlled by major oil companies, all front-end tertiary oil related to that project is subject to tax (including any produced by an independent producer). However, a tax refund is available for windfall profit taxes paid on the front-end tertiary oil to the extent that qualifying recoupable tertiary recovery expenditures for the project under the DOE regulations exceed the amount actually recouped under the front-end financing program. As with projects controlled by independent producers, prepaid expenses cannot qualify for the refund, nor can oil which could have been deregulated under any other price control provision.

This provision applies only to front-end tertiary oil deregulated under the August 1979 energy pricing regulations as those regulations took effect on October 1, 1979, except for changes in those regulations designed specifically to take into account the windfall profit tax itself.

A tertiary project is considered controlled by a major oil company if more than 50 percent of the operating mineral interest in the property (or portion thereof) on which the project is being undertaken was owned, directly or indirectly, by or for major oil companies on January 1, 1980. Ownership of the front-end tertiary oil itself is irrelevant for this purpose. A major oil company is any producer who is defined as being ineligible for percentage depletion on oil and gas income because it is a retailer or refiner of oil or gas.

The conference agreement does not allow the front-end tertiary exemption or refund for front-end tertiary oil deregulated by DOE to finance tertiary expenditures attributable to periods after September 30, 1981 (prepaid expenses). For this purpose, fuel or tertiary injectants are attributable to periods prior to October 1, 1981, if used or injected before that date. Other items are treated as attributable to periods before October 1, 1981, to the extent that income tax deductions for the item (including depreciation in respect of the item) are properly allocable to periods before October 1, 1981. Therefore, expenses paid outside the normal course of business for items which ordinarily would not be taken into account prior to October 1, 1981, are not allowed expenses for purposes of the windfall profit tax; that is, front-end tertiary oil deregulated to finance those expenses is not exempt or eligible for the refund.

However, some pre-October 1, 1981, expenditures may constitute "allowed ex-

penses," even though they represent items completed, placed in service, or used after that date, to the extent that income tax deductions (including depreciation) are properly allocable to the item for periods before October 1, 1981. Such a determination depends upon the circumstances involved, and must be made on a case-by-case basis. For example, an expenditure could be treated as an "allowed expense" if its disbursement is in the ordinary course of business and is for a service which reasonably could be expected to be performed prior to October 1, 1981. This reasonable expectation requirement could be satisfied if such a service would have been completed prior to October 1, 1981, but for the occurrence of an event beyond the producer's control, e.g., an act of God, a severe mechanical breakdown, or an injunction. An act of God could include a strike, and injunctions could include restraining orders.

In the case of producers of front-end tertiary oil deregulated for projects controlled by major oil companies, producers are entitled to a refund of windfall profit tax previously paid on the front-end tertiary oil equal to the difference between the amount of qualifying expenses actually incurred and the amount of those expenses recouped by the release of controlled oil to the market price. Refunds would be available after September 30, 1981, for the entire period March 1, 1980, to September 30, 1981. As an alternative to obtaining a tax refund, these producers may adjust their tax withholding for taxable periods after September 30, 1981, in a manner prescribed by regulations.

3. Oil Taxed in Tier Two

House bill.—Tier three of the House bill, which is renumbered as tier two under the conference agreement because of the merger of tiers one and two into a new, expanded tier one, consists of all oil not taxed in tiers one and two. This includes (1) stripper oil, (2) oil produced on a National Petroleum Reserve, (3) oil released to tier three after 1990 by virtue of the phaseout of tiers one and two, (4) newly discovered oil, (5) oil from the Sadlerochit Reservoir in Alaska, and (6) incremental tertiary oil. However, the basic tier three rules apply only to the first three of these six categories; various special rules apply to the others.

Senate amendment.—Tier three includes stripper oil, newly discovered oil, incremental tertiary oil and heavy oil, but the basic tier three rules apply only to stripper oil.

Conference agreement.—Tier three is renumbered as tier two because of the merger of tiers one and two. Tier two includes stripper oil and oil produced on a National Petroleum Reserve in which the United States has an economic interest.

4. Computation of Tier Two Tax

House bill.—The House bill generally taxes oil in this tier at the rate of 60 percent. The base price is $16 adjusted for grade, quality, and location. The precise base price for a particular property is to be determined under regulations issued by the Treasury. The base price is adjusted for inflation occurring after June 30, 1979.

Senate amendment.—The Senate amendment follows the House bill except that the base price is $15.30, adjusted for grade, quality and location, and is adjusted for inflation after December 31, 1978.

Conference agreement.—The conference agreement has a 60-percent rate for tier two oil and a base price of $15.20, adjusted for grade, quality and location. (However independent producers are given a special 30-percent rate, as described in item 25 below, on up to 1,000 barrels a day.) The base price is adjusted for inflation after June 30, 1979.

The conference agreement uses a somewhat different formula for determining the specific tier two base price for a particular property than does either the House or Senate bill. The principal change is to provide a precise formula which producers will use to determine their base prices for specific properties until a permanent base price formula is published in Treasury regulations. Also, the standards to be used by the Treasury in these regulations are clarified.

Under the interim rule, the tier two base price on any property is the highest posted price for December 31, 1979, for uncontrolled oil of the same grade, quality and field multiplied by the fraction 15.20/35.00. If there was no December posting for such oil, the producer is to use the December 1979 posting for oil of the same grade and quality in the nearest domestic oil field for which prices for oil of that grade and quality were posted for December 1979. No postings made after January 14, 1980, are to be taken into account. This cut-off prevents purchasers from raising base prices artificially by increasing posted prices retroactively for December. This formula is intended to achieve an array of base prices such that oil of national average grade, quality and location (excluding North Slope Alaskan oil, whose wellhead price is affected by the extraordinary transportation costs) would have a base price of $15.20 and oil of above- or below-average grade, quality and location will have a proportionately higher or lower base price. The data on December 1979 prices for uncontrolled oil posted as of January 14, 1980, suggest that 35 is the proper denominator in the fraction to achieve this result.

To ensure that this formula does not unduly penalize producers in fields where December 1979 posted prices are unusually low, there is a minimum tier two base price equal to the property's May 1979 upper tier ceiling price plus $1.00. Without this minimum base price, some properties would have had a tier 2 base price less than their May 1979 upper tier ceiling price.

For a posted price to qualify for use in determining a producer's base price, the price has to be published in writing by a purchaser of a substantial volume of crude oil in the field. A posted price does not, for example, include a price offered by a purchaser who simply offers to buy oil at a figure (say) $1 higher than whatever prices are posted by the purchasers who are purchasing most of the oil in a particular oil field.

The Treasury regulations prescribing the permanent method of determining tier two base prices must estimate the price at which oil from a particular property would have sold in December 1979 if all domestic oil had been uncontrolled and the average price for domestic crude oil, other than North Slope Alaskan oil, had been $15.20. Thus, if oil from a particular property typically sells for 80 percent of the price of oil of national average grade, quality and location, based on market price differentials prevailing in December 1979, its tier two base price should generally be 80 percent of $15.20, or $12.16.

The conferees did not simply adopt the interim rule as the permanent rule because the interim rule may not lead to a situation in which the tier two base price for oil of national average grade, quality and location equals $15.20 and because the interim rule may not be equitable for all categories of oil. The $35 price used in the denominator is based on preliminary data for prices for December 1979 posted as of January 15, 1980, and better data available later in 1980 will permit the Secretary to make a better estimate. The Secretary may want to take into account the increase in December postings which occurred in late January and February, although this may require raising the denominator above $35. Also, the Secretary may determine, after analyzing the data, that a formula based on actual selling prices, not posted prices, would be more accurate.

The conferees are aware that the interim rule may lead to inequities in the case of oil produced in California and certain other areas because its December 1979 price was much lower, relative to the national average, than it had been in prior years and is likely to be in the future. That is why the conferees included the minimum interim base price. The guidelines in the conference agreement give the Secretary enough flexibility to devise a permanent solution to this problem.

The interim rule applies until October 1980 or whatever earlier date is provided by Treasury regulations effective before that earlier date. It is intended that the Secretary publish the permanent rule and make it effective as quickly as possible.

5. Computation of Tier Three Tax

House bill.—Special rules apply to newly discovered oil and incremental tertiary oil. The tax rate is 50 percent on the first $9 of windfall profit (with no severance tax deduction on that amount) and 60 percent of any additional windfall profit (with a severance tax deduction). The base price is $17, adjusted for grade, quality and location. The inflation adjustment to the base price is for inflation after June 1979 plus a "kicker" of 2 percent per year.

Senate amendment.—Incremental tertiary oil and heavy oil are taxed at a 20-percent rate with a severance tax deduction. The base price is $16.30, adjusted for grade, quality and location. The inflation adjustment is for inflation after December 1978 plus a 2-percent "kicker." The rules for newly discovered oil are the same, except that the tax rate is 10 percent and the base price is $19.30, adjusted for grade, quality and location.

Conference agreement.—Newly discovered oil, incremental tertiary oil, and heavy oil comprise tier three. The tax rate is 30 percent with a severance tax deduction. The base price is $16.55, adjusted for grade, quality and location. Specifically, the tier three base price on a particular property is to be determined exactly like the tier two base price, as described above in item 4, except that "$16.55" is to be substituted for "$15.20" in the formulas. Also, the minimum tier three base price under the interim rule is to be the May 1979 upper tier ceiling price plus $2. The inflation adjustment is for inflation after June 1979 plus the 2-percent "kicker."

6. Definition of Newly Discovered Oil

House bill.—Newly discovered oil generally has the same definition as under price controls. However, oil produced from a property which produced any oil in commercial quantities after 1969, and prior to 1979, does not qualify as newly discovered oil. In addition, newly discovered oil does not include oil produced from a reservoir on any tract or parcel of land if the reservoir was penetrated after 1969, and prior to 1979, by a well on that tract or parcel from which oil was produced in commercial quantities if oil could have been produced from the penetrated reservoir through that well prior to 1979.

Senate amendment.—Newly discovered oil is defined as it is under price controls. The Secretary's general authority to adopt price control regulations for use in the windfall profit tax includes the authority to make technical amendments to the pricing definition (see item 28 below).

Conference agreement.—The conference agreement follows the Senate amendment. For windfall profit tax purposes, therefore, newly discovered oil includes production from a property which did not produce oil in commercial quantities during calendar year 1978. Thus, it includes production from a property on which oil was produced in 1978 if that production was incident to the drilling of exploratory or test wells and was

not part of continuous or commercial production from the property during 1978.

7. Definition of Incremental Tertiary Oil—Overview

House bill.—Incremental tertiary oil is production in excess of a decline curve on a property (or portion thereof) on which a qualified tertiary project is undertaken. Remaining production is taxed proportionately in other tiers.

Senate amendment.—The definition of incremental tertiary oil is essentially the same as the House bill, except that there are changes to the definition of what is a qualifying project, how qualification of projects is to be established, and the decline curve.

Conference agreement.—The conference agreement includes provisions from both the House bill and the Senate amendment, described in items 8–11 below.

8. Qualified Tertiary Methods

House bill.—Under the House bill, a tertiary recovery method is any of the following: (1) miscible fluid displacement, (2) steam water injection, (3) microemulsion, (4) in situ combustion, (5) polymer augmented water flooding, (6) cyclic steam injection, (7) alkaline flooding, (8) carbonated water flooding, and (9) immiscible carbon dioxide displacement. In addition, the Secretary may approve other tertiary enhanced recovery methods.

Senate amendment.—The Senate amendment is the same as the House bill except that the Senate amendment clarifies that tertiary processes do not include water flooding or immiscible natural gas injection.

Conference agreement.—The conference agreement is the same as the Senate amendment.

9. Qualified Tertiary Recovery Projects

House bill.—A qualified tertiary recovery project is either (1) a project with respect to which a DOE-reviewed certification is in effect for pricing purposes, or (2) a self-certified project for the tertiary recovery of oil which meets the following requirements of the tax: (1) it involves the application of tertiary recovery methods; (2) the methods are applied in accordance with sound engineering principles; (3) the application of the tertiary recovery methods reasonably can be expected to result in a significant increase in the amount of oil which ultimately will be recovered from the property, or the project area, above the amount which reasonably could be expected to be recovered in the absence of the project; (4) the project could not be expected to be economic without the preferential tax treatment; (5) the project's beginning date is after May 1979; and (6) the operator submits to the Secretary such information, forms, and certifications as may be required (including any certifications that the project continues to meet the tax's specifications). A significant expansion of a project after May 1979 is considered to be a new project.

Under the House bill, self-certified projects are subject to the generally applicable rules pertaining to IRS reviews upon audit examination.

Senate amendment.—The Senate amendment deletes the requirements that the projects be certified as being uneconomic without preferential tax treatment and that the expected increase in production be significant.

The Senate amendment allows projects to be certified as qualifying for tax purposes by nontax regulatory agencies and subjects these projects to somewhat different rules than self-certified projects. Regulatory certification may be issued by a competent government regulatory body, such as the U.S. Geological Survey (in the case of lands managed by any Federal agency or the Outer Continental Shelf) or the appropriate State agency designated by the Governor of the State in which the project is located.

A regulatory certification remains effective for tax purposes, even if subsequently revoked by the regulatory body, unless (1) a material fact was misrepresented by the producer or its agent in obtaining the certification or (2) the project was not implemented and operated in a manner reasonably consistent with the plan upon which the certification was based.

Under the Senate amendment, a "substantial evidence" rule applies for audit examination reviews of projects certified by a regulatory body. Under this rule, a project's qualification would stand unless the IRS established that the certification was not supported by substantial evidence or presented substantial evidence that the project did not qualify for certification. In making such a determination, the IRS could "go behind" the certification issued by the regulatory body. If the IRS met the substantial evidence rule, the producer then could introduce additional evidence to sustain the qualification of the project. At that point, the usual rules pertaining to audit examination reviews which apply to self-certified projects would apply.

In the case of a tertiary project certified by a regulatory body, producers could apply for an advance IRS determination on the windfall profit tax status of the project.

Conference agreement.—The conference agreement follows the Senate amendment with some modifications.

First, the requirement that a project reasonably be expected to result in an increase in production is changed to an expectation that there be more than an insignificant increase in production. The determination of whether an expected increase is more than insignificant depends upon the facts and circumstances of each case. When a tertiary project is expected to affect a portion of a property, that portion is treated as a separate property; therefore, significance is measured in relation to total production only on the portion of the property treated as a separate property.

Second, the conference agreement provides that, except in the case of DOE certified projects and significant expansions of pre-June 1979 projects, qualifying projects must begin after May 1979.

Third, the conference agreement deletes the provision of the Senate amendment relating to circumstances in which the tax law would continue to recognize regulatory certifications which have been revoked. If a regulatory body revokes its certification of a project, the project is treated as having been self-certified. To qualify for preferential tax treatment, therefore, such a project would have to meet the tax requirements pertaining to self-certified projects.

Fourth, the conference agreement retains the Senate amendment's advance ruling procedure for regulatory certified projects, but clarifies that such a ruling must be issued within 180 days of the time that the request, together with the information necessary to make a determination, is submitted to the Secretary. Whether information adequate to make such a ruling has been submitted to the Secretary is to be an objective determination.

The conference agreement retains the provisions of the House bill that significant expansions of tertiary projects are treated as new projects. Generally, such expansions would include any which could qualify as expansions under the June energy regulations. Pre-June 1979 projects which were curtailed significantly before 1980, and which were expanded to the average pre-curtailment level after that date, would qualify under this provision. A project would be considered to have been curtailed significantly, for example, if the average post-curtailment concentration of injected gases was reduced by 35 percent or more from the average pre-curtailment concentration of injected gases. For purposes of making this determination, the entire pre-curtailment project area would be compared with the same area after the curtailment. The conferees also clarified that expansions of otherwise qualifying projects could include a significantly more intensive use of a tertiary recovery method, or a significant expansion of tertiary activities, within a project area.

10. Continuing Tertiary Qualification

House bill.—A project generally is qualified only so long as the tertiary method continues to affect the reservior. Thus, oil produced after the discontinuation of a tertiary project no longer is considered to be eligible for classification as incremental tertiary oil if the process' effect on the reservoir has terminated.

Senate amendment.—A project generally is qualified only so long as the tertiary method continues to be used in, or affects, the reservoir in accordance with the plan. There is however, a special rule, applicable only to regulatory certified projects, which applies after the termination of tertiary injections. A regulatory certified project may retain its qualification after the discontinuation of the tertiary process if (1) the project was implemented and operated in accordance with sound engineering principles and with the regulatory approved plan (or an approved modification of such a plan), (2) the regulatory approval has not been revoked, (3) a continuation of the discontinued process is certified by a petroleum engineer as being ineffective or counterproductive, and (4) the certifying agency certifies that a continuation of the discontinued process would be ineffective or counterproductive.

Conference agreement.—The conference agreement generally follows the House bill in allowing production from a project to qualify only so long as the tertiary process affects that production and the project is in effect. Generally, qualification would be retained for the period which is specified, in accordance with sound engineering principles, in the project's certified plans. This period normally would be determined on a case-by-case basis, depending upon such factors as the size of the project, the characteristics of the reservoir, and the particular process involved. For instance, some steam injection processes, *e.g.*, cyclic steam injection, are interrupted periodically to produce oil (together with condensed steam) from the same well or wells which are used for the injections. Under the conference agreement, each oil producing interval of such a process would have to be scheduled in light of sound engineering principles and of the transitory effect of the injections. Therefore, if the injections were terminated, production no longer would qualify as incremental tertiary oil after the last injection could no longer reasonably be expected to affect the reservoir. Similarly, some recovery processes, *e.g.*, miscible (carbon dioxide) fluid-displacement, microemulsion flooding, or polymer augmented flooding, may not require continuous or sustained injections of tertiary gases or liquids to have the process affect production from the reservoir. For example, some carbon dioxide injection processes may result in the creation of artificial pressure in a reservoir. Such artificial pressure may allow oil displacement for a period beyond the time during which there are injections. Assuming that an adequate amount of carbon dioxide, as determined in accordance with the plan and sound engineering principles, was pumped into the reservoir, the production could qualify as incremental tertiary oil in the absence of contemporaneous injections.

11. Tertiary Decline Curve

House bill.—Incremental tertiary oil is the amount of production from a property, on which a producer uses a qualified tertiary recovery method, in excess of a statutory base level amount for that property. The base level is the average daily amount of oil removed from the property during the 6-month period ending March 31, 1979, reduced by the sum of (1) 1 percent of that average for each month beginning after 1978, and before the beginning date of the project, and (2) 2½ percent for each month thereafter. However, special rules apply in connection with DOE-certified projects which have an incremental production level for price controls in excess of the statutory decline curve in the House bill, and also for project certifications obtained from DOE prior to 1979.

A project's beginning date, after which the 2½-percent decline rate commences, is that point at which the tertiary method significantly affects the reservoir. Incremental tertiary oil comes pro rata from oil which would have been in either tier one or tier two but for the implementation of the project.

Senate amendment.—Incremental tertiary is defined in a manner similar to that in the House bill. However, the base level is reduced by the sum of: (1) the greater of (i) 1 percent of the average amount for each month beginning after 1978, and for the month of the beginning date of the project, or (ii) the actual average monthly decline rate for the project area for each month specified in (i), multiplied by the number of months after 1978, including the month of the project's beginning date, and (2) 2½ percent for each month thereafter.

The project's beginning date, *i.e.*, the time after which production may qualify as incremental tertiary oil, is the later of (1) the date of submission to the Secretary of the producer's regulatory certification or self-certification, or (2) the date on which the tertiary injectant initially is introduced into the reservoir. Incremental tertiary oil comes pro rata from oil which would have been in tiers one, two, or three but for the implementation of the project.

Conference agreement.—The conference agreement follows the House bill in using a 1-percent decline rate before the project beginning date, and it follows the Senate amendment in defining the project beginning date and providing a 1-percent decline for the month of the project beginning date.

In the case of a pilot project, tertiary injections in the area of the pilot project would determine the beginning date of the pilot project but not the beginning date of any subsequent full scale project affecting a larger area.

12. Definition of Heavy Oil

House bill.—No provision.

Senate amendment.—The Senate amendment defines heavy oil as (1) oil from a property which had a weighted average gravity of 16.0 degrees API or less for the last month of production prior to July 1979 or (2) oil from a property with a weighted average gravity of 16 degrees API or less for the taxable period. Because the weighted average gravity of the oil is determined for particular taxable periods, production from a property may qualify as heavy oil for one taxable period but not for another taxable period. Similarly, if production can satisfy the requirements of the energy regulations pertaining to production from a single well with multiple completions which constitute separate properties (FEA Ruls. 75–42, 77–2), oil from one of the completion locations which satisfies the gravity requirements could be treated as heavy oil for any relevant taxable period.

Conference agreement.—The conference agreement follows the Senate amendment.

13. Exempt Alaskan Oil

House bill.—The House bill exempts from tax all oil produced from wells north of the Arctic Circle other than oil from the Sadlerochit reservoir at Prudhoe Bay (Sadlerochit oil).

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment by exempting from tax oil produced from wells located north of the Arctic Circle (including production from the Lisburne and Kuparuk formations in the Prudhoe Bay oil field) other than Sadlerochit oil; however, it expands this exemption to include additional oil, Alaskan oil, other than Sadlerochit oil, is exempt if it is from a well that produces oil from a reservoir that has been commercially exploited by a well located north of the Arctic Circle. Also, Alaskan oil south of the Arctic Circle, but north of the divide of the Alaska-Aleutian mountain range, is exempt from the windfall profit tax if it is produced from a well at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

The exemption of Alaskan oil production for the designated locations reflects the concern of the conferees that taxation of this production would discourage exploration and development of reservoirs in areas of extreme climatic conditions.

14. Computation of Tax on Sadlerochit Oil

House bill.—The House bill taxes Sadlerochit oil at the rate of 50 percent on the difference between the average monthly wellhead selling price of the oil and $7.50 a barrel, adjusted for inflation and for declines in the real value of the Trans-Alaska Pipeline System (TAPS) tariff. The inflation adjustment is made for inflation after June 30, 1979. The TAPS adjustment is the excess, if any, of $6.26, adjusted for inflation after June 30, 1978, over the actual TAPS tariff. The House bill does not permit a deduction for State severance taxes imposed on Sadlerochit oil.

Senate amendment.—Sadlerochit oil is taxed in tier two like other upper tier oil with two variations on the general rules for upper tier oil. First, the adjusted base price for Sadlerochit oil may be increased to reflect any decrease in the TAPS tariff below $6.26 a barrel. The $6.26 is not adjusted for inflation as it is under the House bill. Second, the tax on Sadlerochit oil is calculated on the basis of monthly average removal prices for each producer, as in the House bill.

Conference agreement.—The conference agreement follows the Senate amendment and includes Sadlerochit oil in the merged tier one.

15. Property Transfers

House bill.—Oil produced from a portion of a property transferred after 1978 is not to constitute stripper or newly discovered oil if the oil would not have qualified as stripper or newly discovered oil had the property not been transferred. In addition, in the case of post-1978 transfers of any portion of a property, the bill requires allocation of the base production control level among the portions of the divided property.

Senate amendment.—The property transfer rule in the House bill is extended to marginal, heavy and high water-cut oil, in addition to stripper and newly discovered oil.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment with respect to property transfers in defining stripper, newly discovered and heavy oil.

16. Inflation Adjustment

House bill.—The inflation adjustments required by the bill are to be computed quarterly by using the first revision of the GNP deflator. The inflation adjustment for lower tier and upper tier oil adjusts for inflation after December 31, 1978. The adjustment for other oil is for inflation after June 30, 1979. However, in each case the adjustments are lagged by two quarters; i.e., the inflation adjustment for lower and upper tier oil for the first quarter of 1980 equals the inflation between the fourth quarter of 1978 and the third quarter of 1979.

Senate amendment.—All inflation adjustments are calculated quarterly on the basis of inflation after December 31, 1978, using the GNP deflator, with the same two-quarter lag that is in the House bill.

The Senate amendment also provides that the Secretary may make appropriate modifications to the inflation adjustment to reconcile it to that used for pricing purposes.

Conference agreement.—The conference agreement provides that all base prices are adjusted for inflation after June 30, 1979, with the two-quarter lag. Therefore, the inflation adjustment for the first quarter of 1980 equals the inflation between the second and third quarters of 1979, and the adjustment for the second quarter of 1980 equals the inflation between the second and fourth quarters of 1979. The Secretary may not make modifications to the inflation adjustment to conform it to DOE adjustments.

17. Treatment of State Severance Taxes

House bill.—There is a deduction in computing the taxable windfall profit for the State severance tax imposed on the windfall profit element of the price of a barrel of oil. The deduction equals the difference between the actual severance tax and the tax which would have been imposed had the oil been sold at its adjusted base price. This deduction is limited to the amount of severance tax that would have been imposed on the windfall profit at the rate of tax in effect on March 31, 1979. Also, the deduction is not available for the first $9 of windfall profit on newly discovered or incremental tertiary oil, nor for any windfall profit on Sadlerochit oil.

Senate amendment.—The severance tax deduction applies to all taxable oil. Post-March 31, 1979, increases in the rate of severance tax are taken into account if the increase applies to the entire removal price of the barrel. The fact that a State severance tax does not apply to a particular type of oil, such as royalty oil paid to the Federal or, State Government or newly discovered oil, does not affect the availability of severance tax adjustment, as long as the severance tax applies to the entire price of those barrels which are subject to tax.

The Senate amendment also provides that severance taxes properly imposed by Federally recognized Indian tribes are treated in the same manner as State severance taxes.

Conference agreement.—The conference agreement follows the Senate amendment except that a severance tax may not be taken into account to the extent that total rate of severance tax imposed by a State exceeds 15 percent, and no deduction is allowed for Indian severance taxes. The conversion of a severance tax levied as a fixed fee paid per barrel into a tax levied as a percentage of the gross value of oil removed constitutes an increase in the severance tax on the windfall profit element of the selling price. Thus, such a conversion would have to satisfy the limits on post-March 1979 increases in State severance taxes before a severance tax adjustment would be available with respect to such a converted tax.

For purposes of the windfall profit tax, a State severance tax is a tax on the removal of crude oil from the ground, levied by a State, but not by a political subdivision of a State, as a percentage of the gross value of the crude oil removed. Any State tax that meets this definition, regardless of its official name or title, is treated as a severance tax. A tax levied on the value of reserves or on the basis

of net proceeds from production is not a severance tax. Although a tax on the removal of crude oil from the ground levied as a fixed fee per barrel generally is considered a severance tax, the formula for calculating the severance tax adjustment in the House bill, the Senate amendment and the conference agreement would not allow an adjustment for such a tax because the amount of that tax would be the same whether levied on the adjusted base price or on the removal price of a barrel of oil. Thus, a tax levied as a fixer fee per barrel is not considered a severance tax for purposes of the windfall profit tax.

18. Removal of Oil

House bill.—Generally, the tax is imposed when the oil is removed from the premises. If the manufacture or conversion of crude oil into refined products begins before actual removal, the oil is treated as removed on the day the manufacture or conversion begins.

Oil returned to the property from which it was produced, either by reinjection or through the powering of production processes or equipment, is not considered sold or removed from the premises for windfall profit tax purposes. Therefore, no tax is imposed on the on-site use of oil to generate power for an artificial lift device, or a water flood project, or a tertiary injection process. However, powerhouse oil removed from the property prior to its use or oil used to power refining or manufacturing process on the property is subject to tax.

For purposes of computing the tax, the removal price means the amount for which the barrel is sold. In the case of related parties (as defined in section 103(b)(6)(C)), the removal price is not less than the constructive sales price for purposes of determining gross income from the property under section 613. This constructive sales price also applies where removal occurs before sale, including where refining is begun on the premises.

Senate amendment.—The Senate amendment follows the House bill. In addition, under the Senate amendment, the Secretary may make appropriate adjustments in transactions between unrelated parties so that the removal price properly reflects the fair market value of the oil.

Conference agreement.—The conference agreement is the same as the Senate amendment. However, the conferees recognize that due to differences in the definition of the word "property," a producer could have a single, undivided piece of land which constitutes many DOE "properties," even though they are contiguous and not even divided by a public road. The conferees wish to clarify that, in such a case, "powerhouse" fuel produced on one section of a single undivided piece of land is not taxable if it is used on another section of the same piece of land as powerhouse fuel and never leaves the piece of land on which it is produced. The windfall profit tax treatment of such oil is to have no implication for its treatment for various income tax purposes.

19. Taxable Income Limitation

House bill.—The taxable windfall profit on a barrel of oil may not exceed the net income attributable to the barrel. In applying this limitation, net income attributable to a barrel generally is determined on the basis of taxable income; however, special rules are provided for the treatment of depletion and of intangible drilling and development costs to recompute these items on the basis of cost depletion for all periods. The bill provides a special rule for determining the taxable income limit in the case of certain transfers of proven oil or gas properties after 1978.

Senate amendment.—The Senate amendment basically is the same as the House bill except that the taxable windfall profit is limited to 90 percent of net income. In addition, the amendment provides that a transferee of a proven property may take into account amounts which the transferor could have taken into account for purposes of determining the imputed cost depletion deduction.

Conference agreement.—The conference agreement follows the Senate amendment and, in addition, provides that for purposes of the 90-percent net income limitation, the producer may elect to treat qualified tertiary injectant costs as if they had been capitalized and recovered through cost depletion. This election would be made in the year injections are first made on a property.

20. Taxable Person—General Rule

House bill.—The windfall profit tax is imposed upon the removal of taxable crude oil on the producer of the oil, defined as the person who owns the economic interest in the oil.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment with two changes.

First, it provides specifically that no persons are exempt from the windfall profit tax (or treated specially) unless an exemption for them is provided explicitly in the Crude Oil Windfall Profit Tax Act of 1980 or future legislation. The conferees are unaware of any treaties which would provide an exemption from this tax in the absence of this provision. However, in the event that the legislation does conflict with any treaty obligations of the United States, the conferees intend that the legislation prevail.

Second, in the case of oil owned by partnerships, the tax is imposed directly on the partners on their proportionate share of the partnership's production. For purposes of applying Subchapter K, the windfall profit tax is not to be treated as a partnership deduction, but any amount withheld from the partnership by a purchaser shall be treated as a distribution of money by the partnership to the partner.

21. Federal, State and Local Governments

House bill.—The House bill provides that if an economic interest in crude oil is held by a State or political subdivision thereof, or by an educational institution which is an agency or instrumentality of any of the foregoing, and under the applicable State or local law all of the net income received pursuant to such interest is dedicated to public education or to a permanent fund the income from which is dedicated to public education, then the windfall profit tax would not be imposed with respect to crude oil properly allocable to such interest. The exemption would not apply to the extent another party had an economic interest in the production.

Federal royalty oil, including oil production from a National Petroleum Reserve and royalties from Federal leases, is subject to tax under the House bill.

Senate amendment.—The senate amendment extends the House bill's exemption to oil used for any public purpose.

The Senate amendment also exempts from tax oil production owned by the Federal government.

Conference agreement.—The conference agreement follows the Senate amendment with respect to oil owned by State and local governments, and the House bill with respect to oil owned by the Federal government.

22. Medical and Educational Charities

House bill.—No provision.

Senate amendment.—The Senate amendment provides that oil produced from properties owned by medical facilities and educational institutions is exempt from the windfall profit tax if the properties were owned by the medical facility or educational institution on October 24, 1979, or if the medical facility or educational institution receives the property as a bequest after October 24, 1979.

The exemption also applies to oil produced from interests held by a church on October 24, 1979, if the net proceeds from production of such oil were dedicated, by appropriate official action of the church prior to October 25, 1979, to the support of a medical facility or educational institution. Other organizations which are not educational institutions or medical facilities are not entitled to the exemption even though the proceeds from oil produced by them may be used entirely to support a medical facility or educational institution.

A technical error in the Senate amendment limits the exemption to educational institutions and medical facilities that are neither publicly supported organizations within the meaning of section 509(a)(2) nor organizations operated exclusively for the benefit of, or controlled by, a publicly supported organization. By reason of the same technical error, the amendment is not limited to charitable organizations.

Conference agreement.—The conference agreement follows the intent of the Senate amendment and exempts oil production by a charitable educational institution or a charitable medical facility from interests held by the qualified charities on January 21, 1980. In addition, oil produced from interests held by the qualified charities on January 21, empt from the tax only if prior to January 22, 1980, the net proceeds from production of such oil were dedicated to the support of a medical facility or educational institution. Production from an interest in oil received, as a bequest or otherwise, after January 21, 1980, is not eligible for the exemption.

23. Indian Oil Production

House bill.—No provision.

Senate amendment.—The Senate amendment exempts from tax oil production owned or received by Indian tribes, tribal organizations, and individual Indians over whom the United States exercises trust responsibilities. It also exempts from tax oil production owned by Alaska Native Corporations.

Conference agreement.—The conference agreement generally follows the Senate amendment except that the exemption is available only with respect to production from mineral interests held by, or on behalf of, Indian tribes or individual Indians on Januray 21, 1980. The exemption also applies to the oil production of any Alaska Native Corporation organized under the Alaska Native Claims Settlement Act from interests received pursuant to that Act if the oil is produced prior to 1992, when the stock of such corporations may be traded. The exemption applies when the proceeds from the sale of oil are paid into the U.S. Treasury to the credit of tribal or native trust funds pursuant to provisions of law in effect before January 22, 1980.

24. Production Payments

House bill.—The only case in which the House bill imposes the tax on a person other than the holder of the economic interest in the oil is that of a production payment which involves payment of oil to someone until such time as the total cumulative payment has added up to a fixed number of dollars (as opposed to a fixed number of barrels). In these cases, the bill shifts the tax burden to the holder of the residual interest.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the Senate amendment.

25. Independent Producers

House bill.—No provision.

Senate amendment.—The Senate amendment provides an exemption from the tax for the first 1,000 barrels a day of otherwise taxable oil produced by independent producers and certain royalty owners after

September 30, 1980. Independent producers are working interest owners eligible for percentage depletion under section 613A(c). Royalty owners also are eligible for the exemption, but only to the extent the working interest in their properties is owned by independent producers.

The Senate amendment also provides that Members of the Ninety-sixth Congress and their families are not eligible for the exemption.

In the case of a partnership, the qualified production of the partnership is reduced to reflect the proportion of non-eligible partners' (*i.e.*, integrated companies') interest in the production. The reduced amount is then allocated proportionately to the eligible partners. Each partner's exemption then is limited to 1,000 barrels a day from all sources.

Oil is not eligible for the exemption if the taxpayer's interest in the oil was held by an integrated oil company on October 24, 1979.

Conference agreement.—Independent producers are allowed a reduced rate on up to 1,000 barrels per day of qualifying tier one and tier two oil. The rate is 50 percent (instead of 70 percent) for tier one and 30 percent (instead of 60 percent) for tier two. To be eligible, a producer must not be an oil or gas retailer or an oil refiner in the taxable period. Also, royalty and similar interests (whether payable in kind or otherwise) and certain transferred properties are ineligible for the reduced rates. Related parties must allocate one 1,000-barrel amount. If an independent producers' daily production of qualifying tier one and tier two oil exceeds 1,000 barrels, the 1,000 barrels eligible for the reduced rates come ratably from the producer's tier one and tier two oil.

Transferred properties.—As a general rule, properties transferred from one person to another will not qualify for the reduced rates if the transfer would disqualify the transferee from claiming percentage depletion on the property. However, there are some major differences between the transfer rule under the windfall profit tax and the rule used for depletion. First, transfers between an individual and a controlled corporation do not disqualify a property for the reduced rates because under the windfall profit tax, these persons must share one 1,000-barrel amount. Second, a more flexible rule applies to transfers between small independent producers.

Under the conference agreement, the general transfer rule does not apply if a producer establishes that at no time after 1979, and before that producer acquired his interest in the property, was the interest held by a person who, for any quarter after the third quarter of 1979 and before the quarter in which that person transferred the interest to another, was a major oil company or an independent producer with more than 1,000 barrels per day of production (with the 1,000-barrel figure reduced by application of the related party rule, described below). In the case of transfers from a trust or a partnership, the oil transferred is deemed to be owned proportionately by the beneficiaries or partners for purposes of determining whether the transferor is a person whose ownership would make the property ineligible for the reduced rates.

The Secretary is to set up a mechanism by which producers would be able to demonstrate that their transferred properties are eligible for the reduced rates.

Also, transfers between related parties who have to allocate one 1,000-barrel amount are exempt from the general transfer rule so long as the parties continue to be released

Royalties. To be eligible for the reduced rates, an interest in oil must not be a royalty or similar interest and must not have been one on January 1, 1980 (i.e., royalty interests cannot be converted into working interests). An exception to this rule allows reduced rates for a qualifying overriding royalty interest which converts into an operating mineral interest pursuant to a binding contract or agreement which was in effect on February 20, 1980. This exception would include an interest which was an overriding royalty interest on January 1, 1980, and converted to a working interest between January 1, 1980, and February 20, 1980. After the qualifying overriding royalty interest converts to an operating mineral interest, production attributable to the converted interest qualifies for reduced rates.

Related parties.—All related parties must share one 1,000-barrel amount. Generally the persons who must be aggregated for purposes of this allocation are the same parties who must share one depletable quantity for percentage depletion purposes. However, a producer and a controlled corporation must share one 1,000-barrel amount. When related parties must allocate one 1,000-barrel amount, the number of barrels of production eligible for reduced rates as to any member of the related parties is reduced for each member by allocating the one 1,000-barrel amount among them in proportion to their respective production of tier one and tier two oil for the quarter.

If a person is a member of more than one related group required to share an allocation during a quarter, that person's allocation must be made by reference to the related group which results in the smallest daily barrel allocation to that person.

26. Percentage Depletion

House bill.—In determining the percentage depletion allowance, gross income is reduced by the difference between the selling price and the adjusted base price of taxable oil (*i.e.*, the windfall profit without regard to the severance tax adjustment). Also, for purposes of determining the 50-percent and 65-percent of-taxable-income limitations on percentage depletion, taxable income is increased by the windfall profit tax.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the Senate amendment.

27. Administrative Provisions

House bill.—The tax generally imposed on each party with an economic interest in taxable production. First purchasers generally are required to deposit the tax, after withholding it from the purchase price, and to file quarterly tax returns. Under existing Treasury regulations, tax deposits generally would be made on a semi-monthly basis. The operator of a property must certify to the purchaser all of the information necessary for the purchaser to file the applicable returns and make the tax deposits.

Generally, the House bill requires the first purchaser to provide producers with monthly information statements, due by the beginning of the second month after the end of the month for which the information is being furnished, with respect to their oil production. Estates, trusts, and partnerships which produce crude oil are required to provide quarterly information statements to each beneficiary or partner by the beginning of the third month after the end of the quarter for which the information is being furnished.

The Secretary is granted the authority to require additional information returns.

Senate amendment.—The Senate amendment eliminates many of the required information exchanges and returns necessitated under the House bill In lieu of such mandatory returns and exchanges, the Senate amendment grants the Secretary authority to require any appropriate returns or exchanges.

The Senate amendment also provides that no tax withholding is necessary if the operator certifies to the first purchaser that the production is exempt from tax. It also allows the operator and the first purchaser to elect to have the operator make the tax deposits and file the quarterly returns.

Under the Senate amendment, integrated oil companies who are not independent refiners must make estimated semi-monthly tax deposits. Independent refiners who purchase oil under delayed payment contracts must make tax deposits within 60 days after the end of the month of purchase. Other taxpayers must make tax deposits within 45 days after the end of the month of purchase.

The Senate amendment provides that tax overpayments in excess of $1,000 that are attributable to the net income limitation or to a tax exemption are refundable annually on an expedited basis. In addition, the Senate amendment provides that no interest is due on a tax refund which is made within 45 days of the date for filing the income tax return.

Conference agreement.—For administrative purposes, there are two general categories into which crude oil falls; oil subject to withholding and oil not subject to withholding. Except as otherwise provided in Treasury regulations, the first purchaser of domestic crude is required to withhold the windfall profit tax from amounts payable to the producer of the oil and deposit those amounts with the Treasury. Where withholding is not required, the producer is required to pay the tax with respect to its own production.

Responsibilities of operator.—In the case of oil subject to withholding, the operator normally must certify to the first purchaser the information which the purchaser needs to compute the tax. This includes the tier in which the oil is taxed, the adjusted base price of the oil, the amount of oil, any certification furnished to the operator by the producer with respect to whether such oil is exempt oil or oil subject to reduced rates for independent producers, and any other information required by regulations.

For windfall profit tax purposes, the operator is the person primarily responsible for the management and operation of the crude oil production. However, persons holding the operating mineral interests in the property can designate another person (or persons) as the operator.

Except as otherwise provided in regulations limiting the election, the operator and the first purchaser may elect to have the operator assume the purchaser's responsibilities under the tax. If such an election is made, unless the operator is a major oil company, the operator would have to deposit the withheld tax (or estimated tax) at the same time the purchaser would have had to make deposits or estimated tax payments. Thus, if the purchaser is an integrated oil company, the deposit and estimated tax rules for integrated companies will apply to the operator.

In the case of oil not subject to withholding, the operator is required to certify to the producer the tier in which the oil is taxed, the adjusted base price for the oil, the amount of oil, and any other information required under regulations. The operator and producer may elect, in accordance with regulations, to relieve the operator of this obligation.

Responsibilities of purchaser.—In the case of oil subject to withholding, the first purchaser must withhold the windfall profit tax from the amount payable by such purchaser to the producer of the oil. The purchaser is liable to the IRS for the payment of the amount required to be withheld and is not liable to the producer for that amount. The amount withheld is to be determined on the basis of the certification provided by the operator (including any certification that

part or all of the production is eligible for the reduced rates for oil produced by independent producers), and the purchaser is not responsible for errors in withholding resulting from improper certification unless it has reason to believe the certification is improper. If no certification is provided or if the first purchaser has reason to believe that the information contained in the certification is incorrect, then the amount withheld must be determined under regulations prescribed by the Secretary. To encourage the furnishing of information, these regulations may require withholding or the maximum possible tax on any particular oil even though such tax exceeds the amount that would have been due if a proper certification had been made.

The first purchaser is required to file quarterly returns showing the amount of tax withheld, together with any other information required under regulations. It is anticipated that the first purchaser's quarterly return for the fourth calendar quarter will provide a producer-by-producer summary of the amount of oil purchased for the year, the windfall profit tax withheld thereon, and the amounts of tax deposited. The first purchaser's quarterly return for the fourth quarter is to be filed before March 1 of the following year. The first purchaser's information statement will provide each producer with information indicating the amounts of oil purchased and the tax withheld thereon. In the case of oil purchased from a partnership, the purchaser will provide information with respect to the partnership's production. The partnership's return will provide information with respect to each partner's share of the production.

As in the Senate amendment, the timing of the obligation of any first purchaser to deposit amounts withheld depends upon the identity of the first purchaser. Integrated oil companies other than independent refiners are required to make semimonthly estimated deposits of the withholding tax. All other first purchasers are required to make withholding deposits not later than 45 days after the close of the month in which the oil is removed from the premises, except that independent refiners who purchase oil under delayed payment contracts are required to make deposits by the first day of the third month beginning after the month of the removal. Failure to make timely deposits will result in the generally applicable penalties. However, estimated tax deposits which meet "safe harbor" levels, similar to those contained in Treasury regulation § 48.6302(c)–1 (relating to deposits of excise taxes generally), would prevent the imposition of penalties.

If the first purchaser withholds an incorrect amount of tax on any oil, adjustments in withholding are required to correct the aggregate amount withheld on all oil purchased by that purchaser from the producer on oil removed during that calendar year. The amount of any mandatory withholding adjustment may not exceed the amount of the windfall profit on any barrel of oil removed.

Required withholding adjustments apply only with respect to transactions between the same purchaser and producer. However, a producer may voluntarily authorize any purchaser to withhold with respect to removal later in the calendar year to correct earlier withholding errors. Such an amount is to be treated as an amount required to be withheld such that the deposit and return filing rules will apply. In addition, the Secretary may allow, under regulations, withholding adjustments after the close of the calendar year.

Increases in posted prices after the determination of the removal price also increase the windfall profit, and hence the tax. In such a case, the tax attributable to the price increase must be withheld.

Responsibilities of producer.—Generally, there is no requirement that producers of oil that is subject to withholding file a windfall profit tax return if the correct amount of tax is withheld for the year.

In the case of withheld oil, the producer is deemed to have paid, on the last day of February of the year following that in which the oil was removed, the amount of tax withheld by the purchaser.

Producers are required to deposit the tax due on their own production not subject to withholding in the same manner they would deposit tax withheld by them if they were first purchasers. In other words, integrated oil companies make deposits of their estimated tax liability twice a month and all other producers deposit the tax within 45 days after the month of removal.

Oil produced by producers who are entirely exempt from the windfall profit tax by virtue of the provisions exempting certain State, Indian, or charity's oil is not subject to withholding if an appropriate certification is given to the first purchaser.

Producers exempt from all or a portion of the tax by virtue of the net income limitation may file for a refund after the close of the year. They are not entitled to file a withholding tax exemption certificate, or use the withholding adjustments to take the 90-percent limit into account.

Statute of limitations.—In the case of oil subject to withholding for which no windfall profit tax return is required from the producer, the statute of limitations for purposes of claiming a refund or assessing a deficiency runs with respect to the producer's annual income tax return for the taxable year in which calendar year of the oil's removal ends. In the case of a Federally registered partnership, the Secretary may prescribe limitation rules similar to the rules applicable to income tax returns.

If the Department of Energy makes a final determination reclassifying oil for pricing purposes under the June 1979 Energy regulations, then the statute of limitations for assessing any deficiency or for filing a claim for a windfall profit tax refund attributable to such DOE reclassification will not expire before one year after the redetermination becomes final.

The conference agreement further provides the Secretary with authority to prescribe administrative regulations consistent with the specific provisions of the tax, including any pertaining to information exchanges and returns (e.g., reporting windfall profit tax items on existing excise tax, income tax, and information returns).

Interest.—Interest on the overpayment of tax by a producer with respect to withheld oil will run from the last day of February of the year following the removal year. However, if the IRS refunds the windfall profit tax overpayment within 45 days after the later of (1) the unextended due date of the windfall profit tax (or if no return is required, the income tax return for the taxable year in which the removal year ends) or (2) the date the return is filed, then no interest shall be allowed.

28. Incorporation of Energy Regulations

House bill.—Various definitions and categories of crude oil are fixed by reference to regulations prescribed under the Emergency Petroleum Allocation Act of 1973, as amended. For this purpose, the regulations are treated as continuing in their March 31, 1979, and June 1, 1979, form without regard to subsequent amendment or modification.

Senate amendment.—The Senate amendment generally follows the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment. Thus, the definition of crude oil for windfall profit tax purposes is fixed by the June 1979 energy regulations. Therefore, the term "crude oil" means a mixture of hydrocarbons which exists as liquids in underground reservoirs and which remain liquid at atmospheric pressure after passing through surface separating facilities. The term also includes condensate recovered in associated or nonassociated production by mechanical separators located at any point at or before the inlet side of a gas processing plant, and natural gas liquid treated as crude oil under the June 1979 energy regulations. The term "crude oil," however, does not apply to synthetic petroleum such as oil production from shale or tar sands.

The conference agreement also provides that the Secretary of the Treasury may make, for windfall profit tax purposes, appropriate modifications to the energy regulations to carry out the purposes of the tax and to facilitate administration of the tax. Such action may include, for example, a correlation of tax and price control terms. For instance, price control base prices generally are determined with regard to the price for which the oil is "produced and sold," while the tax is imposed on the difference between the "removal price" and the adjusted base price. Essentially, the terms "produced and sold" and "removal price" refer to the same transaction, and the Secretary may want to clarify this in regulations.

29. Deductibility Under Income Tax

House bill.—A deduction from Federal income taxes for windfall profit tax is allowable for the taxable year with respect to which the tax is paid or accrued.

Senate amendment.—The Senate amendment is the same as the House bill.

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

30. Court Jurisdiction

House bill.—The House bill contains no provision relating to jurisdiction over controversies involving the windfall profit tax. Thus, such controversies come within the jurisdiction of the District Courts of the United States and of the Court of Claims. The United States Tax Court has no jurisdiction to hear these cases.

Senate amendment.—Under the Senate amendment, the U.S. Tax Court is granted exclusive trial court jurisdiction over all civil controversies relating to the windfall profit tax, including suits for tax refunds.

The Senate amendment also increases the number of judges on the Tax Court by three.

Conference agreement.—Under the conference agreement, the respective courts will exercise jurisdiction over cases involving the windfall profit tax in the same manner that jurisdiction is exercised with respect to the income, estate and gift taxes. Thus, the Tax Court will have prepayment jurisdiction over deficiencies asserted by the IRS and the U.S. District Courts, and the Court of Claims will have jurisdiction over refund suits.

Because the tax is imposed with respect to a producer's crude oil removed during a calendar quarter, the scope of a deficiency suit or refund suit will be with respect to the tax for the entire quarter. Thus, a second suit may not be brought with respect to the same quarter, and in the case of a refund suit, the entire tax assessed with respect to that quarter must be paid.

Jurisdiction with respect to liability under the withholding provisions will be in the U.S. District Courts and Court of Claims.

The conference agreement deletes the Senate amendment adding three Tax Court judges.

31. Effective Date

House bill.—The windfall profit tax applies to oil removed on or after January 1, 1980.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—Under the conference agreement, the windfall profit tax applies to oil removed after February 29, 1980. For the period ending June 30, 1980, the Secretary may prescribe rules relating to the administration of the tax which may supplement or supplant the rules in the bill.

32. Termination of Tax

House bill.—The House bill terminates the tax on newly discovered oil and incremental tertiary oil after 1990. All other taxable oil is subject to a permanent tax in tier three after 1990.

Senate amendment.—The tax imposed by the Senate amendment would phase out after the net revenue received by the Treasury, or for which taxpayers are liable totals $189 billion. The net revenue is the gross amount of windfall profit tax reduced by the reduction in individual and corporate income tax receipts caused by the imposition of the windfall profit tax. The phase out would be accomplished by exempting 3 percent of production in each succeeding month starting with the month after the $189 billion figure is reached.

The Senate amendment also provides that the President must notify Congress 30 days in advance of any decision to slow down the rate at which price controls are scheduled to phase out.

Conference agreement.—Under the conference agreement, the tax phases out during a 33-month period by reducing each producer's tax by 3 percent for each month starting with the later of January 1988 or the first month (but not later than January 1991) after that for which the Secretary estimates that the aggregate net windfall profit tax revenue will permanently exceed $227.3 billion (excluding tax on oil owned by the United States).

For purposes of estimating the amount of tax received by the Treasury, the Secretary first must estimate the gross windfall profit tax receipts, minus any revenue attributable to economic interests in crude oil held by the United States. This figure then is reduced by windfall profit tax refunds, but not by administrative costs or deficiencies attributable to the windfall profit tax. It is reduced further by estimated Federal income tax reductions for producers that result from deductibility of the windfall profit tax and any other change in income taxes arising from the windfall profit tax. In estimating the reduction for windfall profit tax refunds and income tax deductions, the Secretary is to take into account those items which properly are attributable to preceding taxable periods even though they actually have not been refunded, or used to reduce income taxes, at the time of the estimate.

Starting with January 1987, the Secretary must make monthly estimates of the aggregate net windfall profit tax revenue raised.

The conference agreement deletes the provision of the Senate amendment which requires the President to notify Congress 30 days in advance of any decision to slow down the rate at which price controls are scheduled to phase out.

33. Study of Decontrol and Tax

House bill.—The President is required to submit a report to the Congress no later than January 1, 1983, on the effect of decontrol and the windfall profit tax on (1) domestic oil production; (2) oil imports; (3) oil company profits; (4) inflation; (5) employment; (6) economic growth; (7) Federal revenues; and (8) national security. This report is to be accomplished by such further energy related legislative recommendations as the President may care to make.

Senate amendment.—The Senate amendment is the same as the House bill.

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

34. Trust Funds and Disposition of Windfall Profit Tax Revenues

House bill.—All gross revenues from the windfall profit tax are deposited in an Energy Trust Fund created by the bill and structured in a manner similar to existing trust funds administered by the Secretary of the Treasury. The purposes for which money may be spent from the trust fund would be specified in future legislation.

Senate amendment.—The Senate amendment establishes a Taxpayer Trust Fund to receive deposits from general revenues equal to the increase in income tax receipts which results from the decontrol of oil prices. The deposits are limited to the amount of the increase in social security taxes presently scheduled for 1981.

The Senate amendment also provides that $1 billion of the receipts from the windfall profit tax through September 30, 1980 be reserved for railroad improvement and assistance programs until Congress authorizes or appropriates funds for that purpose.

Conference agreement.—In place of the trust funds and reservation in the House bill and Senate amendment, the conference agreement provides that the net revenues from the windfall profit tax are allocated only for the specific purposes described below to a separate account at the Treasury (for accounting purposes only). They shall not be earmarked or invested separately from general revenues, however. Net revenues from the windfall profit tax are equal to the gross amount of windfall profit tax collected (other than from oil owned by the United States) minus the reduction in income tax receipts resulting from the imposition of the windfall tax.

The net revenues projected under current assumptions from 1981 through 1990, as shown in table 4 in the appendix, are allocated for the following specific purposes—

(a) *Aid to lower income households.*—25 percent of net revenues. For fiscal year 1982 and subsequent years, these funds would be divided equally between a program to assist AFDC and SSI recipients under the Social Security Act and a program of emergency energy assistance.

(b) *Individual and corporate income tax reductions.*—60 percent of net revenues. This would include tax cuts to help taxpayers cope with higher energy prices.

(c) *Energy and transportation spending programs.*—15 percent of net revenues.

Of the net revenues in excess of what is projected under current price assumptions (and shown in table 4), one-third is allocated for aid to lower income households, without specification of type of program, and two-thirds is allocated for income tax reductions. Any outlays by the proposed Synthetic Fuels Corporation would be financed from increases in general revenues resulting from decontrol. There is no specific allocation for the Corporation because its outlays will be very uncertain in timing and amount.

The President is required to propose, for each fiscal year after fiscal year 1980, allocation of net revenues from the windfall profit tax among the purposes specified above. For fiscal year 1981, the proposal must be submitted within 90 days after enactment; for succeeding fiscal years, the proposal must be contained in the annual budget. The Secretary of the Treasury will report annually to Congress, beginning in fiscal year 1982, on the net revenue derived from the windfall profit tax for the preceding fiscal year and the actual dispcsition of these revenues among the purposes specified above.

Further legislation is needed to use the money raised by the tax for any of the purposes specified above. Failure to enact legislation, of course, would mean that the revenue from the tax would have the effect of reducing the Federal deficit.

II. RESIDENTIAL ENERGY TAX CREDITS

35. General Provisions Relating to Residential Energy Credits

House bill.—No provision.

Senate amendment.—Under present law, the residential energy credits are available to a taxpayer for qualified installations only with respect to a principal residence. In addition, the Secretary has the authority to add qualifying items to the lists of equipment eligible for the residential energy credits.

The Senate amendment deletes the principal residence requirement, and makes the credits available for expenditures on vacation and second homes and to landlords.

The energy conservation credit for landlords is 10 percent, instead of 15 percent, and the renewable energy source credit is 40 percent, instead of 50 percent.

The amendment also clarifies that joint owners of qualified property are eligible to take the maximum credit for the expenditure made by each one for their own dwelling.

The Senate amendment also contains two provisions relating to the Secretary's discretionary authority to add items to the lists of equipment qualified to receive the energy conservation and renewable energy source tax credits. The first provision, which was in the bill reported by the Committee on Finance, deletes the discretionary authority from present law. The second provision, a Senate floor amendment, retains the discretionary authority.

Conference agreement.—The conference agreement retains the principal residence requirement. The credits will not be made available to vacation and second homes, and landlords will not be eligible for the residential credits, although they will continue to be eligible for the available business energy credits.

Joint ownership.—The conference agreement includes the Senate amendment with respect to joint ownership of qualified property by 2 or more individuals with respect to 2 or more dwelling units used as a principal residence by such individuals. Each owner is entitled to a separate limit on the expenditures for energy conservation or renewable energy source property.

Standards for Secretarial determination.—The conference agreement retains the Secretary's discretionary authority but establishes standards to limit the exercise of the authority in evaluating whether items should be added to the list of qualified equipment. The Secretary must use the following criteria in making a determination on the specification of an item as eligible for the energy conservation credit or the renewable energy source credit. First, the Secretary cannot make such a specification unless he determines that it would result in a reduction in total national consumption of oil and natural gas and that this reduction would be sufficient to justify the resulting decrease in Federal revenues. Second, a conservation component or renewable energy source cannot be specified unless the Secretary finds that such a specification would not result in an increased use of any item when this item, or its increased use, is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety. Third, such a specification cannot be made unless the Secretary finds that available Federal subsidies do not make such specification unnecesary or inappropriate (in the light of the most advantageous allocation of economic resources).

In making a determination under the first criterion, the Secretary, after consultation with the Secretary of Energy, is required to make an estimate of the amount by which the specification of the energy conservation or renewable energy source property would cause a reduction in national oil and natural gas consumption. In making this estimate,

the Secretary is required to take into account at least the following factors: (a) the extent to which the use of the property to be specified would be increased as a result of the specification, (b) whether sufficient capacity is available to increase production to meet increases in any demand for the property or associated fuels and materials which might be caused by such specification, (c) the amount of oil or natural gas used directly or indirectly in the manufacture of the property and items necessary for its use, and (d) the estimated useful life of the associated equipment necessary for its use. The Secretary would also take into account the extent additional use of the property leads, directly or indirectly, to the reduced use of oil or natural gas. Indirect use of oil or natural gas includes use of electricity derived from oil or natural gas.

In making a determination under the first criterion above, which involves the comparison of the reduction of oil and natural gas consumption and the revenue loss, the Secretary must also determine, after consultation with the Secretary of Energy, whether the specification of the property compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost (including revenue loss) to the Federal Government, with other Federal programs in existence or being proposed.

The Secretary is required to make a final determination with respect to any request by an applicant for specifying a conservation item or renewable energy source within one year after the filing of the request, together with any information required to be filed with the request. Each month the Secretary is required to publish a report of any request denied during the preceding month and the reasons for the denial.

In the case of any property which the Secretary specifies as eligible for the credit, the credits are allowed for expenditures made on or after the date on which final notice of the specification is published in the Federal Register. The Secretary may prescribe by regulations that such expenditures made before the close of the taxable year in which the date occurs all be taken into account in the following taxable year.

Rules to prevent double benefits.—The conference agreement also provides rules to coordinate the residential energy credits with other government subsidies for energy-related expenditures. The conferees are concerned that if no such rules were adopted, the compound effect of various subsidized loan and grant programs could lead to a situation in which the taxpayer could purchase this property with very little expenditure of his own funds. A potential result could be the encouragement of efficiency through expenditures for equipment the production of which would require diverting substantial resources from more effective uses. The effect of the rule provided in the conference agreement, in conjunction with the present treatment of nontaxable grants, is that the purchaser of the eligible equipment must choose between the tax credit, on the one hand, and subsidized energy loans and nontaxable grants, on the other hand. Grants which are taxable are not taken into account under these rules because their taxation serves as a partial offset; similarly, credits against State and local income taxes are not taken into account because the deductibility of these taxes under the Federal income tax implies that the effect of these credits is equivalent to the effect of a taxable grant.

Under current law, expenditures financed by Federal, State, or local grants which are exempt from Federal income tax are not eligible for a residential tax credit. In addition, under the conference agreement, the portion of the expenditures which is provided by subsidized energy financing is not to be eligible for a tax credit. Further, the expenditure limits on energy conservation and renewable energy source property for a particular dwelling are reduced by the portion of expenditures financed by subsidized energy financing, as well as by the amount of nontaxable Federal, State or local government grants used to purchase the energy conservation or renewable energy source property.

Subsidized energy financing means financing provided under a Federal, State or local government program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. The term includes, but is not limited to, the direct or indirect use of tax-exempt bonds for providing funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

The reductions in the amount of qualified expenditures and in the expenditure limits will apply to taxable years which begin after December 31, 1980, with respect to financing or grants made after that date.

In addition, the Secretary is given the authority to require persons having control of a program which provides subsidized energy financing or an energy grant program to make a return containing the name and address of each individual receiving the financing or grant and the amount of financing or grant received under the program.

36. Insulation and Other Energy-Conserving Items

House bill.—No provision.

Senate amendment.—Under present law, a 15-percent credit is available on the first $2,000 of qualifying expenditures, for a maximum credit of $300. It is available for installation of specifically enumerated property after April 19, 1977, and before January 1, 1986, with respect to a taxpayer's principal residence (whether a homeowner or a renter), if the residence was substantially completed before April 20, 1977. The credit is allowed for expenditures to install (1) insulation, (2) a replacement burner for oil and gas-fired furnaces, (3) a device to modify flue openings, (4) an electrical or mechanical furnace ignition system, (5) an exterior storm or thermal door or window, (6) an automatic energy-saving thermostat, (7) caulking or weatherstripping for an exterior door or window, and (8) an energy usage display meter.

The Senate amendment makes the following items eligible for the current energy conservation credits, as of October 1, 1979: (1) heat pumps; (2) airtight woodburning stoves; (3) replacement oil or gas furnaces; (4) replacement coal furnaces and boilers; (5) replacement woodburning furnaces or boilers; and (6) infrared radiant heating panels.

Conference agreement.—The conference agreement does not add any new items to the list of qualified energy conservation property. The six items that would have been added to the list in the Senate amendment are to be evaluated by the Secretary using the standards, specified in item 35 above, when the information required for the evaluation has been filed.

37. Renewable Energy Source Equipment

House bill.—No provision.

Senate amendment.—Under present law, a credit is allowed on 30 percent on the first $2,000 and 20 percent on the next $8,000 of expenditures, for a maximum credit of $2,200, for installations of solar, wind, or geothermal energy equipment in connection with a principal residence. The credits apply to expenditures made after April 19, 1977, and before January 1, 1986, for both existing and new residences. The credit is available to homeowners and renters. Eligible equipment includes solar and geothermal property to heat, cool or provide hot water to a dwelling or to use wind energy for residential purposes.

The Senate amendment increases the credit for renewable source energy expenditures from the present two-step structure to 50 percent on the first $10,000 of qualified expenditures, and the credit is extended through 1999. In addition, the following additions are made to the equipment eligible for this credit:

(1) Equipment to produce electrical energy from renewable energy source property installed with respect to a residence;

(2) Expenditures for on-site drilling costs and expenditures for labor costs properly allocable to the onsite preparation, assembly or original installation of renewable energy source property eligible for the credit, unless the deduction for intangible drilling costs has been claimed for any portion of these expenditures; and

(3) The cost of a solar roof panel installed as a roof (or a portion of a roof) qualifies for the credit although it is a structural component.

Conference agreement.—The conference agreement generally follows the Senate amendment with modifications.

The credit rate for renewable energy source property is increased to 40 percent of the first $10,000 of expenditures, and the conference agreement retains the present 1985 termination date for the credit.

The conference agreement includes the Senate provision that renewable energy source property includes the costs incurred to install solar panels as a roof or as part of a roof.

As under current law, renewable energy source property shall not include other structural components of a residence even though they also may play an ancillary role related to renewable energy source property.

The increased tax credit for renewable energy source property shall apply to expenditures made in taxable years that begin after December 31, 1979. The amendments made with respect to electrical energy from renewable energy sources, the credit for geothermal intangible drilling costs and solar roof panels shall apply to expenditures made after December 31, 1979, in taxable years ending after such date.

III. BUSINESS TAX INCENTIVES

A. Business energy investment tax credits

38. Solar and Wind Energy Property

House bill.—No provision.

Senate amendment.—Under present law, equipment which uses solar or wind energy property to generate electricity or to heat, cool or provide hot water for a structure qualifies for a 10-percent refundable business energy credit through December 31, 1982.

The Senate amendment increases the rate of this energy credit to 20 percent and extends the effective period for the credit through December 31, 1990. In addition, the Senate amendment allows the energy credit for equipment which utilizes solar energy to provide process heat for industrial, agricultural or commercial purposes. These provisions are effective for qualifying investments after December 31, 1979.

The Senate amendment also repeals the refundable feature of the solar and wind energy credits, effective for taxable years which begin after December 31, 1979.

Conference agreement.—The conference agreement follows the Senate amendment except that the rate of the energy credit is increased to 15 percent instead of 20 percent and the effective period for this credit is extended only through December 31, 1985. Also, the effective date for repeal of the refundability feature for the energy credit on solar or wind energy property is clarified so that energy credits attributable to qualified investment on or after the January 1, 1980, effective date for this provision will not be

refundable where they are carried back to taxable years which begin before January 1, 1980. In addition, the conference agreement adopts the Senate provision which allows the energy credit for equipment which utilizes solar energy to provide process heat for industrial, agricultural, or commercial applications.

39. Geothermal Equipment

House bill.—No provision.

Senate amendment.—Under present law, equipment used to produce, distribute, or use geothermal energy generally qualifies for a 10-percent nonrefundable energy credit through December 31, 1982. The Senate amendment increases the rate of this credit to 20 percent and extends the effective period for this credit through December 31, 1990. These provisions are effective for qualifying investments made after December 31, 1979.

Conference agreement.—The conference agreement modifies the Senate amendment by increasing the rate of the energy credit for geothermal equipment to 15 percent and by extending the credit only through December 31, 1985.

40. Ocean Thermal Equipment

House bill.—No provision.

Senate amendment.—Under present law, no energy credit is allowed for equipment which utilizes the thermal differences in ocean water for the production of usable energy. The Senate amendment provides a 20-percent nonrefundable energy credit for equipment used to convert ocean thermal energy into electrical energy or another form of usable energy. Qualifying ocean thermal equipment includes turbines, generators and related equipment (such as pumps, piping and heat exchangers) up to, but not including, the transmission stage (i.e., transformers and transmission lines, etc., are excluded) and also specially designed vessels and structures used to support, house and service this equipment. These provisions are effective for qualifying investments after December 31. 1979, and before January 1, 1991.

Conference agreement.—The conference agreement modifies the Senate amendment by reducing the rate of the credit to 15 percent and by allowing the credit through December 31, 1985, only for qualifying equipment at two locations designated by the Secretary of the Treasury after consultation with the Secretary of Energy.

A technical amendment is made under the conference agreement to provide an exception from the investment credit rule of general application which requires that qualifying property be used predominantly within the United States. This technical amendment provides that the generally applicable United States use limitation will not apply to qualifying ocean thermal equipment which is owned by a United States person (as defined in Code sec. 7701(a)(30)) and which is used in international or territorial waters to generate energy for use in the United States. (The term United States is defined in Code section 7701(a)(9) to include only the 50 States and the District of Columbia.)

41. Qualifying Hydroelectric Generating Property

House bill.—No. provision.

Senate amendment.—Under present law, the regular investment credit and accelerated methods of depreciation are generally available for hydroelectric generating facilities, including those classified as public utility property, if these tax incentives are reflected for ratemaking purposes under a normalization method of accounting. No energy credits or other energy related tax incentives are provided for hydroelectric generating facilities. Also, the asset depreciation range (ADR) system in effect under present law provides that hydroelectric facilities generally qualify for a 50-year guideline life and a 1.5 percent annual repair allowance for purposes of tax depreciation.

The Senate amendment provides a 10-percent nonrefundable energy credit for property used in the generation of electricity by hydroelectric power, if the generating equipment has an installed capacity of 25 megawatts or less. This credit is available for qualifying property at dams in existence on October 18, 1979, and also for qualifying property at sites of water flows, such as irrigation ditches and rivers, where there is no dam to create a water impoundment. Qualifying property for purposes of this energy credit includes generating equipment (up to, but not including, the electrical transmission stage), powerhouses, penstocks, and fish passageways and related equipment (such as fish counters) to facilitate the movement of fish above and below the generating site. In addition, capital costs for rehabilitating (through repairs or reconstruction, but not enlargement or new construction) an existing dam in connection with the installation of qualifying generating equipment are also qualifying property for purposes of this credit.

The Senate amendment also liberalizes depreciation allowances for this small scale hydroelectric generating property by providing a 20-year guideline life (with a lower limit of 16 years and an upper limit of 24 years) and a 4-percent annual repair allowance under the ADR system for qualifying small scale hydroelectric generating property. In addition, these facilities will qualify for accelerated methods of depreciation regardless of whether the small scale hydroelectric facilities are treated as public utility property.

These provisions are effective for qualifying investments after December 31, 1979.

Conference agreement.—The conference agreement provides an 11-percent business energy credit for investments in qualifying hydroelectric property. This credit is generally available for the period from January 1, 1980, through December 31, 1985. In addition, the effective period is extended for three additional years, through December 31, 1988, for qualifying investments which arise from a hydroelectric project for which an application was docketed by the Federal Energy Regulatory Commission before January 1, 1986. This 11-percent energy credit is available both at sites where there is no existing generating capacity and at sites where there is existing capacity. Public utility property is also eligible for this credit if the normalization requirements concerning investment credits for public utility property (under Code section 46(f)) are satisfied. The conference agreement also makes public utility property which is qualifying hydroelectric energy property eligible for the energy credit and allows the regular investment credit for fish passageways which qualify as hydroelectric energy property, effective for qualifying investments after December 31, 1979.

Under the conference agreement, qualifying hydroelectric generating property includes hydroelectric generating equipment (such as turbines and generators), powerhouses and similar structures to house the generating equipment, penstocks to carry water from the impoundment to the turbine, and fish passageways (and related equipment, such as fish counters). Capital costs for repairing or restoring existing nonfunctional generating equipment are also covered. Generating equipment is covered up to, but not including, the electrical transmission stage. Qualifying property also includes capital costs of reconstruction or rehabilitation (but not enlargement) of a dam which impounds water for use by the generating equipment. As a result, qualifying costs exclude those for extending or increasing the height of the dam for purposes of increasing the water level or impoundment; however, they include costs for increasing the existing water level or impoundment by strengthening the dam and eliminating leakage. Hydroelectric generating property other than generating equipment will qualify only if it is required by reason of the installation of qualifying generating equipment.

Qualifying hydroelectric property is eligible for this energy credit only where it is installed either at an existing dam which was completed before October 18, 1979 (and which was not significantly enlarged after that date) or at a new or existing, natural or manmade water flow (such as a river, a water conduit or an irrigation ditch) which is not at the site of a dam. Water flows from pumped storage facilities tidal action are not intended to be covered by this provision. In addition, the installed capacity of all hydroelectric generating equipment at the site must be less than 125 megawatts in order for qualifying property to be eligible for this credit. The total capacity of generating equipment at the site includes all functional generating equipment at the site as well as new equipment installed during the current taxable year and the three following taxable years.

For purposes of this section, the construction of penstocks, powerhouses, fish passageways and similar structures does not constitute construction or enlargement of the impoundment structure. The term "existing dam" includes dams which are currently being used in connection with the generation of electricity in the past, and dams which have never been used in connection with the generation of electricity. The term "dam rehabilitation property" includes property for the reconstruction of breached structures and renovation of machinery and structural elements which have been left in place. Furthermore, in the case of an impoundment which does not meet state or federal spillway capacity or other requirements, the term "dam rehabilitation property" includes the replacement of the entire impoundment structure. A dam site or other impoundment site includes any water passage ways that are from the water behind the dam or other impoundment, if the primary purpose of the water passageways is for the generation of electricity.

The energy credit is phased out as the total capacity of electric generating equipment installed at the site increases from 25 to 125 megawatts. Increases in generating capacity attributable to qualifying costs for restoring existing nonfunctional equipment, and increases which occur during the three following years, are also taken into consideration for purposes of this phase-out. Between 25 to 100 megawatts, qualified investment is reduced by a fraction equal to 25 divided by the total installed capacity. As total capacity rises from 100 to 125 megawatts, the energy credit is phased out entirely. For example, assume that in each of the years 1975, 1980 and 1983, the taxpayer installs, at an existing dam, electric generating equipment with an installed capacity of 25 megawatts. Thus, at the end of 1983, the total installed capacity is 75 megawatts. For each of the years 1980 and 1983, the 11-percent credit will be computed on the basis of 25/75ths of qualified investment.

The conference agreement deletes the Senate provisions concerning depreciation treatment of small scale hydroelectric generating property. The conferees understand that the rates for the sale of electricity produced by hydroelectric facilities owned by taxpayers other than electric utilities are generally not regulated on a rate of return basis, and it is intended that this qualifying hydroelectric generating property will consequently not generally be classified as public

utility property which is subject to the Code section 167(1) limitations on the use of accelerated methods of depreciation.

42. Cogeneration Equipment

House bill.—No provision.

Senate amendment.—Under present law, no energy credits are provided for congeneration equipment.

The Senate amendment provides a 10-percent nonrefundable energy credit from January 1, 1980, through December 31, 1982, for equipment which enables a boiler or burner at an existing facility to both produce steam, heat or other useful energy and also produce electricity. To qualify, the equipment must result in an increase in the facility's cogenerating capacity, including the start of cogenerating activity. In general, this credit would be allowed only for installations of cogeneration equipment at facilities which do not use oil as a fuel. If the facility uses natural gas as a fuel, it generally must have been using natural gas on January 1, 1980, in order for the cogeneration equipment to qualify. However, use of up to 25 percent oil or natural gas (for example, as a flame stabilization, backup, or startup fuel) would be allowed.

In addition, the credit is allowed for cogeneration equipment installed at existing major fuel burning installations which use oil as a fuel, where the net savings in the use of oil by installing cogeneration equipment is at least 30 percent.

These amendments are generally effective for qualifying investments after December 31, 1979. The amendment which allows the use of oil at major fuel burning installations is effective after September 30, 1980.

Conference agreement.—The conference agreement generally follows the provisions of the Senate amendment which allow a 10-percent energy credit from January 1, 1980, through December 31, 1982, for qualifying investments in cogenerating equipment where a limited amount of oil or natural gas is used as a fuel. The conference agreement does not include the provisions of the Senate amendment which would have included cogeneration equipment used in a facility which burned natural gas as a primary fuel on January 1, 1980, where installed in major fuel-burning installations with oil as a primary fuel.

The credit is allowed under the conference agreement where qualifying equipment is installed in an existing (as of January 1, 1980) industrial or commercial facility as part of an energy-using system which does not use oil, natural gas, or a product of oil or natural gas, as a fuel or where these fuels are used only for startup, backup or flame stabilization purposes and comprise not more than 20 percent of the fuel consumed by the system, determined on the basis of Btu's consumed each year. For this purpose, agricultural and water purification and desalinization facilities are considered to be industrial facilities. Cogeneration equipment includes qualifying equipment added to an energy using system to either begin cogenerating activity or expand existing cogenerating capacity. Where existing cogenerating equipment is replaced, the credit under this provision is available for the replacement cogeneration equipment to the extent attributable to incremental cogenerating capacity. As under existing law, if the property ceases to be qualifying energy property, recapture of the energy credit may occur.

The conference agreement also clarifies the Senate amendment regarding increases in the capacity to cogenerate. Under the conference agreement, equipment would not be eligible if it merely increases the capacity of the system to produce the primary energy product of the system. For example, if a facility is presently producing steam for process use as its primary energy product and electricity as its secondary energy product, a boiler that merely increases the facility's steam capacity would not qualify. (However, the boiler may otherwise be eligible for an energy credit as alternative energy property if it primarily uses an alternate fuel, including fuel derived from biomass.)

It is expected that the determination of primary and secondary energy product within an energy using system will be made on the basis of the relative amounts of energy used by these two functions. In the case of an energy using system where the primary energy product is steam, heat or other useful energy (such as shaft power) for process or space heating purposes, qualifying cogeneration equipment includes a turbine and generator to produce electricity, and also any other equipment up to the electrical transmission stage. Where electricity is the primary product, qualifying equipment includes that necessary to recover and distribute, but not to use, excess energy after the electrical generation function.

43. Specially Defined Energy Property

House bill.—No provision.

Senate amendment.—Present law provides a 10-percent nonrefundable energy credit through December 31, 1982, for specified items of property (such as recuperators, heat wheels, heat exchangers and automatic energy control systems) used to increase energy efficiency or to reduce the amount of energy consumed in existing processes at existing facilities. In addition, the Secretary is authorized (but has not yet exercised this authority) to specify additional items of qualifying property.

The Senate amendment adds, as additional specified items of qualifying specially energy property, industrial heat pumps, energy saving modifications to alumina electrolytic cells, and certain low density infrared heating panels. In addition, the Senate bill repeals the Secretarial authority to specify additional items of qualifying property is reinstated.

The Senate amendments are generally effective for qualifying investments after December 31, 1979. The provision concerning modifications to alumina electrolytic cells is effective for qualifying investments after September 30, 1978.

Conference agreement.—The conference agreement contains the provision of the Senate amendment which adds modifications to alumina electrolytic cells as a specified item of specially defined energy property, but it does not include the provisions of the Senate amendment relating to industrial heat pumps and certain low-density infrared heating panels.

Qualifying modifications to alumina cells are intended to mean either a substitution or a substantial change in technology and not periodic cleaning, repairs, or replacement of these cells or their components. For example, qualifying modifications include energy saving additions to, or substitutions of, components of the electrolytic reduction cell or "pot," such as changes to anode or cathode configurations and the addition of thermal insulation.

The conference agreement also continues the present law provisions which authorize the Secretary of the Treasury to specify additional items of qualifying property. In addition, standards are provided for the exercise of this authority. The standards provided by the conference agreement for purposes of the business energy credit are the same standards set forth for purposes of identifying additional items of energy conservation property or renewable energy source property eligible for a residential energy credit under Code section 44C (see item 35 above).

44. Petroleum Coke and Petroleum Pitch

House bill.—No provision.

Senate amendment.—Under present law, facilities which use oil or natural gas for their products, as a primary fuel or to produce a feedstock are generally not eligible for the 10-percent energy investment credit. In addition, the 10-percent regular investment credit and accelerated methods of depreciation are denied for certain boilers which use oil or natural gas or their products as a fuel. As a result, the energy investment credit as well as the regular investment credit and accelerated methods of depreciation are not available for these facilities and certain boilers where petroleum coke or petroleum pitch (bottom of the barrel by-products of petroleum refining) is used as a fuel or used to produce a feedstock for the manufacture of chemicals or other products.

The Senate amendments allows a 10-percent energy investment credit for equipment which uses petroleum coke or petroleum pitch as a fuel or uses these substances to produce a feedstock. The Senate amendment also allows the regular investment credit (if the equipment otherwise qualifies for this credit under section 48(a)) and accelerated methods of depreciation for boilers which use these petroleum by-products as a fuel.

In addition, the Senate amendment specifies that the energy credit extends to equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products which are the same as, or essentially the same in nature and function as, chemicals or other products derived from petroleum or natural gas.

These provisions would be effective for qualifying investments after December 31, 1979.

Conference agreement.—The conference agreement follows the Senate amendment with respect to the provisions which allow the regular credit and accelerated methods of depreciation for certain boilers which use petroleum coke or pitch as a fuel, but deletes the provisions which allow an energy credit for equipment which uses petroleum coke or petroleum pitch as a fuel or to produce a feedstock. In addition, the conference agreement follows the Senate provisions concerning the business energy credit for equipment to produce feedstocks from coal.

The conference agreement clarifies the Senate amendment to provide that where coal (including lignite) is used to produce a feedstock for the manufacture of chemicals and other products, qualifying equipment would generally qualify only to the point where either a marketable substance or a substitute for a petroleum or natural gas derived feedstock is produced. A marketable substance is one that is regularly offered for commercial sale. However, the production of small (either in quantity or value) amounts of marketable byproducts incident to the manufacture of the primary product shall not render the equipment ineligible. The conference agreement also provides that qualifying equipment to produce a feedstock from coal (including lignite) includes equipment to treat intermediate products derived from this coal, for example, equipment to upgrade a coal-derived low-Btu gas to a medium or high Btu gas, to produce methanol or ammonia for use as a feedstock from coal-derived gases or liquids, and to produce hydroprocessed liquids or solids from coal for use as feedstocks in the production of chemicals and other products. Equipment to convert coal into feedstocks for the manufacture of chemicals or other products does not include equipment, such as an oxygen plant, which is not directly involved in the treatment of coal or a coal product, but produces a substance which is, like coal, a basic

feedstock or catalyst used in a coal conversion process. Also, qualifying equipment in an integrated process shall not become ineligible merely because parts of the process are owned by different taxpayers.

45. Coke and Coke Gas Equipment

House bill.—No provision.

Senate amendment.—Under present law, equipment used to produce coke or coke gas is not eligible for an energy credit. Under the Senate amendment, the 10-percent energy credit would be provided through December 31, 1982, under the category of alternative energy property, for new coke ovens and for costs incurred in the reconstruction or rehabilitation of existing coke ovens to produce coke and coke gas for use as a fuel or feedstock. Qualifying equipment under the Senate amendment also includes required pollution control equipment and related on-site equipment to handle, store and prepare coal for use in coke ovens. This provision is effective after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment, but is effective for qualifying investment after December 31, 1979.

46. Biomass Property

House bill.—No provision.

Senate amendment.—Under present law, boilers, burners and related pollution control and fuel handling equipment which primarily use fuels (such as biomass) other than oil or natural gas are provided the 10-percent nonrefundable energy credit through December 31, 1982. Equipment which converts these alternate substances into a synthetic solid, liquid, or gaseous fuel is also eligible for this credit.

The Senate bill increases the energy investment credit to 20-percent and extends the effective period through December 31, 1990, for qualifying alternative energy property use to convert nonwood biomass into a synthetic solid fuel or to burn this fuel or nonwood biomass. In addition, the Senate bill extends the present 10-percent energy investment credit through 1990 for equipment use to produce a synthetic solid fuel from wood biomass, or to burn wood biomass or a synthetic solid fuel derived from wood biomass. These expanded and extended credits would cover alternative energy property, as defined under present law, used in connection with the categories of biomass consumption which are set forth above. These amendments would be effective for qualifying investments after December 31, 1979.

Under the Senate amendments, the energy credit is also increased to a 20-percent rate from October 1, 1980, through September 30, 1984, for equipment used to convert biomass into an alcohol fuel.

Conference agreement.—The conference agreement replaces the Senate amendment with a provision that extends, from January 1, 1983, through December 31, 1985, the 10-percent energy investment credit for biomass property; that is, property to convert biomass into a synthetic solid fuel, or to burn this fuel or biomass. Qualified investment for equipment that converts biomass to alcohol for fuel purposes is also eligible for the 10-percent energy investment credit from 1983 through 1985, but only if the equipment producing the alcohol uses a primary energy source (i.e., more than 50-percent of the full energy requirement) other than oil, natural gas, or a product of oil or natural gas.

Under these provisions, biomass is generally any organic substance other than oil, natural gas, or coal, or a product of oil or natural gas or coal. For this purpose biomass includes waste, sewage, sludge, grain, wood, oceanic and terrestrial crops and crop residues and includes waste products which have a market value. The conferees also intend that the definition of biomass does not exclude waste materials, such as municipal and industrial waste, which include such processed products of oil, natural gas or coal such as used plastic containers and asphalt shingles.

Biomass fuel or feedstock handling, storage, and preparation equipment and pollution control equipment as defined under Code secs. 48(l)(3)(A) (vi) and (vii) are also eligible for the extended 10-percent energy credit under the conference agreement.

The extended credit period for alcohol fuel equipment applies where the primary source of energy is an energy resource (such as coal or geothermal or solar energy) other than oil or natural gas substances. In addition, property that uses oil or natural gas substances as its primary energy source and that is constructed by the taxpayer and placed in service after 1982 is allowed the energy credit under the rules of Code secs. 48(a)(l)(i)(I) and 48(m) only to the extent of costs attributable to construction before 1983. Such property acquired by the taxpayer and placed in service after 1982 is not allowed an energy credit under Code secs. 48(a)(l)(i)(I) or 48(a)(l)(i)(VI). As under existing law, if the property ceases to be qualifying energy property, recapture of the energy credit may occur.

The conference agreement also adds a 10-percent energy credit for equipment that stores fuel derived from garbage (i.e., refuse derived fuel) at the site where the fuel is produced. This equipment, which is not eligible for the energy credit under present law, is eligible for the 10-percent energy credit from January 1, 1980, through December 31, 1985.

47. Regular Investment Credit for Energy Property

House bill.—No provision.

Senate amendment.—Under present law, not all property which qualifies for the energy investment credit is eligible for the 10-percent regular investment credit. The Senate amendment specifically makes property which is eligible for an energy credit also eligible for the regular credit, effective for qualifying investments after December 31, 1979, and during the period such property qualifies for an energy credit.

Conference agreement.—The conference agreement does not include the Senate provision.

48. Public Utility Property

House bill.—No provision.

Senate amendment.—Under present law public utility property is not eligible for the 10-percent energy investment credit for alternative energy property, specially defined energy property, solar or wind energy property and recycling equipment. The Senate amendment allows the energy credit for public utility property which is solar, wind, geothermal, ocean thermal, small scale hydroelectric, biomass, or cogeneration property. These provisions are effective for qualifying investments after December 31, 1979.

Conference agreement.—The conference agreement retains the present law exclusions and makes public utility property ineligible for the energy credit on new types of property added in the bill except qualifying hydroelectric energy property. This provision is effective for qualifying investments after December 31, 1979.

49. Vanpooling

House bill.—No provision.

Senate amendment.—Under present law, a full investment credit is generally not available unless the estimated useful life of qualified property is seven years or more. However, employer-owned vans which are used for vanpooling purposes are eligible for a full 10-percent regular investment credit if these vans have estimated useful lives of three years or more. The Senate amendment extends the full regular credit to vans used for vanpooling purposes and owned by employees or third parties, as well as employers, where the van has an estimated useful life of three years or more. These amendments are effective after December 31, 1979.

Conference agreement.—The conference agreement does not include the Senate provision.

50. Intercity Buses

House bill.—No provision.

Senate amendment.—Under present law, buses do not qualify for an energy investment credit. The Senate amendment treats, as energy property eligible for a 10-percent energy investment credit, certain intercity buses used by a common carrier which is engaged in providing passenger or charter intercity bus transportation and is regulated by the Interstate Commerce Commission or a similar State regulatory authority. The credit applies to qualifying intercity buses to the extent an operator's fleet seating capacity is increased over that for the preceding year taking into account those buses which travel at least 10,000 miles each year. In the case of a new operator, the prior year's seating capacity is zero and all acquisitions in the first year of operation are considered as increased capacity. The determination of incremental fleet size is made by comparing the operator's fleet size at the end of the taxable year during which qualifying buses were placed in service with the operator's fleet size at the end of the immediately preceding taxable year, taking into consideration the total operating seating capacity (including qualifying buses either owned by or leased to the taxpayer-operator) of the taxpayer's intercity bus fleet.

Qualifying intercity buses are defined as automobile buses owned and operated by the taxpayer, the chassis and body of which are exempt (under Code sec. 4063(a)(6)) from a 10-percent excise tax generally imposed under Code section 4061(a) on trucks and buses. In order to distinguish intercity buses from local transit buses for purposes of this provision, qualified buses must also have seating capacity for at least 36 passengers (in addition to the driver) and one or more baggage compartments, separate from the passenger area, with a capacity of at least 200 cubic feet.

The energy credit for intercity buses applies to qualifying buses acquired and placed in service by the operator after December 31, 1979, and before January 1, 1986.

Conference agreement.—The conference agreement follows the Senate amendment. However, several modifications are made to the Senate provision relating to total operating seating capacity. In addition the conference agreement adds a related taxpayer rule under which buses owned by a person related to the taxpayer will be considered in determining the taxpayers total operating seating capacity. It is expected that rules similar to those contained in Code section 52(a) and (b) will apply.

The conference agreement clarifies the Senate amendment to indicate that the credit applies only to qualified investment attributable to an increase in operating seating capacity. For example, a bus that increases the taxpayer's total operating seating capacity by one seat is eligible only to the extent of the cost attributable to the addition of that one seat.

The conference agreement substitutes for the 10,000 mile rule in the Senate amendment a provision giving the Secretary authority to determine the circumstances under which a bus will be considered to be used on a full-time basis for purposes of total operating seating capacity. It is expected that the Secretary will include buses acquired at the end of the taxable year and used on a

full-time basis for the remainder of the year (or, if acquired on the last day of the year, will be used on a full-time basis), even if the buses are not used for any specified number of miles.

51. Affirmative Commitments

House bill.—No provision.

Senate amendment.—Under present law, the 10-percent business energy credits generally expire for property placed in service and for expenditures incurred after December 31, 1982. The Senate amendment extends the expiration date through December 31, 1990, for energy credits which otherwise expire at the end of 1982, if certain conditions are satisfied. Under the Senate amendment, the effective date for energy credits on energy property constructed or installed in connection with long-term projects with a normal construction period of two years or more (as this term is defined under Code section 46(d)(2), relating to qualified progress expenditures) is extended through 1990, if (1) before January 1, 1983, all engineering studies necessary for commencement of construction of the project have been completed by or for the taxpayer and the taxpayer has also, by January 1, 1983, applied for all environmental and construction permits required under Federal, State or local law in connection with commencement of construction of the project; and (2) the taxpayer has before January 1, 1986, entered into binding contracts to acquire or construct at least 50 percent of the total estimated value of all equipment which is specially designed to become part of this project. It is expected that this provision will cover such energy property as large boiler systems, coal gasification and liquefaction projects and coke ovens, where the normal construction period for this property is two years or more.

Conference agreement.—The conference agreement follows the Senate amendment.

52. Tax Credit for Purchase of Electric Motor Vehicles

House bill.—No provision.

Senate amendment.—Under present law, no energy credits are provided for electric motor vehicles. However, electric motor vehicles which are depreciable with useful lives of three years or more qualify for the 10-percent regular investment credit. The Senate amendment provides a nonrefundable energy-related income tax credit for 10-percent of the cost of acquiring a qualified electric motor vehicle or for converting a vehicle powered by an internal combustion engine to the use of electrical power. The credit is available for costs of acquiring or converting a qualified motor vehicle regardless of whether the motor vehicle is used for personal purposes or is depreciable property used in a trade or business. The credit is limited to a maximum of $1,000 per qualified motor vehicle.

Qualifying motor vehicles are defined as any new vehicles (including automobiles, buses and trucks) manufactured primarily for use on public streets or highways and powered primarily by an electric motor which use rechargeable storage batteries or other portable sources of electricity as a power source. In addition, the motor vehicle must be acquired (or converted) after December 31, 1979, and before January 1, 1987.

Conference agreement.—The conference agreement does not include the Senate provision.

53. Fuel Efficient Aerodynamic Equipment for Trucks

House bill.—No provision.

Senate amendment.—Present law does not allow an energy investment credit for energy-efficient transportation equipment. The Senate amendment provides a 10-percent nonrefundable energy investment credit for certain new fuel-efficient aerodynamic equipment, with a useful life of three years or more, acquired and placed in service by a taxpayer after December 31, 1979, and before January 1, 1983. Qualifying fuel-efficient aerodynamic equipment for purposes of this credit is defined as equipment, such as wind deflectors and other items specifically designed to reduce energy consumption, which are added to the top of the cab or the side of the cargo compartment of an existing truck primarily used in the commercial transportation of property. An existing truck is one which was placed in service before January 1, 1980. The Director of the Joint Government-Industry Voluntary Truck and Bus Fuel Economy Improvement Program must be consulted to set standards of fuel efficiency for qualifying equipment.

Conference agreement.—The conference agreement does not include the Senate provision.

54. Double-Dipping Provisions

House bill.—No provision.

Senate amendment.—The Senate amendment broadens the applicability of the business energy credit and generally extends the credit beyond the present law termination date of December 31, 1982.

Conference agreement.—The conference agreement provides rules to coordinate the business energy credits with other government subsidies for energy-related expenditures. The conferees are concerned that if no such rules were adopted, the compound effect of various subsidized loan and grant programs could lead to a situation in which the taxpayer could purchase this property with very little expenditure of his own funds. A potential result could be the encouragement of inefficiency through expenditures for equipment the production of which would require diverting substantial resources from more effective uses. The effect of the rule provided in the conference agreement, in conjunction with the present treatment of nontaxable grants, is that the purchaser of the eligible equipment must choose between the tax credit, on the one hand, and subsidized energy loans and nontaxable grants, on the other hand. Grants which are taxable are not taken into account under these rules because their taxation serves as a partial offset; similarly, credits against State and local income taxes are not taken into account because the deductibility of these taxes under the Federal income tax implies that the effect of these credits is equivalent to the effect of a taxable grant.

Under present law, in general, if property is financed with nontaxable government grants, the tax basis in the property, for such purposes as depreciation and investment credits (including energy investment credits), is reduced to the extent that the property is financed with such grants; these rules, which partially offset the benefit of these grants, are not changed under the conference agreement. The conference agreement provides a similar rule, but only for purposes of the energy credit, to the extent that property is financed with tax-exempt industrial development bonds or certain other government subsidized financing.

Under the conference agreement, in the case in which qualified investment is financed in whole or in part by the proceeds of tax-exempt industrial development bonds or by subsidized energy financing, the amount taken into account for purposes of applying the energy percentage would be qualified investment multiplied by a fraction. The fraction is determined by dividing that portion of qualified investment in the property which is allocable to this financing or proceeds by qualified investment in the property and subtracting this quotient from one.

Subsidized energy financing means financing provided under a Federal, State, or local program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. Subsidized financing includes, but is not limited to, the direct or indirect use of tax-exempt bonds for providing funds under such a program. Subsidized financing does not include, however, loan guarantees.

Under current law, one-half of the energy percentage is allowed for property financed in whole or in part by industrial development bonds. Under this rule, when energy property is installed in conjunction with other property that is allowed to be financed by industrial development bonds because such other property is described in section 103(b)(4), the energy property is not considered to be financed in whole or in part by industrial development bonds. The rule provided in this bill replaces the current law rule and will generally be effective for periods after December 31, 1982. However, in the case of property which is allowed the energy percentage for the first time under this bill, this rule would apply to periods after December 31, 1979. This additional property includes qualified hydroelectric generating property, cogeneration equipment, certain intercity buses, ocean thermal property, certain property which produces coke or coke gas or uses coal to produce certain chemicals, property which generates process heat from solar energy, alumina electrolytic cells, and storage equipment for fuel derived from garbage. In the case of property financed by subsidized energy financing other than financing provided from the proceeds of any tax-exempt industrial development bond, no financing made before January 1, 1980, will be taken into account.

B. Alternative fuel production credit

55. Alternative Fuel Production Credit

House bill.—No provision.

Senate amendment.—The Senate amendment provides a tax credit for the domestic production of energy from certain alternative sources. The credit is nontaxable and nonrefundable. It is equal to $3 for the production of an amount of energy equivalent to that contained in a barrel of oil, and all energy equivalent measurements would be made on the basis of Btu content. Therefore, a $3 credit would be allowed for the production of 5.8 million Btus.

Eligible sources.—The credit is available for the following forms of energy production:

(1) oil from shale;

(2) oil from tar sands;

(3) natural gas from geopressured brine, coal seams, Devonian shale, or tight sands;

(4) liquid, gaseous, or solid synthetic fuel, including petrochemical feedstocks, (other than alcohol) from coal liquefaction or gasification facilities;

(5) gas from biomass (including wood);

(6) steam from solid agricultural by-products; and

(7) qualifying processed solid wood fuels.

For purposes of the credit, the definition of natural gas from geopressured brine, coal seams, and Devonian shale is the same as that determined by the Federal Energy Regulatory Commission (FERC) under the Natural Gas Policy Act of 1978 (NGPA). Until FERC defines the term "tight formation" under section 107(c)(5) of the NGPA, tight sands gas is defined in terms of average matrix permeability to gas.

Solid synthetic fuel, including feedstocks, produced from coal liquefaction or gasification includes solvent refined coal.

Qualifying processed solid wood includes raw wood products derived from timber and trees, including timber waste and wood-

based industrial waste. However, it does not include woodbased products contained in municipal and other waste (such as paper). Biomass includes organic waste, municipal and industrial waste, sewage, sludge, and oceanic and terrestrial crops (including by-products and residues).

Solid fuels produced by wood would qualify for the credit only if the energy content, per unit of volume or weight, of the processed wood exceeded that of the unprocessed wood by at least 40 percent.

Eligible uses.—Generally, the credit is available only for energy produced for sale to other persons. However, in the case of steam produced from solid agricultural by-products, the credit is allowed for energy production used in the taxpayer's trade or business.

Amount of credit.—Except for tight sands gas, the credit is $3 for the production of 5.8 million Btu's and is adjusted for post-1979 inflation, as measured by changes in the GNP deflator for nonresidential structures from its average level in 1979.

The amount of the credit available for production is reduced in proportion to tax-exempt financing and Federal grants used to construct or acquire the facility or its equipment.

Generally, the credit would phase out as the average price of oil rises from $23.50 to $29.50, adjusted for inflation. However, the phaseout of the credit for gas from tight sands, geopressured brine, Devonian shale and coal seams is based on the price of gas.

Taxpayers would be entitled to the credit in proportion to their ownership interest in the facility or the production.

Effective date.—Generally, the credit would be available for fuels produced after December 31, 1979, from facilities placed in service after September 30, 1979, and before January 1, 1990.

Qualifying processed wood.—In the case of qualifying processed wood fuels, the credit would be available for three years of production without regard to the phaseout. It would be available for facilities placed in service after April 20, 1977, and before January 1, 1982, and for production from those facilities sold after September 30, 1980, and before the later of October 1, 1983, or three years following the date on which the facility was placed in service.

Biomass steam.—The credit would be available for steam from solid agricultural byproducts sold after December 31, 1979, and before January 1, 1985, from facilities placed in service after September 30, 1978. The phaseout would not apply for the first three years of production for each facility (or, if later, for the three years after September 30, 1980). The credit also would be available for steam sold after September 30, 1980, which is attributable to increases in a facility's production capacity, or replacement of equipment, after September 30, 1980.

Natural gas.—The credit for the production of natural gas would be available for production after September 30, 1980, from a property (as defined in the NGPA) from which gas was not produced prior to the date of enactment of the Crude Oil Windfall Profit Tax Act of 1980.

Termination.—The credit would terminate at the end of the year 2000. In the case of gas produced from tight sands, the credit would terminate if its price is deregulated.

Conference agreement.—The conference agreement adopts a modified version of the Senate amendment. This provision is intended to provide producers of alternative fuels with protection against significant decreases in the average wellhead price for the uncontrolled domestic oil, with which alternative fuels frequently compete. The credit generally is to act only as a guaranteed price floor when the price of oil is in excess of $29.50, but the credit would become available if, at any time prior to its expiration, the price of oil falls to below $29.50, adjusted for inflation. Special rules are provided, however, for production of gas from Devonian shale, qualifying processed wood, and steam from solid agricultural byproducts to allow a credit when the price of oil is above $29.50.

Generally, under the conference agreement, a $3 credit is available for the production and sale of alternative fuels to unrelated persons after December 31, 1979, and before January 1, 2001, from facilities placed in service after December 31, 1979, and before January 1, 1990, or from wells drilled after December 31, 1979, and before January 1, 1990, on properties which first began production after January 1, 1980. The credit is based on an eligible fuel's barrel-of-oil equivalence, and phases out as the average wellhead price of uncontrolled domestic oil rises from $23.50 to $29.50. The credit for tight sands gas terminates if that gas is deregulated. Both the credit (except in the case of tight sands gas production) and the phase out range are adjusted for post-1979 changes in the GNP deflator.

The credit does not apply to gas production from any property on which a well is located which is subject to an election under section 107(d) of the NPGA. Therefore, an election to receive an incentive price for gas from any well precludes the application of the credit as to all production from the property on which the well is located.

The credit is $3 for the production of each unit of 5.8 million Btus of energy, the equivalent of one barrel of oil. All Btu measurements are made without taking into account any Btus attributable to material other than the eligible source.

Sources eligible for the credit, and the definitions of those sources, generally are the same as those in the Senate amendment. Natural gas produced from a tight formation, however, has the same definition as that determined by FERC under the NGPA except that the credit is allowed only with respect to gas entitled to at least 150 percent of the gas ceiling price set under section 103 of the NGPA. The conference agreement also adds alcohol produced from coal as an eligible fuel.

Under the conference agreement the price to which the phase out is linked is the annual average price of uncontrolled domestic oil (except in the case of gas produced and sold from Devonian shale during 1980, 1981, or 1982). This price is to be estimated by the Secretary and published, together with the inflation adjustment factor, by April of the year following that for which the credit is being computed.

Credit offsets.—To the extent that the credit is available for the production and sale of any of the eligible sources, it is reduced in proportion to Federal, State, and local grants, subsidized energy loans, and tax-exempt financing provided in connection with the construction or acquisition of the facility or its equipment. For this purpose, all tax-exempt financing, and all Federal, State, and local grants (whether or not taxable or energy related), but only subsidized loans which are energy related, are taken into account. Loan guarantees are not taken into account. The proportion of a facility deemed to be financed by subsidized financing equals the sum of the grants, subsidized energy loans and tax-exempt financing divided by the sum of the gross additions to capital account attributable to the project.

The production credit also is reduced, dollar-for-dollar, in proportion to energy investment credits allowed in respect of the property used to produce the alternative fuels eligible for the credit. All energy investment credits allowed to any party (including parties to a lease of the property and to predecessors) with respect to the fuel production property are taken into account.

Generally, the credit offset computation is made on an annual basis. The energy investment credit offset applies only up to the point at which the full energy investment credit has been recaptured.

Devonian shale gas.—For production and sales in calendar years 1980, 1981, and 1982, the phase out of the credit for gas produced from Devonian shale is based on the price of deregulated natural gas, not deregulated oil. For sales during these years, the credit phases out as the average price of high cost natural gas (as determined under section 107(c)(2), (c)(3), and (c)(4) of the NGPA) rises from $4.05 to $5.08 per thousand cubic feet (mcf). For sales after 1982, the generally applicable credit phaseout based on the price of oil applies.

Qualifying processed wood fuel.—The definition of qualifying processed wood fuel under the conference agreement generally is the same as that contained in the Senate amendment. The conference agreement clarifies, however, that qualifying processed wood fuel does not include charcoal, fireplace products, or wood products used for ornamental or recreational purposes. This exclusion encompasses fireplace products marketed in the form of "convenience logs," and similar residential compressed products which are wood based. In addition, the conference agreement clarifies that any Btu content of the processed wood that is attributable to nonwood additives, e.g., oil, gas, wax, plastic, glue, etc., is not taken into account in determining whether the Btu content of the processed wood has been increased by at least 40 percent over the Btu content of the wood immediately prior to the processing. (Under the general rule, Btus attributable to such additives are not taken into account in determining the amount of the credit for the year.)

The credit for qualifying processed wood is available only as to production and sales from facilities first placed in service in calendar years 1980 and 1981. As to production from those facilities, it is available for production and sales before either October 1, 1983, or three years from the date that the facility first is placed in service, whichever comes later. In addition, the phaseout based on the price of oil does not apply to production and sales during the first three years from the date the facility first was placed in service.

Steam from solid agricultural byproducts.—The definition of solid agricultural byproducts under the conference agreement generally is the same as that contained in the Senate amendment. As such, the term includes only solid byproducts of farming or agriculture, and does not include timber byproducts or other forms of biomass generally.

The credit for steam from solid agricultural byproducts is available only for production and use before January 1, 1985, in facilities placed in service after December 31, 1979. However, the phaseout based on the price of oil does not apply to production and use of such steam during the first three years from the date that the facility first is placed in service. In addition, a special rule applies to post-1979 increases in the production capacity or replacement of facilities first placed in service before 1980. Such production capacity increases or replacements basically are treated as facilities first placed in service after 1979. Therefore, production of steam attributable to these increases is eligible for the credit.

C. Alcohol fuels provisions

56. Excise Tax Exemption for Gasohol and Other Alcohol Fuels

House bill.—No provision.

Senate amendment.—Under present law, if motor fuel is a blend of gasoline, or other motor fuel, and alcohol and the fuel is at least 10 percent alcohol (other than alcohol

derived from petroleum, natural gas, or coal), it is exempted from the 4-cent-per-gallon Federal excise taxes on motor fuels on or after January 1, 1979, and before October 1, 1984.

The Senate amendment would extend the current excise tax exemption for fuels which are at least 10 percent alcohol until January 1, 2000 (and make certain technical amendments).

Conference agreement.—The conference agreement extends this excise tax exemption through December 31, 1992 (and makes essentially the same technical amendments as in the Senate bill).

One of the major underlying issues pervading the entire conference was the question of the Highway Trust Fund. All conferees are aware of projections indicating that in the near future there will be a sizable reduction in the estimated tax receipts dedicated to the Highway Trust Fund. This includes the reduction due to the gasohol exemption contained in this conference report. The conferees are convinced that it is essential that hearings being as rapidly as possible in the remainder of this session to consider the question of finding ways and means to restore the Highway Trust Fund to the level required to carry out its future purposes. For this reason the conferees would propose that not only should hearings be scheduled as soon as possible after the passage of the windfall profit tax legislation but also that all agencies concerned with the future of the Highway Trust Fund be allowed to provide whatever information is needed by Congress to give proper consideration to proposals for a restoration of the Highway Trust Fund to its full capabilities. The conferees are aware that there is a definite need to continue and extend the life of the Highway Trust Fund not only because proper funding is needed for the repair, rehabilitation and reconstruction of our major federal arteries but also because there is need to keep our systems in proper order so that the mass transportation system of the future, which is largely dependent on the Federal Aid system, will continue in full force.

The conferees also intend that the exemption for alcohol fuels should not apply to any future increases in the taxes on gasoline or other motor fuels to the extent that such increases result in the taxes being imposed at a rate in excess of 4 cents per gallon.

57. Credit for Certain Alcohol Fuels

House bill.—No provision.

Senate amendment.—Where alcohol (other than alcohol produced from petroleum or natural gas) is used as a fuel (either blended or straight) of a type suitable for use in an internal combustion engine and the excise tax exemption for alcohol fuels does not apply, a credit would be provided. In general, the credit is available to the blender in the case of blended fuels and the user in the case of straight fuels, and the amount is 40 cents per gallon for most alcohol of at least 190 proof and 30 cents per gallon for alcohol between 150 and 190 proof. For alcohol made from coal, a credit of 20 cents per gallon is available to the producer. The credits (which apply to taxable years beginning after September 30, 1980) are nonrefundable, and no advance payment is provided. The credits allowed for the prior taxable year would be includible in income.

Conference agreement.—The conference agreement generally follows the Senate amendment except that (1) no credit is provided for alcohol produced from coal; (2) several amendments are made to integrate the credit and the execise tax exemption so that an incentive is provided to encourage the use of fuels containing more than 10 percent alcohol; (3) the credit generally is available only to a person who blends or uses alcohol in a trade or business and must be included in income in the taxable year it is earned (rather than in the taxable year following the year for which it is allowed); (4) a seven-year carry-forward of any unused credit is provided; and (5) the credit applies only to sales or uses after September 30, 1980, and on or before December 31, 1992. Although no credit may be claimed for any sale or use of alcohol which occurs after December 31, 1992, credits unused as of such date may be carried forward to taxable years beginning in 1993 and 1994.

Under the Senate amendment, if a fuel is at least 10 percent alcohol and it would have been subject to the Federal excise taxes on motor fuels but for the gasohol exemption, the exemption would apply, but no additional benefit would be allowable if more than 10 percent alcohol were used. Thus, the tax benefit on a per-gallon-of-alcohol basis would be less for a fuel which is 20 percent alcohol than for a fuel which is 10 percent alcohol. Under the conference agreement, a fuel which is more than 10 percent alcohol [1] is not only eligible for the excise tax exemption (assuming the excise taxes would otherwise be applicable) but also qualifies for a credit based on the volume and proof of alcohol in the fuel. The credit would be reduced by the amount of excise tax exemption applicable to the fuel.[2]

For example, if a taxpayer blends 7,000 gallons of gasoline and 3,000 gallons of 190 proof alcohol and sells the mixture to a service station, the amount of credit allowable would be $800, computed as follows: 3,000 gallons × $0.40 = $1,200, reduced by $400 (10,000 gallons × $0.04).

The conference agreement also modifies the rules relating to the credit for alcohol which is used as a fuel without being blended or mixed with another liquid. Under the conference agreement the credit would generally be available to the user of such fuel. However, if such fuel is sold at retail and placed in the fuel tank of a vehicle, the credit (with appropriate reduction for the amount of excise tax exemption applicable to the fuel) is to be claimed by the retail seller, rather than by the user.

58. Tax-Paid Gasoline

House bill.—No provision.

Senate amendment.—Under present law, gasoline may be sold free of tax (under certain circumstances) if it is to be used in the production of tax-exempt alcohol fuels, but no provision is made for a credit or refund of the tax on gasoline if tax-paid gasoline is mixed with alcohol to produce tax-exempt alcohol fuels.

The Senate amendment provides that if a person purchases tax-paid gasoline which is used in the production of tax-exempt alcohol fuels (including gasohol), the person may obtain a refundable income tax credit (or a payment if the amount is $200 or more during any of the first 3 quarters of the taxable year) in an amount equal to the taxes paid on such gasoline.

Conference agreement.—The conference agreement generally follows the Senate amendment with minor technical modifications and a change in the expiration date to reflect the revision in the expiration date of the excise tax exemption for alcohol fuels.

59. Regulation of Alcohol Production

House bill.—No provision.

Senate amendment.—The Senate amendment provides special rules for distilled spirits plants used to produce alcohol for fuel. The Secretary of the Treasury is provided with broad authority to waive or reduce existing regulatory requirements for these new types of plants, such as by allowing simplified application and recordkeeping procedures and providing reduced control and bonding requirements.

The Senate amendment provides an expedited permit application procedure (and no bond) for small producers of alcohol for fuel use. This procedure requires Treasury action within 60 days of the submission of a completed application and provides for automatic approval of applications if Treasury action is delayed. A small producer means a plant that produces no more than 10,000 proof gallons of alcohol per year.

Conference agreement.—The conference agreement follows the Senate amendment except for minor language changes.

The conferees intend that these provisions of the conference report not be interpreted as affecting the Treasury Department's authority, under present law, to revoke or suspend permits for distilled spirits plants.[1]

60. Study of Imported Alcohol

House bill.—No provision.

Senate amendment.—The Senate amendment directs the Secretary of the Treasury to recommended to Congress, within 180 days after the date of enactment, ways in which the excise tax exemption and the credit can be denied to fuels containing imported alcohol.

Conference agreement.—The conference agreement follows the Senate amendment.

61. Reports

House bill.—No provision.

Senate amendment.—Under the Senate amendment, the annual reports currently required to be made by the Secretary of Energy through 1984 on the use of alcohol in fuels are to be made from 1981 through 2000 and are to contain information on the effect of the reduction in excise tax receipts due to the excise tax exemption for alcohol fuels on the Highway Trust Fund (as well as the information currently required).

Conference agreement.—The conference agreement follows the Senate amendment except that the reports are to be made only through 1992.

D. Industrial development bond provisions

62. Income Tax Exemption for Bonds for Solid Waste Disposal Facilities

House bill.—No provision.

Senate amendment.—Under present law, tax exempt industrial development bonds (IDBs) may be used to provide solid waste disposal facilities. The Senate amendment

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[1] As under the excise tax exemption in present law, the term "alcohol" does not include alcohol produced from petroleum, natural gas, or coal. This means that alcohol produced from such substances, or from any derivative or product of such substances, may not be treated as alcohol which is eligible for the credit (or as alcohol for purposes of the "at least 10 percent alcohol" requirement in the excise tax exemption).

[2] If no excise tax would apply to the fuel because of an exemption (or credit or refund) provision other than the exemption for alcohol fuels, the credit would not be reduced. Thus, if a taxpayer blends 90 gallons of gasoline and 10 gallons of 190 proof alcohol and sells the mixture to a unit of local government, the sale of the fuel would be tax-free by reason of sec. 4221 (a)(4) and the taxpayer could claim the credit on the 10 gallons of alcohol without any reduction. Similarly, if the taxpayer were to sell the alcohol fuel to a farmer for on-farm use, the taxpayer may claim the credit without reduction even though the alcohol fuel was sold free of tax to the farmer. (The basis for the result in the preceding sentence is that if a tax had been imposed on the fuel sold to the farmer, the farmer could have claimed a credit or refund of such tax (see secs. 39 and 6420).)

[1] See Code secs. 5171 and 5271.

contains three provisions which expand the definition of solid-waste disposal facilities. The first provision provides that solid waste disposal facilities would include property which is used primarily to convert solid waste or fuel derived from solid waste into steam or into alcohol. The second provision provides that facilities which produce electric energy from solid waste and which are owned and operated by or on behalf of a State or local government would be treated as solid waste disposal facilities where all the electric energy and steam produced by the facility is sold to a governmental unit and is not resold. Under this provision, an obligation used to provide such a facility will be treated as a tax-exempt State or local government obligation notwithstanding the fact that the Federal Government purchases all or a portion of the electric energy or steam. Both the first and second provision of the Senate amendment apply with respect to obligations issued after October 18, 1979.

The third provision of the Senate amendment deletes the requirement of the second provision (i.e., the provision relating to facilities that produce electric energy from solid waste) that all the electric energy produced from a qualified facility be sold to a governmental unit. Under the third provision, the electric energy could be sold to any person. In addition, the third provision provides that a facility would be a qualified facility only if it was owned by, and operated by or for a State or a political subdivision of a State. The third provision would apply with respect to obligations issued after September 30, 1980.

Conference agreement.—The conference agreement, in general, follows the first and second provision of the Senate amendment (with certain modifications) and deletes the third provision of the Senate amendment.

Under the conference agreement, the term "solid waste disposal facility" is defined to include a "qualified steam-generating facility" and a "qualified alcohol producing facility." As a consequence, tax exempt IDBs may be used to finance such facilities. In addition, the conference agreement allows tax-exempt bonds to be issued for certain solid waste-energy producing facilities. The conferees intend that, wherever there is a requirement that a particular person own facilities for purposes of the IDB provisions of this section of the bill, the requirement means the facilities are owned for tax purposes by that person. The conferees also want to make it clear that the amount of solid waste disposal facilities that can be financed by tax-exempt IDBs under the provisions of this bill or under present law is not to be reduced by the value of any product created by the solid waste disposal facilities.

(a) *Qualified steam-generating facilities.*—The term "qualified steam-generating facility", in general, is defined to mean a steam-generating facility which meets two requirements. A steam generating facility includes incinerators, boilers, smokestacks, and precipitators and other property used in the generation of steam. However, a steam-generating facility would not include property used in the transmission of steam. The first requirement provides that more than half of the fuel (determined on a Btu basis) used in the generation of steam must be solid waste or solid waste derived fuel. The second requirement provides that substantially all of the solid waste derived fuel which is used at the steam-generating facility must be produced at a facility which is located at or adjacent to the site of the steam-generating facility. The facility for producing solid waste derived fuel also must be owned and operated by the same person who owns and operates the steam-generating facility.

The conference agreement also provides a special rule for steam generating facilities owned by a State or political subdivision of a State. Under the special rule, the second requirement will be treated as being satisfied if substantially all the solid waste derived fuel used at the steam generating facility is produced at a facility which is owned and operated by or for the same State or same political subdivision or subdivisions of a State which owns the steam generating facility, and if substantially all the solid waste processed in the facility for producing solid waste derived fuel is collected from the area in which the steam generating facility is located. For example, in the case of a county solid waste authority which owns and operates a steam generating facility, substantially all the solid waste processed at the facility for producing solid waste derived fuel must be collected from within the county in which the steam generating facility is located. Further in the case of a solid waste authority having jurisdiction with respect to a metropolitan area lying in two contiguous States which owns a steam generating facility located in that metropolitan area substantially all the solid waste processed in the facility for producing solid waste derived fuel must be collected from within that metropolitan area.

(b) *Qualified alcohol producing facility.*—The term "qualified alcohol producing facility," in general, means a facility for the production of alcohol which meets certain requirements. Such a facility will include property required to convert cellulose fiber into sugar and property required in the fermentation of the sugar whether those processes occur in one or more steps. It will also include property used in the distillation of the fermented solution.

In order for a facility for the production of alcohol to be a qualified facility, three requirements must be satisfied. The first requirement provides that the primary product obtained from the facility must be alcohol. The second requirement provides that more than half the feedstock (determined on a reasonable basis, e.g. sugar content) used in the production of alcohol must be solid waste or a feedstock derived from solid waste. The third requirement provides that substantially all the solid waste derived feedstock used at the alcohol producing facility must be produced at a facility located at or adjacent to the site of the alcohol producing facility and the solid waste derived feedstock production facility must be owned and operated by the same person who owns and operates the alcohol producing facility.

The conference agreement also provides a special rule for certain alcohol facilities. A facility for the production of alcohol from solid waste which satisfies this special rule will not be required to meet the third requirement for a "qualified alcohol producing facility". A facility will satisfy the special rule where two conditions are satisfied. First, substantially all the solid waste derived feedstock for the facility must be produced at a facility which (i) went into full production during 1977, (ii) is located within the limits of a city, and (iii) is located in the same metropolitan area as the alcohol-producing facility. The second condition provides that prior to March 1, 1980 there have been negotiations between a governmental body (e.g., a governmental authority) and an organization described in section 501(c)(3) of the Code with respect to the utilization of a special process for the production of alcohol at the facility.

The special rule applies only in the case where the aggregate amount of obligations issued (by reason of this special rule) with respect to a project do not exceed $30 million, and such obligations are issued prior to January 1, 1986.

(c) *Solid waste-energy producing facility.*—The conference agreement also provides that an obligation issued by an authority for two or more political subdivisions of a State which is part of an issue substantially all the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as a tax-exempt obligation of a political subdivision of a State which meets the requirements of an exempt activity of section 103(b)(4)(E) of the Code. For purposes of this provision the phrase "substantially all the proceeds of which are to be used to provide" is intended to have the same meaning as that phrase has under section 103(b)(4) of the Code.

A solid waste-energy producing facility means a solid waste disposal facility and a facility for the production of steam and electric energy where three requirements are met. First, substantially all the fuel for the steam and electric energy facility must be derived from solid waste processed in the solid waste disposal facility. Second, both the solid waste disposal facility and the steam and electric energy facility must be owned and operated by the authority which issues the obligations. For this purpose, a facility will be considered operated by the authority where the authority enters into a management agreement with a private concern under which the private concern will operate the facility so long as the duration of the management contract (including any options) does not exceed one year. Third, all the steam and electric energy produced at the facility (and not used by the facility) must be sold for purposes other than for resale to an agency or instrumentality of the U.S. Government.

For purposes of this provision, a steam and electric energy facility includes incinerators, boilers, precipitators, smokestacks, internal steam distribution lines, turbines, generators and other equipment for generating steam and electric energy, and structures for housing such equipment. However, a steam and electric energy facility would only include equipment up to the transmission stage.

The conferees also want to make clear that nothing in this provision or in the additional rules relating to Federal guarantees and federally subsidized loans is intended to affect the question under present law as to whether interest on an obligation issued by a State or local government is tax-exempt where repayment of the principal and interest on such obligation is secured or guaranteed by the Federal Government or where the Federal Government use part or all of the financed facility. Furthermore, under the conference agreement nothing in this provision is to be construed to override the arbitrage limitations of section 103(c) of the Code.

(d) *Additional rules.*—The conference agreement provides that all IDBs issued pursuant to the provisions of this bill are required to be issued in registered form as to principal and interest for the entire life of the obligation. Any such obligation which is not issued in registered form will not be tax-exempt.

In addition, the conference agreement provides an additional rule in the case of IDBs used to provide qualified steam generating facilities and qualified alcohol producing facilities. Under this rule, any such obligation will not be tax-exempt where (1) the payment of principal or interest is guaranteed (in whole or part) directly or indirectly by the United States government or any agency or instrumentality thereof under a program, a principal purpose of which is to encourage the conservation or production of energy, or (2) any part of the payment of principal or interest is to be made (in whole or part) directly or indirectly with funds provided under a Federal, State or local program, a principal purpose of which is to en-

courage the conservation or production of energy.

63. Income Tax Exemption for Bonds for Hydroelectric Generating Facilities

House bill.—No provision.

Senate amendment.—Under present law, industrial development bonds (IDBs) used to finance hydroelectric facilities are not, in general, tax exempt. The Senate amendment provides that interest on IDBs used to provide hydroelectric facilities at existing or new dam sites will be exempt from Federal income tax. Hydroelectric facilities qualifying under the amendment are facilities for which the installed generating capacity will be 25 megawatts or less. In addition, tax-exempt IDBs may be used to provide hydroelectric facilities (including pumped storage facilities owned and operated by a public power authority or public utility district) which will have an installed generating capacity of more than 25 megawatts, but only in the case of facilities which are installed in conjunction with the construction of a new dam. Also, in the case of a new dam construction of the hydroelectric facility must have commenced after October 24, 1979. These provisions apply to obligations issued after October 24, 1979.

The Senate amendment also provides that certain existing dams in Grant County, Washington, shall be treated as new dams. This provision applies to obligations issued after September 30, 1980.

Property qualifying for tax-exempt financing under the amendment includes electrical generation equipment, powerhouses, electrical transmission lines, and fish passageways. New dam structures also qualify, if the primary function of the dam is for the generation of hydroelectric power. However, the portions of a hydroelectric dam which are used for the collection, treatment, or distribution of water are eligible for tax-exempt financing only if they qualify as facilities for the furnishing of water. (Code section 103 (b) (4) (G)).

Conference agreement.—The conference agreement does not include the Senate amendments relating to pumped storage projects, dams under construction and new dams. Subject to the following modifications, the conference agreement follows the Senate amendment with respect to existing dams and sites which do not involve the impoundment of water.

The conference agreement provides that interest on an IDB, substantially all the proceeds of which are to be used to provide qualified hydroelectric facilities is exempt from Federal income taxation provided that the "public use" test of present law is satisfied. The provision only applies to such facilities which are located on a natural water course or constructed water flow and which generate electric energy from the flow or fall of water. The term "existing dam" means any dam or barrier built across a watercourse or other manmade structure for the impoundment of water, which was completed on or before October 18, 1979, and which does not require any construction or enlargement of the impoundment structure (other than repairs or reconstruction) in connection with the installation of the hydroelectric power project. For purposes of this section, the construction of penstocks, powerhouses, fish passageways and similar structures does not constitute construction or enlargement of the impoundment structure. The term "existing dam" includes dams which are currently being used in connection with the generation of electricity, dams which have been used in connection with the generation of electricity of the past, and dams which have never been used in connection with the generation of electricity. The provision does not apply to pumped storage facilities, ocean thermal facilities or ocean tidal facilities.

A qualified hydroelectric facility is defined as qualified hydroelectric generating property which is owned for tax purposes by a State, a political subdivision of a State, or an agency or instrumentality of a State or political subdivision of a State ("a governmental body") and is installed at a qualified hydroelectric site.

Under the conference agreement, qualified hydroelectric generating property means equipment for generating electric energy from water, and structures for housing such equipment, fish passageways, and dam rehabilitation property, required by reason of the installation of electrical generation equipment at the qualified hydroelectric site. Equipment for generating electricity by water includes turbines and generators. Such equipment only includes equipment up to the transmission stage. The term "dam rehabilitation property" includes property for the reconstruction of breached structures and renovation of machinery and structural elements which have been left in place. Furthermore, in the case of an impoundment which does not meet state or federal spillway capacity or other requirements, the term "dam rehabilitation property" includes the replacement of the entire impoundment structure.

A qualified hydroelectric site, in general, means any site which has an installed capacity of less than 125 megawatts (1) at which there is a dam the construction of which was completed prior to October 18, 1979, and which is not significantly enlarged after such date or (2) at which electricity is to be generated without any dam or other impoundment of water. Any site at which there is a dam will not, however, be a qualified hydroelectric site unless the dam is owned for tax purposes by a governmental body on October 18, 1979, and during the period the obligations are outstanding. A dam site or other impoundment site includes any water passageways that are fed from the water behind the dam or other impoundment, if the primary purpose of the water passageways is for the generation of electricity.

Under the conference agreement, the entire qualified hydroelectric generating facility may be provided with tax-exempt IDBs where the total installed capacity of the site does not exceed 25 megawatts. However, only a portion of a qualified hydroelectric generating facility with an installed capacity in excess of 25 megawatts, but less than 125 megawatts, may be provided with tax-exempt IDBs. The portion may not exceed the eligible cost of the facilities being provided (in whole or in part) from the proceeds of the bond issue (i.e., the qualified hydroelectric generating property, and the functionally related and subordinate property to be installed) multiplied by a fraction the numerator of which is 25 reduced by 1 for each whole megawatt by which the installed capacity exceeds 100 megawatts, and the denominator of which is the number of megawatts of installed capacity (but not in excess of 100). The eligible cost of the facilities being provided is the portion of the total cost of the facilities which may be reasonably expected to be the cost to the governmental body and is, in general, attributable to periods after October 18, 1979, and before January 1, 1986. However, in the case of an application which has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, eligible costs include the portion attributable to periods after October 18, 1979, and before January 1, 1989.

The limitation may be illustrated by the following example. Assume that a municipality enters into a joint venture with a private concern to install 40 additional megawatts of generating capacity at an existing dam owned by the municipality, at which 10 megawatts of generating capacity now exist. The cost of the entire project is $30 million of which $20 million is qualified hydroelectric generating property and functionally related and subordinate equipment. The municipality and the private concern are equal joint venturors, and the municipality's share of the cost of the qualified hydroelectric generating facilities is $10 million. Under the limitation provided in the conference agreement, the maximum amount of bond proceeds that can be used for qualified hydroelectric generating property is $5 million (i.e., 25 divided by 50 multiplied by $10 million) plus an insubstantial amount.

The conference agreement also follows the Senate amendment in providing that tax exempt IDBs may be used to provide qualified hydroelectric generating facilities at two existing dams in Grant County, Washington, the installed capacity of which is more than 125 megawatts. Under this provision, the entire qualified hydroelectric generating facility may be provided with tax exempt IDBs.

Finally, the conference agreement provides two additional rules (relating to registration, and guaranteed or subsidized loans) with respect to IDB's used to provide qualified hydroelectric generating facilities. (See Item 62(d).)

64. Income Tax Exemption for Bonds for Renewable Energy Property

House bill.—No provision.

Senate amendment.—The Senate amendment provides that interest on industrial development bonds (IDBs) which are part of an issue substantially all the proceeds of which are used to provide renewable energy property will be exempt from Federal income taxation where two conditions are satisfied. First, the obligations must be general obligations of a State. Second, the State constitutional or legislative authority granting a State the power to issue such obligations must require that taxes be levied in sufficient amount to provide for payment of principal and interest on such obligations. In order to satisfy this requirement, such taxes must be the type of tax for which a deduction would be allowed under section 164 of the Code. The amendment also provides that renewable energy property means any property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy resources (such as wind, solar, geothermal, biomass, waste heat, or water). The Senate amendment is effective for bonds issued after the date of enactment of the bill.

Conference agreement.—The conference agreement generally follows the Senate amendment, but imposes two additional limitations with respect to State obligations for renewable energy property. The first limitation provides that the amount of all obligations (whether or not IDBs) under the program for renewable energy property issued by a State which are outstanding at any time may not exceed the smaller of $500 million or one-half of one percent of the value of all property within the State. The second limitation provides that the exemption for interest on State obligations for renewable energy property shall only apply to obligations issued pursuant to a State program to provide financing for renewable energy property in a State whose legislature approved before October 18, 1979, a constitutional amendment which specifically allowed general obligation bonds of the State to be used to finance renewable energy property. The requirements of the second limitation will be satisfied even if a State program to provide financing for renewable energy property is in fact established pursuant to a constitutional amendment approved subse-

quent to October 18, 1979, so long as the legislature in the State authorizing such program had approved before October 18, 1979, a constitutional amendment which specifically allowed general obligation bonds of the State to be used to finance renewable energy property.

The conferees also intend that for purposes of this provision, the phrase "substantially are the proceeds of which are to be used to provide" is to have the same meaning as this phrase has under sec. 103 (b)(4) of the Code. Finally, the conference agreement provides two additional rules (relating to registration, and guaranteed or subsidized loans) with respect to obligations used to provide renewable energy property. (See Item 62(d).)

65. Income Tax Exemption for Bonds for Cogeneration Property

House bill. No provisions.

Senate amendment.—The Senate amendment provides that interest on industrial development bonds (IDBs) issued as part of an issue from which substantially all the proceeds are to provide equipment and facilities of which the primary function is the cogeneration of electric energy and steam, heat or other form of energy (other than electric energy) is tax-exempt. This provision only applies where the electric energy and steam or heat is to be used for industrial, agricultural, commercial, or space heating purposes. Further, this provision applies to property installed at new and existing locations.

This provision applies to obligations and existing locations.

This provision applies to obligations issued after October 24, 1979.

Conference agreement.—The conference agreement omits the Senate amendment.

E. Other business tax incentives

66. Deduction for Tertiary Injectants

House bill.—No provision.

Senate amendment.—The Senate amendment provides that expenditures for certain tertiary injectants generally are deductible in the taxable year in which the tertiary substance is injected into the reservoir.

The clarification of the income tax treatment of the cost of tertiary injectants is not intended to create an inference as to the proper categorization of those expenditures prior to the effective date of the provision. Also, qualification of a project as a qualified tertiary recovery project under the windfall profit tax creates no inference about whether the costs involved may be expensed under this provision.

The provisions of the amendment would be effective for expenditures deducted for injectants injected after December 31, 1979.

Conference agreement.—The conference agreement generally follows the Senate amendment.

Under the conference agreement, the income tax treatment of qualifying tertiary injectants is not elective. However, for purposes of the windfall profit tax's 90 percent net income limitation, tertiary injectant expenses may be treated as having been capitalized.

67. Residential Energy Efficiency Program

House bill.—No provision.

Senate amendment.—A public utility would be allowed an income tax credit equal to the net revenue loss for the taxable year which is attributable to a qualified residential energy efficiency program.

Conference agreement.—The conference agreement does not include the Senate provision.

IV. LOWER INCOME ENERGY ASSISTANCE

68. Low Income Energy Assistance

House bill.—No provision.

Senate amendment.—The Senate amendment authorizes for fiscal years 1981, 1982 (and 1983, unless rescinded by a vote of either House), a program of block grants to the States to provide assistance to low-income families for heating and cooling costs. The total amount of appropriations authorized is $3.025 billion for fiscal year 1981 and $4.025 billion for fiscal years 1982 and 1983.

Eligibility is limited to households with income less than the Bureau of Labor Statistics lower living standard, and to households who receive food stamps. AFDC, income-tested Veterans' pensions, and with certain exceptions, SSI.

Funds are allotted by formula to the States and territories. The basic formula includes a State's residential energy expenditures and the square of its heating degree days. However, the allotment of any State otherwise entitled to less than $100 million would be increased under an alternative allotment percentage by an amount necessary to provide at least $120 per year to each AFDC, SSI, and food stamp household in the State. Further, no State would receive less than the lower of the amounts it would have received under either of two alternative formulas. Increases in allotments which result from either the minimum or from the alternative formulas would result in pro rata reductions in the allotments of other States, except that up to $25 million is authorized to meet the additional costs resulting from the application of the minimum benefit provision to certain States.

Each State receiving funds is required to submit an energy assistance plan which meets certain conditions and which is subject to approval by the Secretary of Health, Education, and Welfare. Assistance could be given directly to eligible households; to suppliers of energy to these households, in the form of either cash or tax credits; and to operators of subsidized housing projects.

Conference agreement.—The conference agreement generally follows the Senate amendment, with the following modifications:

69. Tax Credit for Users of Residential Energy

House bill.—No provision.

1. The conference agreement provides an authorization effective only for fiscal year 1981;

2. An additional authorization of $90 million is provided for any States, the allotment of which would otherwise be equal to or greater than $100 million, for increases in such States allotments through the use of the alternative allotment percentage.

3. If the amount appropriated for fiscal year 1981 is less than the $3 billion primary authorization and the amounts necessary under the separate $25 million and $90 million authorizations, then each State's allotment shall be determined as if this sum had been appropriated and shall be reduced on a pro rata basis as necessary.

4. Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this program, the Secretary may waive compliance with any of the State plan requirements. The conferees also wish to make clear that a State is not required, under its plan, to provide a benefit to every household defined as an eligible household under this title. The funds authorized in this part may not be used to provide benefits, however, to households not included in this definition.

5. The conferees wish to make clear that the regulations which are required to be issued within sixty days after enactment may be interim regulations.

6. The conference agreement requires that fuel assistance payments or allowances provided under this title will not be considered income or resources of an eligible household for any purpose under a Federal or State law. The conferees wish to emphasize that this provision applies regardless of whether the fuel assistance is paid directly to the household or to the supplier of energy to the household. Thus, under any law, such as the Food Stamp Act of 1977, which provides that benefits may depend on the expenditures of the household for fuel, any portion of these expenditures which may be paid by the fuel assistance program authorized in this conference agreement will not be considered a resource available to this household, even if the payment is made directly to the energy supplier. Thus, under such a law, benefits will be computed as if the total cost of the fuel, including the amount of assistance provided, had been paid by the household.

7. The amendment in the Senate provision to the Food Stamp Act is effective only for fiscal year 1981.

8. With regard to SSI recipients, the conference agreement provides the States with an option whereby they may have the Secretary retain any portion of their energy allotment for the purpose of making direct Federal payments to SSI recipients. The conferees recognize that time requirements to design and test the computerized programs needed to administer the direct Federal payments will require the Secretary to establish an early date for States to indicate interest in Federal issuance of energy payments to SSI recipients. The conferees are also aware that constraints in computer process capacity will require the Secretary to establish, in cooperation with the States, nationwide criteria and standards to which the States must adhere when submitting specifications for such direct Federal payments.

9. Various technical amendments are made in the Senate amendment to clarify the language.

Senate amendment.—The Senate amendment provides a nonrefundable tax credit equal to a percentage of the amount spent during the year for heating a principal residence. The percentage is different for each heating source and is determined by the Secretary of the Treasury according to a formula which reflects the extent by which the increase in the price of the heating source since 1978 exceeds the overall rate of inflation. The credit is subject to a minimum of $30 per household ($20 in 1979).

Special allocation rules are provided for renters and for those who also use a heating source for purposes other than heating.

The maximum amount of the credit is $200 per household. The maximum is reduced by 10 cents for each dollar by which adjusted gross income exceeds $20,000 ($18,000 for 1979), so that no credit is allowed for taxpayers with income of $22,000 or more ($20,000 or more in 1979).

The credit is available for 1979, 1980 and 1981.

Conference agreement.—The conference agreement omits the Senate provision.

V. OTHER INCOME TAX PROVISIONS

70. Repeal of Carryover Basis

House bill.—No provision.

Senate amendment.—Under the Tax Reform Act of 1976 the basis of property passing or acquired from a decedent dying after December 31, 1976, was to be "carried over" from the decedent, with certain adjustments, to the estate or beneficiaries for purposes of determining gain or loss on sales and exchanges by the estate or beneficiaries. Under prior law, the basis of inherited property was generally stepped up or down to its value on the date of the decedent's death. The Revenue Act of 1978 postponed the effective date of the carryover basis provisions for 3 years. As postponed, the provisions were to apply

to property passing or acquired from decedents dying after December 31, 1979.

The Senate amendment repeals the carryover basis provisions. For property passing or acquired from a decedent (within the meaning of Code sec. 1014(b)), the basis of property generally will be its fair market value at the date of the decedent's death or at the applicable valuation date if the alternate valuation provision is elected for estate tax purposes.

With respect to property passing or acquired from decedents dying after 1976 and before November 7, 1978 (the date after the date of enactment of the Revenue Act of 1978), the carryover basis provisions may be elected by the executor of an estate. If elected, the basis of all carryover basis property considered to pass from the decedent, including jointly owned property passing by survivorship, is to be determined under these provisions. The election is to be irrevocably made no later than 120 days after the date of enactment of the bill and in such manner as prescribed by the Secretary of the Treasury.

The amendments are to take effect as if included in the Tax Reform Act of 1976. Thus, the repeal applies to property passing or acquired from a decedent dying after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

71. Partial Exclusion of Dividends and Interest Received by Individuals

House bill.—No provision.

Senate amendment.—Under present law, there is an exclusion for $100 of dividends received by an individual. A married couple filing a joint return may exclude $200, if each spouse has at least $100 of dividends.

The Senate amendment, in general, increases the amount of the present exclusion for dividends to $201 in the case of an individual. The amendment also provides a $400 exclusion in the case of a joint return, regardless of whether the dividend is received by one or both spouses.

In addition, the Senate amendment broadens the exclusion to apply to certain types of interest received by individuals from domestic sources. Interest eligible for the exclusion includes: (1) interest on deposits received from a bank; (2) interest (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable share by a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, credit union, or other savings or thrift institution chartered and supervised under Federal or State law if the deposits or accounts of the institution are insured under Federal or State law, or protected and guaranteed under State law; (3) interest on bonds, debentures, notes, certificates or other evidences of indebtedness of a domestic corporation which are in registered form; (4) interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public to the extent provided in regulations issued by the Secretary of the Treasury; (5) interest on obligations of the United States, a State or local government which is not already excluded from gross income; and (6) interest attributable to a participation share in a trust established and maintained by a corporation established pursuant to Federal law (for example, interest attributable to a participation share in a trust established and maintained by the Government National Mortgage Association).

In the case of distributions received by individuals from conduit type entities (such as trusts, regulated investment companies, and real estate investment trusts), the distributions generally qualify for the exclusion to the same extent that the gross income of the entity consists of eligible dividends or eligible interest.

In addition, special rules are provided in regard to interest expenses incurred in order to purchase or to carry obligations or shares or to make deposits or other investments with respect to which the interest would be excludable from gross income under this provision.

Conference agreement.—The conference agreement adopts the Senate amendment with several modifications. First, the conference agreement restricts the exclusion to taxable years beginning after December 31, 1980, and before January 1, 1983. Second, the conference agreement reduces the exclusion in the case of taxpayers not filing a joint return from $201 to $200.

Third, the conference agreement makes several technical amendments to the treatment of distributions from regulated investment companies (mutual funds) and real estate investment trusts. Under the conference agreement, qualified interest of a regulated investment company that is distributed to its shareholders is eligible for the exclusion in the hands of its individual shareholders. However, the conference agreement clarifies that the amount of interest received by a regulated investment company that will be eligible for the exclusion when it is distributed to shareholders is the net amount of qualifying interest (i.e., qualifying interest less interest expenses). Under the conference agreement, if a regulated investment company has at least 75 percent of its gross income from either qualified dividends or from qualified interest, then the entire amount of the dividend (other than capital gain dividend) that it pays will be a qualified dividend in the hands of an individual shareholder. If neither qualifying dividends nor qualifying interest equals or exceeds 75 percent of the gross income, then the percentage of each dividend it pays that qualifies for the exclusion is the proportion of that dividend that the sum of the qualifying dividends and qualifying interest of the regulated investment company for the taxable year bears to the gross income of the regulated investment company for the taxable year. For this purpose, gross income and aggregate interest are to be reduced by any interest expense to the extent of any qualified interest. For example, if a regulated investment company has 40 percent of its gross income from qualified dividends and 40 percent of its gross income from qualified interest, then 80 percent of its dividend (other than its capital gain dividend) will be a qualified dividend in the hands of an individual shareholder.

In the case of a real estate investment trust, conduit treatment is extended to qualifying interest but not to dividends. Under the conference agreement, if a real estate investment trust has at least 75 percent of its gross income from qualifying interest, then the entire amount of a noncapital gain dividend from the real estate investment trust will be a qualified dividend in the hand of an individual shareholder. If qualifying interest does not equal or exceed 75 percent of the gross income, then the percentage of its noncapital gain dividend that qualifies for the exclusion is the proportion of that dividend that the qualifying interest of the real estate investment trust for the taxable years bears to the gross income of the real estate investment trust for the taxable year. As in the case of regulated investment companies, only the net amount of the qualifying interest (i.e., qualifying interest less interest expense) is eligible for the exclusion. However, in the case of a real estate investment trust, the amount of qualified interest is not reduced by any interest paid by the real estate investment trust on mortgages on real property that is owned by the real estate investment trust. In addition, gross income is to be reduced by any taxes imposed on income from foreclosure property (section 857(b)(4)), on the failure to meet certain requirements (section 857(b)(5)), or on income from prohibited transactions (section 857(b)(6)). The amount that qualifies for the exclusion shall not exceed the amount designated by the real estate investment trust in a notice to its shareholders sent within 45 days after the close of its taxable year.

72. Qualified Liquidations of LIFO Inventories

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer who liquidates part or all of his inventory (i.e., his beginning inventory is greater than his ending inventory) in the ordinary course of his trade or business will recognize the gain or loss realized as a result of the liquidation. The taxpayer will recognize this gain or loss even if the liquidation of the inventory is due to circumstances beyond his control, e.g., reduced supply due to government regulation or the interruption of foreign trade. In the case of inventories accounted for on the last-in, first-out ("LIFO") basis, a significant portion of the gain on such liquidation will be attributable to the excess of the replacement cost of such inventory over its LIFO basis (referred to as "LIFO inventory profit").

In certain narrowly defined circumstances, the Senate amendment allows a taxpayer to claim a refund for taxes paid on LIFO inventory profits resulting from the liquidation of LIFO inventories, if the taxpayer purchases replacement inventory within a defined replacement period. A taxpayer can elect to have the provisions of this section apply if there is a liquidation of his LIFO inventory for a taxable year (referred to as the "liquidation year") and he established to the satisfaction of the Secretary that the liquidation is a qualifying involuntary liquidation. For this purpose, a qualifying involuntary liquidation is defined as a taxpayer's failure to replace his LIFO inventory in the liquidation year due, directly and exclusively, to any Department of Energy regulation or request with respect to energy supplies, or to any foreign trade interruption, but only if the Secretary, after consultation with the appropriate Federal officer, publishes a notice in the Federal Register that this section would apply in the case of such regulation, request or interruption.

If a qualifying taxpayer acquires a replacement for part or all of the liquidated LIFO inventory in a replacement year, then the taxpayer's taxable income for the liquidation year is (i) decreased by the excess of the cost of the replacement inventory over the LIFO basis of the liquidated inventory which it replaced, or (ii) increased by the excess of the LIFO basis of the liquidated inventory which is replaced over the cost of the replacement inventory. A replacement year is defined as any of the three taxable years following the liquidation year or any taxable year ending within such earlier period as the Secretary may prescribe. A taxpayer is considered to have acquired a replacement for the liquidated LIFO inventory if the taxpayer's closing LIFO inventory with respect to the liquidated goods for any replacement year reflects an increase over the opening inventory for such year and the liquidated LIFO inventory has not been completely replaced before such replacement year. The replacement inventory is considered, in the order of its acquisition, as replacing the most recently liquidated inventory (whether or not the liquidation is an involuntary liquidation subject to the provisions of this section) not previously replaced. If the replacement inventory replaces LIFO inventory which was subject to a qualifying involuntary liquidation, it is

to be taken into purchases and included in the closing inventory for the replacement year at the LIFO basis of the inventory which it replaced.

If an adjustment in a taxpayer's taxable income is made for any liquidation year as a result of the replacement of LIFO inventories under this section, the tax imposed for the liquidation year and any other taxable year would be redetermined to take into account that adjustment. Any increase or decrease in the amount of the tax resulting from the redetermination would be assessed as a deficiency or allowed as a credit or refund (as the case may be) without interest. The assessment of a deficiency or the allowance of a credit or refund attributable to the adjustment may, if otherwise prevented by the operation of any law or rule of law (other than section 7122), be made within the time allowed for the assessment of a deficiency or the allowance of a credit or refund (as the case may be) with respect to the replacement year in which the adjustment arose.

An election to have the provisions of this section apply would be made in the manner and form, and at the time, prescribed by the Secretary in regulations. The election is irrevocable and binding for the liquidation year and for all determinations made for taxable years prior and subsequent to the liquidation year insofar as such determinations are affected by the adjustments made under this section.

Conference agreement.—The conference agreement follows the Senate amendment but makes certain technical and clarifying amendments.

The conference agreement clarifies the concept of an involuntary liquidation of LIFO inventories and in so doing substitutes the terms "qualified liquidation" and "qualified inventory interruption" for the term "involuntary liquidation" as used in the Senate amendment. A qualified liquidation is defined as a decrease in a taxpayer's closing LIFO inventory for a liquidation year over his opening inventory for that year, but only if the taxpayer establishes to the satisfaction of the Secretary that the decrease is directly and primarily attributable to a qualified inventory interruption. A qualified inventory interruption is defined as any Department of Energy regulation or request made with respect to energy supplies or any embargo, international boycott, or other major foreign trade interruption, with respect to either of which the Secretary publishes a notice in the Federal Register designating those situations to which the provisions of this section will be available. The notice will be published in the Federal Register if the Secretary determines, after consultation with the appropriate Federal officers, that such regulation, request or interruption has made the replacement of any class of goods for any class of taxpayers difficult or impossible in the liquidation year, and the application of this provision to that class of goods and taxpayers is necessary to carry out the purposes of this section.

The conference agreement revises the Senate amendment with respect to the "replacement period." The replacement period encompasses the same replacement years designated in the Senate amendment except that the replacement period may be shortened by the Secretary in a subsequent notice published in the Federal Register. A replacement year is defined in terms of any taxable year in the replacement period. This will involve a change in the definition of a replacement year from the Senate amendment only when the Secretary subsequently shortens the replacement period. Additionally, the conference agreement definition of replacement year does not include a taxable year after the taxable year in which replacement of the liquidated inventory is completed.

The conference agreement changes the Senate amendment by allowing interest on deficiencies or refunds. Solely for purposes of determining interest on overpayments or underpayments of tax attributable to adjustments made under this provision, the overpayment or underpayments shall be treated as arising in the replacement year.

Where there is more than one reduction in a taxpayer's LIFO inventory and these reductions are due to different causes, the reduction in the closing inventory will be presumed to occur first as a result of qualified liquidations, if any, under this provision. For example, if a taxpayer's closing inventory has been reduced by a total of 300 units and the taxpayer had a fire during the year which destroyed 275 units and a qualified liquidation which accounted for 225 units and a qualified liquidation which accounted for 225 units, the reduction in the closing inventory will be attributable to the 225 units from the qualified liquidation and the 75 units from the fire.

It is expected that the Secretary will issue regulations regarding how this section is to be applied in the case of a taxpayer using the "dollar-value" method of LIFO inventory, consistent with the "dollar-value" regulations under section 472.

This provision is effective for taxable years ending after October 31, 1979.

73. Recognization of Gain on Certain Disposition of LIFO Inventories

House bill.—No provision.

Senate amendment.—Under present law, a liquidating corporation will not recognize any gain or loss on the transfer of its inventory to its shareholders as part of the liquidation. Similarly, a corporation which sells its assets during a 12-month liquidation (section 337) will not recognize any gain or loss on the bulk sale of its inventory. In either situation, if the liquidating corporation accounts for its inventory on the last-in, first-out ("LIFO") method of accounting for inventories, any gain attributable to the excess (referred to as the "LIFO recapture amount") of the adjusted basis of the inventory under the last-in, first-out ("LIFO") method of accounting for inventories over its LIFO adjusted basis will not be subject to corporate tax. (This amount is presently taxed at the corporate level on a nonliquidating distribution (sec. 311(b)). However, if a subsidiary corporation liquidates into a parent corporation and the adjusted basis or the subsidiary's assets carry over to the parent corporation, the LIFO recapture amount will be subject to corporate taxation when the inventory is disposed of in a taxable sale or exchange.

Under the Senate amendment, a corporation which distributes its LIFO inventory in a partial or complete liquidation of the corporation must recognize the inventory's LIFO recapture amount as ordinary income. Also, a corporation that sells its LIFO inventory in the course of a 12-month liquidation (section 337) must recognize the inventory's LIFO recapture amount as ordinary income. The Senate amendment does not require the recognition of the LIFO recapture amount on corporate liquidations where the adjusted basis of the LIFO inventory in the hands of the acquiring corporation is carried over from the liquidating corporation.

Conference agreement.—The conference agreement follows the Senate amendment but makes certain technical and clarifying amendments.

The conference agreement postpones the effective date of this provision to distributions and dispositions which are made pursuant to plans of liquidation adopted after December 31, 1981. The effective date was postponed to allow time for Congressional hearings on this provision. Also, the delayed effective date will permit transactions in the planning stage to be completed. During this time period it was intended that there would be no change in the present law treatment of the LIFO recapture amount with respect to corporate liquidations and sales pursuant to 12-month corporate liquidations.

V. MISCELLANEOUS PROVISIONS

74. Oil Import Restrictions

House bill.—No provision.

Senate amendment.—Under section 232 (b) of the Trade Expansion Act of 1962, the President may restrict oil imports.

The Senate amendment amends the Energy Policy and Conservation Act (P.L. 94–163) to grant Congress the power to disapprove, by joint resolution, any presidential rule or regulation establishing oil import fees, duties or tariffs, or setting import quotas on crude oil, residual fuel oil or refined petroleum products. Congress would have 30 days after the submission of any such rule to disapprove it by a joint resolution, which could be vetoed (subject to a Congressional override).

No such presidential action would be effective prior to the end of this 30-day period. This is the same procedure which was adopted in the Emergency Energy Conservation Act of 1979 (P.L. 96–102).

Conference agreement.—The conference agreement amends the Trade Expansion Act of 1962 to eliminate the President's authority under that Act to impose oil import quotas whenever a Joint Resolution is enacted which disapproves such executive action. Such a Joint Resolution is to be considered under normal legislative procedures, rather than under those applicable to Trade Act matters, and is not to be amendable. A presidential veto of such a resolution could be overridden by a ⅔ vote of each House.

Under the conference agreement, presidential action with respect to oil imports would not have to be preceded by Congressional review prior to becoming effective.

75. Oil Import Information Reports

House bill.—No provision.

Senate amendment.—Monthly reports are required to be filed with the Energy Information Administration of DOE by any person who imported 200,000 barrels of oil in the corresponding quarter of the prior year. These reports must contain specific information relating to the person's worldwide sales and imports.

Conference agreement.—The conference agreement does not contain this provision.

76. National Academy of Sciences Report

House bill.—No provision.

Senate amendment.—The Secretary of Energy is directed to enter into an agreement with the National Academy of Sciences for annual reviews of DOE's research and development programs for fiscal years 1980–1989. Review areas are to be selected for relevance to alternative energy systems and to research and development opportunities under DOE programs. The first report is to be completed by the end of fiscal year 1980.

Conference agreement.—The conference agreement does not contain this provision.

APPENDIX: BUDGET EFFECTS

Table 1 summarizes the revenue effect of the conference agreement for calendar years 1979 to 1990. In 1980, the windfall profit tax will raise $6.3 billion, and the various tax reductions in the bill will reduce revenues by $0.2 billion. The overall revenue gain, then, will be $6.1 billion. Over the entire 12-year period 1979 to 1990, the tax will raise $227.7 billion, and the tax reductions will be $15.5 billion, for a net revenue gain of $212.2 billion.

Table 2 summarizes the revenue effects of the conference agreement for fiscal years 1980 to 1990. In fiscal year 1980, the wind-

fall profit tax raises $3.2 billion, and the tax reductions will be $0.1 billion. Thus, the net tax increase in fiscal year 1980 will be $3.1 billion.

Tables 3 and 4 present the gross and net revenues raised by the windfall profit tax for calendar years 1980–90 and fiscal years 1980–90, respectively. The gross revenue is the actual receipts from the tax. However, the imposition of the tax affects corporate and individual income tax receipts because it is deductible, because it reduces deductible State income taxes, and because it affects oil drilling. The net revenue is the gross revenue minus the reduction in corporate and individual income taxes expected to result from imposition of the windfall profit tax. Revenue from oil owned by the U.S. Government is not included in these estimates.

These revenue estimates assume that the price of uncontrolled oil equals $30 per barrel in the fourth quarter of 1979 and grows at the rate of inflation plus two percent per year.

Tables 5 and 6 show the revenue effects of the residential energy tax credits for calendar and fiscal years 1980–90, respectively.

Tables 7 and 8 show the revenue effects of the various business tax incentives for calendar and fiscal years 1980–90, respectively.

Up to $3.115 billion is authorized to be appropriated in fiscal year 1981 for the low-income energy assistance program contained in this bill.

TABLE 1.—SUMMARY OF ESTIMATED REVENUE EFFECTS OF THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980 AS AGREED TO BY THE CONFERENCE COMMITTEE, CALENDAR YEARS 1979–90

[In millions of dollars]

Item	Calendar year liabilities												
	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	Total 1979–90
Net gain from windfall profit tax	[1] 36	6,306	14,719	18,875	20,147	21,312	22,267	22,907	23,788	25,588	25,771	27,017	227,723
Residential energy tax credits		−41	−53	−69	−97	−138	−201						−600
Business energy tax incentives	−3	−146	−232	−329	−864	−1,182	−1,541	−824	−887	−1,044	−626	−616	[3] −8,297
Repeal carryover basis		[2]	−36	−95	−163	−238	−330	−440	−560	−680	−810	−950	−4,302
Interest and dividend exclusion			−2,095	−2,210									−4,305
Involuntary liquidation of LIFO inventories [4]			−85	−85	−80								−250
Taxing inventory profits at corporate liquidations [5]				250	250	250	250	250	250	250	250	250	2,250
Total	33	6,118	12,218	16,337	19,193	20,004	20,445	21,893	22,581	23,114	24,585	25,701	[3] 212,219

[1] The conference agreement would raise a small amount of income tax revenue in 1979 because the estimates assume that the tax on newly discovered oil reduces intangible drilling deductions in that year.
[2] Less than $1 million.
[3] This total includes $3 million in calendar year 1978 reductions.
[4] These estimates are based on the assumption that the Secretary will invoke this provision for disruptions of oil shipments during 1980.
[5] These estimates are based on information obtained from a selected number of cases known to the Treasury and the figures are intended to provide representative averages during the forecast period.

TABLE 2.—SUMMARY OF ESTIMATED REVENUE EFFECTS OF THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980 AS AGREED TO BY THE CONFERENCE COMMITTEE, FISCAL YEARS 1980–90

[In millions of dollars]

Item	Fiscal year receipts											Total 1980–90
	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	
Net gain from windfall profit tax	3,172	13,436	19,543	19,958	21,144	22,227	22,776	23,601	24,423	25,593	26,772	222,646
Residential energy tax credits	−7	−44	−55	−74	−105	−148	−167					−600
Business energy tax incentives	−50	−206	−274	−567	−985	−1,426	−1,923	−866	−972	−870	−637	−8,086
Repeal carryover basis		[1]	−36	−95	−163	−238	−330	−440	−560	−680	−810	−3,352
Interest and dividend exclusion		−314	−2,278	−1,713								−4,305
Involuntary liquidation of LIFO inventories [2]			−85	−85	−80							−250
Taxing inventory profits at corporate liquidations [3]			112	250	250	250	250	250	250	250	250	2,112
Total	3,115	12,872	16,927	17,674	20,061	20,665	21,296	22,545	23,141	24,293	25,575	208,165

[1] Less than $1 million.
[2] These estimates are based on the assumption that the Secretary will invoke this provision for disruptions of oil shipments during 1980.
[3] These estimates are based on information obtained from a selected number of cases known to the Treasury and the figures are intended to provide representative averages during the forecast period.

Note: Details may not add to totals because of rounding.

TABLE 3.—ESTIMATED REVENUE EFFECT OF THE CRUDE OIL WINDFALL PROFIT TAX AS AGREED BY THE CONFERENCE COMMITTEE, CALENDAR YEARS 1980–90

[In millions of dollars]

Item	Calendar year liabilities											Total 1979–90 [1]
	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	
Gross windfall profit tax	10,876	25,952	33,534	35,952	38,202	40,104	41,445	43,185	44,789	47,049	49,399	410,486
Change in income taxes	−4,570	−11,234	−14,659	−15,805	−16,890	−17,837	−18,538	−19,407	−20,200	−21,278	−22,382	−182,763
Net windfall profit tax	6,306	14,719	18,875	20,147	21,312	22,267	22,907	23,778	24,588	25,771	27,017	227,723

[1] The conference agreement would raise a small amount of income tax revenue in 1979 because the estimates assume that the tax on newly discovered oil reduces intangible drilling deductions in that year.

Note: Details may not add to totals because of rounding.

Gross windfall profit tax	5,159	20,955	32,293	35,124	37,429	39,535	40,923	42,524	44,181	46,270	48,538	392,931
Change in income taxes	−1,987	−7,518	−12,749	−15,166	−16,285	−17,309	−18,147	−18,923	−19,758	−20,677	−21,766	−170,285
Net windfall profit tax	3,172	13,436	19,543	19,958	21,144	22,227	22,776	23,601	24,423	25,593	26,772	222,646

Note: Details may not add to totals because of rounding.

TABLE 5.—ESTIMATED BUDGET EFFECT OF RESIDENTIAL ENERGY TAX CREDITS AS AGREED TO BY THE CONFERENCE COMMITTEE, CALENDAR YEARS 1980-90

Provision	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1980-90
Solar, wind and geothermal credit, 40 percent	−40	−50	−65	−82	−119	−177						−533
Business energy tax credit to landlords, 15 percent	−2	−3	−4	−15	−19	−24						−67
Total	−42	−53	−69	−97	−138	−201						−600

TABLE 6.—ESTIMATED BUDGET EFFECT OF RESIDENTIAL ENERGY TAX CREDITS AS AGREED TO BY THE CONFERENCE COMMITTEE, FISCAL YEARS 1980-90

Provision	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1980-90
Solar, wind, and geothermal credit, 40 percent	−6	−42	−52	−67	−88	−128	−150					−533
Business energy tax credit to landlords, 15 percent	−1	−2	−3	−7	−17	−20	−17					−67
Total	−7	−44	−55	−74	−105	−148	−167					−600

TABLE 7.—ESTIMATED BUDGET EFFECT OF BUSINESS ENERGY TAX INCENTIVES AS AGREED TO BY THE CONFERENCE COMMITTEE, CALENDAR YEARS 1980-90

Provision	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1980-90
Business energy investment credits:												
Solar and wind property, including solar process heat equipment, 15 percent energy credit	−10	−19	−34	−108	−282	−497	−78	−30	(1)			−1,058
Geothermal equipment, 15 percent energy credit	−1	−2	−2	−5	−8	−11	(1)					−29
Ocean thermal energy conversion equipment, 15 percent energy credit	(2)	(2)	(2)	(2)	−2	−2	−1					−5
Small-scale hydroelectric facilities, 11 percent energy credit	−7	−13	−17	−21	−81	−144	−284	−427	−582	−137	−84	−1,797
Cogeneration equipment, 10 percent energy credit	−31	−53	−78	−82	−65	−36	−11	(1)				−356
Petroleum coke and pitch, regular investment credit and accelerated depreciation	−25	−30	−34	−38	−43	−47	−52	−58	−63	−68	−74	−532
Certain equipment for producing feedstocks			(1)	−22	−29	−28	−22	−9	(2)			−110
Alumina electrolytic cells, 10 percent energy credit	−1	−1	−1	−1	−1	−1						[3] −12
Coke ovens, 10 percent energy credit	−37	−46	−56	−59	−45	−23	−7	−3	−1			−277
Biomass equipment, 10 percent energy credit	(2)	−4	−4	−18	−160	−352	−55	−32	−23	(1)		−648
Intercity buses, 10 percent energy credit	−5	−5	−6	−6	−7	−7						−36
Affirmative commitments, special transition rule			(1)	−448	−358	−202	−90	−42	−12	(1)	(2)	−1,152
Total, energy investment credits	−117	−173	−232	−808	−1,081	−1,350	−600	−601	−681	−205	−158	[3] −6,012
Alternative fuel production credit: [4]												
Devonian shale gas, special rule	−9	−26	−45	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	−80
Qualifying processed wood, phaseout suspension	−2	−13	−25	−21	−8							−69
Steam from agricultural byproducts, phase-out suspension	−1	−2	−2	−3	−3							−11
Total, production credits	−12	−41	−72	−24	−11	(4)	(4)	(4)	(4)	(4)	(4)	−160
Alcohol fuels provisions [5]	−3	−4	−5	−7	−59	−158	−188	−228	−268	−307	−347	−1,574
Industrial development bonds:												
Sold waste disposal facilities	(2)	−3	−5	−5	−5	−5	−5	−5	−5	−5	−5	−48
Alcohol from solid waste facilities			(2)	(2)	−1	−1	−1	−1	−1	−1	−1	−7
Small-scale hydroelectric facilities	(2)	(2)	−2	−2	−4	−6	−8	−29	−66	−85	−81	−283
Additions to certain existing hydroelectric facilities			−3	−7	−8	−8	−8	−8	−8	−8	−8	−66
State renewable resource programs	−1	−1	−2	−4	−7	−8	−9	−9	−9	−9	−9	−68
Total, bonds	−1	−4	−12	−18	−25	−28	−31	−52	−89	−108	−104	−472
Tertiary injectants	−13	−10	−8	−7	−6	−5	−5	−6	−6	−6	−7	−79
Total, Business Tax Incentives	−146	−232	−329	−864	−1,182	−1,541	−824	−887	−1,044	−626	−616	[3] −8,297

[1] Less than $5 million.
[2] Less than $1 million.
[3] This total includes $6 million in calendar year liability reductions from 1978 and 1979.
[4] It is assumed that the applicable reference price will be in excess of the credit phase-out range for oil from shale or tar sands, liquid, gaseous or synthetic solid fuel from coal, geopressured brine gas, coal seam methane gas, tight formation gas, biomass gas, steam from agricultural by-products and processed wood.
[5] The estimates for calendar years 1984-90 assume that the Federal excise taxes on gasoline diesel fuel, and other motor fuels will continue at the present rate of 4 cents per gallon. Under present law, these taxes are scheduled to be reduced to 1½ cents per gallon on Oct. 1, 1984, when the Highway Trust Fund is scheduled to expire.

TABLE 8.—ESTIMATED BUDGET EFFECT OF BUSINESS ENERGY TAX INCENTIVES AS AGREED TO BY THE CONFERENCE COMMITTEE, FISCAL YEARS 1980-90

Provision	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1980-90
Business energy investment credits:												
Solar and wind property, including solar process heat equipment, 15 percent energy credit	−3	−15	−26	−67	−185	−377	−311	−57	−17	(1)		−1,058
Geothermal equipment, 15 percent energy credit	(2)	−2	−2	−3	−7	−9	−6	(2)				−29
Ocean thermal energy conversion equipment 15 percent energy credit	(2)	(2)	(2)	(2)	−1	−2	−2	(2)	(2)			−5
Small-scale hydroelectric facilities, 11 percent energy credit	−2	−11	−15	−19	−48	−109	−207	−348	−497	−382	−113	−1,751
Congeneration equipment, 10 percent energy credit	−9	−46	−64	−80	−74	−52	−25	−6	(2)			−356
Petroleum coke and pitch, regular investment credit and accelerated depreciation	−8	−31	−32	−36	−40	−44	−49	−55	−60	−65	−71	−491
Certain equipment for producing feed stocks			(1)	−7	−28	−29	−25	−16	−5	(2)		−110
Alumina electrolytic cells, 10 percent energy credit	−6	−1	−1	−1	−1	−1	−1					−12
Coke ovens, 10 percent energy credit	−11	−47	−51	−57	−53	−35	−16	−5	−2	(2)	(1)	−277
Biomass equipment, 10 percent energy credit	(2)	−2	−4	−10	−82	−246	−218	−45	−28	−13	(1)	−648
Intercity buses, 10 percent energy credit	−2	−5	−6	−6	−6	−7	−4					−36
Affirmative commitments, special transition rule			(1)	−202	−407	−288	−152	−68	−28	−7	(1)	−1,152
Total, energy investment credits	−41	−160	−201	−488	−932	−1,199	−1,016	−600	−637	−467	−184	−5,925

Item	Fiscal year receipts											Total 1980-90
	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	
Alternative fuel production credit:[3]												
Devonian shale gas, special rule	−3	−18	−34	−25	([2])	([2])	([2])	([2])	([2])	([2])	([2])	−80
Qualifying processed wood, phaseout suspension	−1	−7	−18	−23	−15	−5						−69
Steam from agricultural by-products, phase-out suspension	([2])	−1	−2	−2	−3	−3						−11
Total, production credits	−4	−26	−54	−50	−18	−8	([2])	([2])	([2])	([2])	([2])	−160
Alcohol fuels provisions	−1	−4	−4	−6	−8	−187	−183	−221	−261	−300	−340	−1,515
Industrial development bonds:												
Solid waste disposal facilities	([2])	−1	−4	−5	−5	−5	−5	−5	−5	−5	−5	−45
Alcohol from solid waste facilities			([2])	([2])	([2])	−1	−1	−1	−1	−1	−1	−6
Small-scale hydroelectric facilities	([2])	([2])	([2])	−2	−3	−5	−7	−17	−45	−74	−84	−237
Additions to certain existing hydroelectric facilities			−1	−5	−7	−8	−8	−8	−8	−8	−8	−61
State renewable resource programs	([2])	−1	−1	−3	−5	−7	−8	−9	−9	−9	−9	−91
Total, bonds	([2])	−2	−6	−15	−20	−26	−29	−40	−68	−97	−107	−410
Tertiary injectants	−4	−14	−9	−8	−7	−6	−5	−5	−6	−6	−6	−76
Total, Business Tax Incentives	−50	−206	−274	−567	−985	−1,426	−1,233	−866	−972	−870	−637	−8,086

[1] Less than $5,000,000.
[2] Less than $1,000,000.
[3] It is assumed that the applicable reference price will be in excess of the credit phase-out range for oil from shale or tar sands, liquid, gaseous or synthetic solid fuel from coal, geopressured brine gas, coal seam methane gas, tight formation gas, biomass gas, steam from agricultural by-products and processed wood.
[4] The estimates for calendar years 1984-90 assume that the Federal excise taxes on gasoline, diesel fuel, and other motor fuels will continue at the present rate of 4 cents per gallon. Under present law, these taxes are scheduled to be reduced to 1½ cents per gallon on Oct. 1, 1984, when the Highway Trust Fund is scheduled to expire.

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES VANIK,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
WILLIAM R. COTTER,
PETE STARK,
BARBER B. CONABLE, JR.,
Managers on the Part of the House.

RUSSELL B. LONG,
H. E. TALMADGE,
HARRY F. BYRD, JR.,
GAYLORD NELSON,
MIKE GRAVEL,
LLOYD BENTSEN,
DAN MOYNIHAN,
BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous censent, leave of absence was granted to:

Mr. BOLAND (at the request of Mr. WRIGHT), for today, on account of attending a funeral.

Mr. RATCHFORD (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CHAPPELL (at the request of Mr. BENNETT), on account of official business in his district.

Mr. THOMPSON, for March 11, 1980, on account of official business.

Mr. DAVIS of Michigan (at the request of Mr. RHODES), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House. following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, on March 11, 1980.

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. MURTHA, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. WOLFF, for 10 minutes, today.
Mr. DOWNEY, for 5 minutes, today.
Mr. BROOKS, for 10 minutes, today.
Mr. FITHIAN, for 5 minutes, today.
Mr. REUSS, for 20 minutes, today.
Mr. WEISS, for 5 minutes, today.
Mr. HARKIN, for 60 minutes, on March 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARKS) and to include extraneous material:)

Mr. MICHEL in three instances.
Mr. BOB WILSON.
Mr. KEMP.
Mr. SCHULZE.
Mr. ASHBROOK in three instances.
Mr. CARTER.
Mr. EMERY.
Mr. DERWINSKI in two instances.
Mr. GILMAN.
Mr. FISH.
Mr. DUNCAN of Tennessee.
Mr. LEE.
Mr. SYMMS.
Mr. SAWYER.
Mr. CONTE.
Mr. GRASSLEY.

(The following Members (at the request of Mr. STENHOLM) and to include extraneous matter:)

Mr. CONYERS.
Mr. WOLFF in two instances.
Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. STOKES.
Mr. GAYDOS.
Mr. THOMPSON.
Mr. BONKER in two instances.
Mr. CHARLES H. WILSON of California.
Mr. NATCHER.
Mr. GORE.
Mr. HARRIS.
Mr. MAGUIRE.
Mr. HAWKINS.
Mr. MILLER of California.
Mr. ERTEL.
Mr. MCDONALD in 10 instances.
Mr. MARKEY in six instances.
Mr. EDGAR.
Mrs. COLLINS of Illinois.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2253. An act to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchases of portions of such railroad, and to provide arrangements for protection of the employees; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Joint Resolution of the Senate of the following title:

S.J. Res. 149. Joint resolution to recognize the Honorable Carl Vinson on the occasion of the christening of the U.S.S. *Carl Vinson*, March 15, 1980.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on March 7, 1980, present to the President, for his ap-

proval, bills and joint resolutions of the House of the following titles:

H.R. 1829. An act for the relief of Loraine Smart and Robert Clarke;

H.R. 3398. An act to adjust target prices for the 1980 and 1981 crops of wheat and feed grains; to extend the disaster payment programs for the 1980 crops of wheat, feed grains, upland cotton, and rice; and to authorize the Secretary of Agriculture to require that producers of wheat, feed grains, upland cotton, and rice not exceed the normal crop acreage for the 1980 and 1981 crops;

H.R. 5913. An act to amend section 502(a) of the Merchant Marine Act, 1936;

H.J. Res. 493. Joint resolution providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 494. Joint resolution providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. STENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 11, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3717. A letter from the General Counsel, Department of Energy, transmitting a draft of proposed legislation to amend Public Law 96–164 to increase the authorization for appropriations for the Department of Energy for national security programs in accordance with section 660 of the Department of Energy Organization Act, and for other purposes; to the Committee on Armed Services.

3718. A letter from the Chairman, Council of the District of Columbia transmitting a copy of District of Columbia Act 3–160, "To order the closing of a public alley in Square 2154, at Wisconsin Avenue and S Street, NW. (S.O. 78–174) (ward 3)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3719. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–161, "To order the closing of Harvin Road, NW., and a 9 foot north-south public alley abutting on lot 8[53] in square 1356, bounded by Lingan Road, MacArthur Boulevard, NW., and U.S. park land (S.O. 78–363, revised (ward 3)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3720. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–162, "To order the closing of a portion of a public alley abutting on lots 75, 76, 869, 816 and 850 in square 73, bounded by 21st, 22d, K and L Streets, NW. (S.O. 77–309) (ward 2)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3721. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–163, "To require certain screening tests to be administered to all infants born in hospitals in the District of Columbia," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3722. A letter from the Freedom of Information Act Officer, Office of the U.S. Trade Representative, Executive Office of the President, transmitting a report on the Office's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3723. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the Bank's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3724. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3725. A letter from the Commissioner/Acting Chairman, Federal Mine Safety and Health Review Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3726. A letter from the Administrator, General Services Administration, transmitting a report on the Agency's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3727. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3728. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3729. A letter from the Chairman, Federal Election Commission, transmitting proposed forms to implement the 1979 amendments to the Federal Election Campaign Act, pursuant to section 311(d) of the act; to the Committee on House Administration.

3730. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend provisions of law concerned with health professions education; to the Committee on Interstate and Foreign Commerce.

3731. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to implement the "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction" by prohibiting the development, production, stockpiling, transferring, acquisition, retention, and possession of biological weapons, and for other purposes; to the Committee on the Judiciary.

3732. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

3733. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

3734. A letter from the Secretary of Transportation, transmitting a report covering calendar year 1979 on the use of authority to designate and rent adequate quarters, lease family housing and hire quarters at or near Coast Guard installations, pursuant to 14 U.S.C. 475(f); to the Committee on Merchant Marine and Fisheries.

3735. A letter from the Comptroller General of the United States, transmitting a report on his review of the Defense Department's fiscal year 1981 estimates of revenue to be deposited in the Panama Canal Commission Fund, pursuant to section 1302(c)(2) of Public Law 96–70; to the Committee on Merchant Marine and Fisheries.

3736. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Urban Mass Transportation Act of 1964 to provide for authorizations and for other purposes; to the Committee on Public Works and Transportation.

3737. A letter from the Administrator of General Services, transmitting a prospectus proposing the construction of a border inspection facility at the United States-Canadian border on Interstate Highway 95 near Houlton, Maine, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3738. A letter from the Administrator of General Services, transmitting an amendment to a previously approved prospectus proposing the acquisition and repair and alteration of a truck/terminal warehouse facility for use as a Border Station and Secondary Truck Inspection Facility in Detroit, Mich., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3739. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Internal Revenue Service Center, Ogden, Utah, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3740. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Seattle, Wash., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3741. A letter from the President, National Academy of Sciences, transmitting a report on the study of methods for increasing safety belt use, pursuant to section 214 of Public Law 95–599; to the Committee on Public Works and Transportation.

3742. A letter from the Comptroller General of the United States, transmitting a report on the ability of the Government of the Northern Mariana Islands to absorb and manage Federal funds (ID–80–20, March 7, 1980); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

3743. A letter from the Comptroller General of the United States, transmitting a report on alternatives to Puerto Rico's political relationship with the United States (GGD–80–26, March 7, 1980); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

3744. A letter from the Comptroller General of the United States, transmitting a report on what factors affect how extensively expanded function dental auxiliaries are used and whether increasing their use in the private and public sectors would achieve productivity increases and cost savings (HRD–80–51, March 7, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Mar. 6, 1980, the following report was filed on Mar. 7, 1980*]

Mr. ULLMAN: Committee of Conference. Conference report on H.R. 3919 (Rept. No. 96-817). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN of Tennessee:

H.R. 6748. A bill to amend the Railroad Retirement Act of 1974 to provide an increased benefit for certain persons by changing the requirement that such persons have been fully insured under the Social Security Act as of December 31 of the calendar year in which they last rendered railroad related service; to the Committee on Interstate and Foreign Commerce.

H.R. 6749. A bill to amend the Internal Revenue Code of 1954 to provide that an unmarried individual who maintains a household shall be considered a head of household, without regard to whether the individual has a dependent who is a member of the household; to the Committee on Ways and Means.

By Mr. EDGAR:

H.R. 6750. A bill entitled: "the Hovercraft Skirt Tariff Act"; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 6751. A bill to create a National Commission on Compulsive Gambling; to the Committee on Interstate and Foreign Commerce.

By Mr. LEACH of Iowa:

H.R. 6752. A bill to amend title 28 of the United States Code to prohibit any person from raising as a defense in a proceeding brought for an alleged violation of an antitrust law or the Civil Rights Act of 1964 that such person was compelled by the law of a foreign state to take the action constituting the alleged violation; to the Committee on the Judiciary.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 6753. A bill to authorize appropriations for fiscal year 1981 for conservation, exploration, development and use of the naval petroleum reserves and naval oil shale reserves, and for other purposes; to the Committee on Armed Services.

By Mr. ROSE (for himself, Mr. DAVIS of South Carolina, Mr. ANDREWS of North Carolina, Mr. BROYHILL, Mr. CAMPBELL, Mr. DERRICK, Mr. FOUNTAIN, Mr. GUDGER, Mr. HEFNER, Mr. HOLLAND, Mr. JENRETTE, Mr. JONES of North Carolina, Mr. NEAL, Mr. PREYER, Mr. SPENCE, and Mr. WHITLEY):

H.R. 6754. A bill granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary; to the Committee on the Judiciary.

By Mr. WEAVER:

H.R. 6755. A bill to authorize a pilot program to encourage the efficient utilization of wood and wood residues, and for other purposes; to the Committee on Agriculture.

By Mr. WOLFF:

H.R. 6756. A bill to amend the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970; to the Committee on Public Works and Transportation.

By Mr. BENNETT:

H.R. 6757. A bill to amend the Internal Revenue Code of 1954 to provide that the unified credit against the estate tax shall not be reduced by certain gifts made during 1976 which are includible in the gross estate of the decedent; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.R. 6758. A bill to amend section 313 of the National Housing Act and the Emergency Home Purchase Assistance Act of 1974 to the Committee on Banking, Finance and Urban Affairs.

By Mr. HANCE (for himself, Mr. BEDELL, Mr. COELHO, Mr. COLLINS of Texas, Mr. GRAY, Mr. HIGHTOWER, Mr. IRELAND, Mr. KOGOVSEK, Mr. LEATH of Texas, Mr. OTTINGER, Mr. WHITE, Mr. WYATT, and Mr. STENHOLM):

H.R. 6759. A bill to amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority to ban the importation of agricultural commodities bearing or containing unsafe pesticide chemicals and the importation of foods derived from such commodities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland:

H.R. 6760. A bill to provide homeownership assistance for lower income families; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FISHER (for himself and Mr. GEPHARDT):

H. Res. 602. Resolution expressing the sense of the House of Representatives that the net revenues from the Windfall Profit Tax should be primarily directed toward solving our Nation's energy problem; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

367. By the SPEAKER: Memorial of the Senate of the State of Washington, relative to relocating the XXII Summer Olympiad; to the Committee on Foreign Affairs.

368. Also, memorial of the Legislature of the State of Wisconsin, relative to proposing the establishment of the space shuttle control and satellite surveillance center in Duluth, Minn.; to the Committee on Science and Technology.

369. Also, memorial of the Senate of the State of Washington, relative to designating the Fort George Wright Military Cemetery, Washington as a National Cemetery; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SYMMS:

H.R. 6761. A bill for the relief of Mary Ellen Noble; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1576: Mr. DOUGHERTY.

H.R. 1577: Mr. DOUGHERTY.

H.R. 1578: Mr. DOUGHERTY and Mr. HUBBARD.

H.R. 2333: Mr. FAUNTROY.

H.R. 4646: Mr. FARY, Mr. KAZEN, Mr. MCHUGH, and Mr. STACK.

H.R. 5449: Mrs. BOGGS, Mr. RICHMOND, Mr. ADDABBO, Mr. BINGHAM, Mr. PEYSER, Mr. WOLFF, and Mr. JOHN L. BURTON.

H.R. 5476: Mr. LOWRY.

H.R. 5712: Mr. COELHO.

H.R. 5764: Mr. FRENZEL, Mr. HAGEDORN, and Mr. STANGELAND.

H.R. 5876: Mr. BEARD of Rhode Island.

H.R. 6065: Mr. SKELTON.

H.R. 6094: Mr. GINGRICH, Mr. RAHALL, Mr. NATCHER, Mr. SHELBY, Mr. PERKINS, Mr. MATTOX, Mr. COLLINS of Texas, Mrs. HOLT, Mr. JONES of Tennessee, Mr. HUBBARD, Mr. HOPKINS, Mr. BOWEN, and Mr. LONG of Louisiana.

H.R. 6220: Mr. FISH, Mr. HEFTEL, Mr. PATTEN, Mr. MARRIOTT, Mr. DE LA GARZA, Mr. HOWARD, Mr. ROE, Mr. CLINGER, Mr. ADDABBO, Mr. FROST, Mr. MINISH, Mr. SATTERFIELD, and Mr. MOAKLEY.

H.R. 6287: Mr. AUCOIN and Mr. SCHULZE.

H.R. 6494: Mr. PANETTA, Mr. LAFALCE, and Mr. WEAVER.

H.R. 6503: Mr. MONTGOMERY and Mr. STENHOLM.

H.R. 6683: Mr. FISHER, Mr. GRAY, Mr. LOTT, Mr. MCCORMACK, and Mr. PATTEN.

H.R. 6744: Mr. LAGOMARSINO, Mr. WHITEHURST, Mr. FORSYTHE, Mr. GARCIA, Mr. DAVIS of Michigan, Mrs. HOLT, and Mr. SEBELIUS.

H.J. Res. 505: Mr. DUNCAN of Tennessee, Mr. LAGOMARSINO, Mr. STEED, Mr. DERWINSKI, and Mr. WHITEHURST.

H. Res. 48: Mrs. BYRON, Mr. CLEVELAND, Mr. GAYDOS, Mr. HUBBARD, Mr. MOLLOHAN, Mr. SHELBY, Mr. WHITTAKER, and Mr. STENHOLM.