

109TH CONGRESS
1ST SESSION

S. 1981

To amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to rebate a portion of the tax collected back to American consumers, to fund programs under the Low-Income Home Energy Assistance Act of 1981 and tax incentives for the manufacture of energy efficient motor vehicles by using a portion of the proceeds of such tax, and to deposit the balance of the tax collected into the Highway Trust Fund to support the funding of highway projects and to aid highway users, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2005

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

A BILL

To amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to rebate a portion of the tax collected back to American consumers, to fund programs under the Low-Income Home Energy Assistance Act of 1981 and tax incentives for the manufacture of energy efficient motor vehicles by using a portion of the proceeds of such tax, and to deposit the balance of the tax collected into the Highway Trust Fund to support the funding of highway projects and to aid highway users, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Windfall Profits Tax
 5 Act of 2005”.

6 **SEC. 2. WINDFALL PROFITS TAX.**

7 (a) IN GENERAL.—Subtitle E of the Internal Rev-
 8 enue Code of 1986 (relating to alcohol, tobacco, and cer-
 9 tain other excise taxes) is amended by adding at the end
 10 thereof the following new chapter:

11 **“CHAPTER 56—WINDFALL PROFITS ON**
 12 **CRUDE OIL**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; removal price; adjusted base price; qualified invest-
 ment.

“Sec. 5898. Special rules and definitions.

13 **“SEC. 5896. IMPOSITION OF TAX.**

14 “(a) IN GENERAL.—In addition to any other tax im-
 15 posed under this title, there is hereby imposed on any inte-
 16 grated oil company (as defined in section 291(b)(4)) an
 17 excise tax equal to the amount equal to 50 percent of the
 18 windfall profit from all barrels of taxable crude oil re-
 19 moved from the property during each taxable year.

20 “(b) FRACTIONAL PART OF BARREL.—In the case of
 21 a fraction of a barrel, the tax imposed by subsection (a)
 22 shall be the same fraction of the amount of such tax im-
 23 posed on the whole barrel.

1 “(c) TAX PAID BY PRODUCER.—The tax imposed by
2 this section shall be paid by the producer of the taxable
3 crude oil.

4 **“SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; AD-
5 JUSTED BASE PRICE.**

6 “(a) GENERAL RULE.—For purposes of this chapter,
7 the term ‘windfall profit’ means the excess of the removal
8 price of the barrel of taxable crude oil over the adjusted
9 base price of such barrel.

10 “(b) REMOVAL PRICE.—For purposes of this chap-
11 ter—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the term ‘removal price’
14 means the amount for which the barrel of taxable
15 crude oil is sold.

16 “(2) SALES BETWEEN RELATED PERSONS.—In
17 the case of a sale between related persons, the re-
18 moval price shall not be less than the constructive
19 sales price for purposes of determining gross income
20 from the property under section 613.

21 “(3) OIL REMOVED FROM PROPERTY BEFORE
22 SALE.—If crude oil is removed from the property be-
23 fore it is sold, the removal price shall be the con-
24 structive sales price for purposes of determining
25 gross income from the property under section 613.

1 “(4) REFINING BEGUN ON PROPERTY.—If the
2 manufacture or conversion of crude oil into refined
3 products begins before such oil is removed from the
4 property—

5 “(A) such oil shall be treated as removed
6 on the day such manufacture or conversion be-
7 gins, and

8 “(B) the removal price shall be the con-
9 structive sales price for purposes of determining
10 gross income from the property under section
11 613.

12 “(5) PROPERTY.—The term ‘property’ has the
13 meaning given such term by section 614.

14 “(c) ADJUSTED BASE PRICE DEFINED.—

15 “(1) IN GENERAL.—For purposes of this chap-
16 ter, the term ‘adjusted base price’ means \$40 for
17 each barrel of taxable crude oil plus an amount
18 equal to—

19 “(A) such base price, multiplied by

20 “(B) the inflation adjustment for the cal-
21 endar year in which the taxable crude oil is re-
22 moved from the property.

23 The amount determined under the preceding sen-
24 tence shall be rounded to the nearest cent.

25 “(2) INFLATION ADJUSTMENT.—

1 “(A) IN GENERAL.—For purposes of para-
2 graph (1), the inflation adjustment for any cal-
3 endar year after 2006 is the percentage by
4 which—

5 “(i) the implicit price deflator for the
6 gross national product for the preceding
7 calendar year, exceeds

8 “(ii) such deflator for the calendar
9 year ending December 31, 2005.

10 “(B) FIRST REVISION OF PRICE DEFLATOR
11 USED.—For purposes of subparagraph (A), the
12 first revision of the price deflator shall be used.

13 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS .**

14 “(a) WITHHOLDING AND DEPOSIT OF TAX.—The
15 Secretary shall provide such rules as are necessary for the
16 withholding and deposit of the tax imposed under section
17 5896 on any taxable crude oil.

18 “(b) RECORDS AND INFORMATION.—Each taxpayer
19 liable for tax under section 5896 shall keep such records,
20 make such returns, and furnish such information (to the
21 Secretary and to other persons having an interest in the
22 taxable crude oil) with respect to such oil as the Secretary
23 may by regulations prescribe.

1 “(c) RETURN OF WINDFALL PROFIT TAX.—The Sec-
2 retary shall provide for the filing and the time of such
3 filing of the return of the tax imposed under section 5896.

4 “(d) DEFINITIONS.—For purposes of this chapter—

5 “(1) PRODUCER.—The term ‘producer’ means
6 the holder of the economic interest with respect to
7 the crude oil.

8 “(2) CRUDE OIL.—

9 “(A) IN GENERAL.—The term ‘crude oil’
10 includes crude oil condensates and natural gas-
11 oline.

12 “(B) EXCLUSION OF NEWLY DISCOVERED
13 OIL.—Such term shall not include any oil pro-
14 duced from a well drilled after the date of the
15 enactment of the Windfall Profits Tax Act of
16 2005, except with respect to any oil produced
17 from a well drilled after such date on any prov-
18 en oil or gas property (within the meaning of
19 section 613A(c)(9)(A)).

20 “(3) BARREL.—The term ‘barrel’ means 42
21 United States gallons.

22 “(e) ADJUSTMENT OF REMOVAL PRICE.—In deter-
23 mining the removal price of oil from a property in the case
24 of any transaction, the Secretary may adjust the removal
25 price to reflect clearly the fair market value of oil removed.

1 “(f) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this chapter.

4 “(g) TERMINATION.—This section shall not apply to
5 taxable crude oil removed after the date which is 10 years
6 after the date of the enactment of this section.”.

7 (b) CLERICAL AMENDMENT.—The table of chapters
8 for subtitle E of the Internal Revenue Code of 1986 is
9 amended by adding at the end the following new item:

“CHAPTER 56. Windfall Profit on Crude Oil.”.

10 (c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—
11 The first sentence of section 164(a) of the Internal Rev-
12 enue Code of 1986 (relating to deduction for taxes) is
13 amended by inserting after paragraph (5) the following
14 new paragraph:

15 “(6) The windfall profit tax imposed by section
16 5896.”.

17 (d) AMERICAN CONSUMER REBATE.—

18 (1) IN GENERAL.—Subchapter B of chapter 65
19 of the Internal Revenue Code of 1986 (relating to
20 rules of special application in the case of abate-
21 ments, credits, and refunds) is amended by adding
22 at the end the following new section:

23 **“SEC. 6430. AMERICAN CONSUMER REBATE.**

24 “(a) GENERAL RULE.—Except as otherwise provided
25 in this section, each individual shall be treated as having

1 made a payment against the tax imposed by chapter 1 in
2 an amount equal to__

3 “(1) in the case of any taxable year beginning
4 in 2006, \$150, and

5 “(2) in the case of any taxable year beginning
6 after 2006, the applicable amount.

7 “(b) APPLICABLE AMOUNT.—For purposes of this
8 section, the applicable amount for any taxpayer for any
9 taxable year shall be determined by the Secretary not later
10 than December 31 (beginning in 2007) taking into ac-
11 count the number of such taxpayers and 75 percent of
12 the amount of revenues in the Treasury resulting from the
13 tax imposed by section 5896 for such taxable year.

14 “(c) CREDITS AND REFUNDS.—Under regulations
15 prescribed by the Secretary, any amount treated as a pay-
16 ment under subsection (a) for the taxable year shall be
17 credited against the tax liability of the taxpayer under sec-
18 tion 1 for such taxable year or, in the absence of such
19 tax liability of the taxpayer for such taxable year, refunded
20 to the taxpayer.

21 “(d) CERTAIN PERSONS NOT ELIGIBLE.—This sec-
22 tion shall not apply to—

23 “(1) any individual with respect to whom a de-
24 duction under section 151 is allowable to another
25 taxpayer for a taxable year beginning in the cal-

1 endar year in which such individual's taxable year
2 begins,

3 “(2) any estate or trust, or

4 “(3) any nonresident alien individual.”.

5 (2) CONFORMING AMENDMENT.—Section
6 1324(b)(2) of title 31, United States Code, is
7 amended by inserting before the period “, or enacted
8 by the Windfall Profits Tax Act of 2005”.

9 (3) CLERICAL AMENDMENT.—The table of sec-
10 tions for subchapter B of chapter 65 of the Internal
11 Revenue Code of 1986 is amended by adding at the
12 end the following new item:

“Sec. 6430. American consumer rebate.”.

13 (4) EFFECTIVE DATE.—The amendments made
14 by this subsection shall take effect on the date of the
15 enactment of this Act.

16 (e) LOW INCOME HOME ENERGY ASSISTANCE TRUST
17 FUND.—

18 (1) IN GENERAL.—Subchapter A of chapter 98
19 of the Internal Revenue Code of 1986 (relating to
20 trust fund code) is amended by adding at the end
21 the following new section:

22 **“SEC. 9511. LOW-INCOME HOME ENERGY ASSISTANCE**
23 **TRUST FUND.**

24 “(a) CREATION OF TRUST FUND.—There is estab-
25 lished in the Treasury of the United States a trust fund

1 to be known as the ‘Low-Income Home Energy Assistance
2 Trust Fund’, consisting of any amount appropriated or
3 credited to the Trust Fund as provided in this section or
4 section 9602(b).

5 “(b) TRANSFERS TO TRUST FUND.—There are here-
6 by appropriated to the Low-Income Home Energy Assist-
7 ance Trust Fund for each fiscal year beginning after Sep-
8 tember 30, 2005, amounts equivalent to 7.5 percent of the
9 taxes received in the Treasury under section 5896 (relat-
10 ing to windfall profit tax on crude oil) for such fiscal year.

11 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
12 in the Low Income Home Energy Assistance Trust Fund
13 shall be available, without further appropriation, for each
14 fiscal year to carry out the program under the Low-In-
15 come Home Energy Assistance Act of 1981 for which
16 funds are authorized under section 2602(b) of such Act
17 for such fiscal year, but only if not less than
18 \$1,800,000,000 has been appropriated for such program
19 for such fiscal year (determined without regard to any
20 amount appropriated to the Low Income Home Energy
21 Assistance Trust Fund).”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
23 tions for such subchapter is amended by adding at
24 the end the following new item:

“Sec. 9511. Low-Income Home Energy Assistance Trust Fund.”.

1 (f) ENERGY EFFICIENT MOTOR VEHICLES MANU-
2 FACTURING CREDIT.—

3 (1) IN GENERAL.—Subpart B of part IV of
4 subchapter A of chapter 1 of the Internal Revenue
5 Code of 1986 (relating to foreign tax credit, etc.) is
6 amended by adding at the end the following new sec-
7 tion:

8 **“SEC. 30D. ENERGY EFFICIENT MOTOR VEHICLES MANU-
9 FACTURING CREDIT.**

10 “(a) CREDIT ALLOWED.—In the case of an eligible
11 taxpayer, subject to a credit allocation under subsection
12 (e) to such eligible taxpayer, there shall be allowed as a
13 credit against the tax imposed by this chapter for the tax-
14 able year to an amount equal to the sum of—

15 “(1) the initial investment credit determined
16 under subsection (b) for the taxable year,

17 “(2) the fuel economy achievement credit deter-
18 mined under subsection (c) for such taxable year,
19 and

20 “(3) the eligible components R&D credit deter-
21 mined under subsection (d) for such taxable year.

22 “(b) INITIAL INVESTMENT CREDIT.—For purposes
23 of this section, the initial investment credit is equal to 20
24 percent of the qualified investment of an eligible taxpayer

1 with respect to energy efficient motor vehicles during the
2 taxable year beginning in 2006.

3 “(c) FUEL ECONOMY ACHIEVEMENT CREDIT.—For
4 purposes of this section—

5 “(1) IN GENERAL.—In the case of an eligible
6 taxpayer who meets the requirements of paragraph
7 (2) for a model year ending in a taxable year speci-
8 fied in the table contained in paragraph (3), the fuel
9 economy achievement credit for such taxable year is
10 equal to 30 percent of the sum of—

11 “(A) at the election of the eligible tax-
12 payer, such qualified investment for any pre-
13 ceding taxable year beginning after 2005 if
14 such taxable year has not previously been taken
15 into account under this subsection by such tax-
16 payer, plus

17 “(B) at the election of the eligible tax-
18 payer, the qualified investment with respect to
19 energy efficient motor vehicles of the eligible
20 taxpayer for the taxable year beginning in
21 2015.

22 “(2) DEMONSTRATED COMBINED FLEET ECON-
23 OMY IMPROVEMENTS.—The requirements of this
24 paragraph are met for any model year ending in a
25 taxable year if the eligible taxpayer can demonstrate

1 to the satisfaction of the Secretary that the percent-
 2 age by which the taxpayer’s overall combined fuel
 3 economy standard for the taxpayer’s vehicle fleet for
 4 such model year exceeds such standard for such tax-
 5 payer’s 2005 model year as reported to the National
 6 Highway Traffic Safety Administration under sec-
 7 tion 32907 of title 49, United States Code, is not
 8 less than the percentage determined for such model
 9 year under paragraph (3).

10 “(3) PERCENTAGE INCREASE.—The percentage
 11 determined under this paragraph for any taxable
 12 year is equal to—

“Model year ending in taxable year	Percentage increase
2008	5
2009	10
2010	15
2011	20
2012	27.5
2013	35
2014	42.5
2015	50.

13 “(d) ELIGIBLE COMPONENTS R&D CREDIT.—For
 14 purposes of this section, the eligible R&D credit for any
 15 taxable year is equal to 30 percent of the research and
 16 development costs paid or incurred by an eligible taxpayer
 17 for such taxable year with respect to eligible components
 18 used or to be used in the manufacture of energy efficient
 19 motor vehicles.

20 “(e) LIMITATION.—

1 “(1) INITIAL INVESTMENT CREDIT AND FUEL
2 ECONOMY ACHIEVEMENT CREDIT.—Subject to para-
3 graph (2), the aggregate amount of initial invest-
4 ment credits and fuel economy achievement credits
5 allowed under subsection (a) for any taxable year be-
6 ginning in a calendar year after 2005 shall be allo-
7 cated by the Secretary among all eligible tax-
8 payers—

9 “(A) based on each eligible taxpayer’s per-
10 centage of the total qualified investment of all
11 such taxpayers, and

12 “(B) such that such aggregate amount
13 does not exceed—

14 “(i) \$1,000,000,000, plus

15 “(ii) any amount of credit unallocated
16 during any preceding calendar year.

17 “(2) ELIGIBLE COMPONENTS R&D CREDIT.—Of
18 the dollar amount available for allocation under
19 paragraph (1) for any taxable year, 10 percent of
20 such amount shall be allocated in the same manner
21 by the Secretary among all eligible taxpayers with
22 respect to the eligible components R&D credit.

23 “(f) QUALIFIED INVESTMENT.—For purposes of this
24 section—

1 “(1) IN GENERAL.—The qualified investment
2 for any taxable year is equal to the incremental costs
3 incurred during such taxable year—

4 “(A) to re-equip or expand any manufac-
5 turing facility of the eligible taxpayer to
6 produce energy efficient motor vehicles or to
7 produce eligible components, and

8 “(B) for engineering integration of such
9 vehicles and components as described in sub-
10 section (h).

11 “(2) ATTRIBUTION RULES.—In the event a fa-
12 cility of the eligible taxpayer produces both energy
13 efficient motor vehicles and conventional motor vehi-
14 cles, or eligible and non-eligible components, only the
15 qualified investment attributable to production of en-
16 ergy efficient motor vehicles and the research and
17 development costs attributable to eligible components
18 shall be taken into account.

19 “(g) ENERGY EFFICIENT MOTOR VEHICLES AND EL-
20 IGIBLE COMPONENTS.—For purposes of this section—

21 “(1) ENERGY EFFICIENT MOTOR VEHICLE.—
22 The term ‘energy efficient motor vehicle’ means—

23 “(A) any new advanced lean burn tech-
24 nology motor vehicle (as defined in section
25 30B(c)(3) determined without regard to sub-

1 paragraph (A)(iv)(II) thereof or the weight lim-
 2 itation under subparagraph (A)(iv)(I) thereof),

3 “(B) any new qualified hybrid motor vehi-
 4 cle (as defined in section 30B(d)(3)(A) deter-
 5 mined without regard to subparagraph
 6 (A)(ii)(II) thereof, the weight limitation under
 7 subparagraph (A)(ii)(I) thereof, and subpara-
 8 graph (A)(iv) thereof), or

9 “(C) any other new technology motor vehi-
 10 cle identified by the Secretary as offering a sub-
 11 stantial increase in fuel economy.

12 “(2) ELIGIBLE COMPONENTS.—The term ‘eligi-
 13 ble component’ means any component inherent to
 14 any energy efficient motor vehicle, including—

15 “(A) with respect to any gasoline-electric
 16 new qualified hybrid motor vehicle—

17 “(i) electric motor or generator,

18 “(ii) power split device,

19 “(iii) power control unit,

20 “(iv) power controls,

21 “(v) integrated starter generator, or

22 “(vi) battery,

23 “(B) with respect to any new advanced
 24 lean burn technology motor vehicle—

25 “(i) diesel engine,

1 “(ii) turbocharger,
2 “(iii) fuel injection system, or
3 “(iv) after-treatment system, such as
4 a particle filter or NOx absorber, and
5 “(C) with respect to any energy efficient
6 motor vehicle, any other component approved
7 by the Secretary.

8 “(h) ENGINEERING INTEGRATION COSTS.—For pur-
9 poses of subsection (f)(1)(B), costs for engineering inte-
10 gration are costs incurred prior to the market introduction
11 of energy efficient vehicles for engineering tasks related
12 to—

13 “(1) incorporating eligible components into the
14 design of energy efficient motor vehicles, and

15 “(2) designing new tooling and equipment for
16 production facilities which produce eligible compo-
17 nents or energy efficient motor vehicles.

18 “(i) ELIGIBLE TAXPAYER.—For purposes of this sec-
19 tion, the term ‘eligible taxpayer’ means, with respect to
20 any taxable year, any taxpayer if more than 25 percent
21 of the taxpayer’s gross receipts for the taxable year is de-
22 rived from the manufacture of motor vehicles or any com-
23 ponent parts of such vehicles.

1 “(j) LIMITATION BASED ON AMOUNT OF TAX.—The
2 credit allowed under subsection (a) for the taxable year
3 shall not exceed the excess of—

4 “(1) the sum of—

5 “(A) the regular tax liability (as defined in
6 section 26(b)) for such taxable year, plus

7 “(B) the tax imposed by section 55 for
8 such taxable year, over

9 “(2) the sum of the credits allowable under sub-
10 part A and sections 27, 30, 30B, and 30C for the
11 taxable year.

12 “(k) REDUCTION IN BASIS.—For purposes of this
13 subtitle, if a credit is allowed under this section for any
14 expenditure with respect to any property, the increase in
15 the basis of such property which would (but for this para-
16 graph) result from such expenditure shall be reduced by
17 the amount of the credit so allowed.

18 “(l) NO DOUBLE BENEFIT.—

19 “(1) COORDINATION WITH OTHER DEDUCTIONS
20 AND CREDITS.—The amount of any deduction or
21 other credit allowable under this chapter for any
22 cost taken into account in determining the amount
23 of the credit under subsection (a) shall be reduced
24 by the amount of such credit attributable to such
25 cost.

1 “(2) RESEARCH AND DEVELOPMENT COSTS.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), any amount described in
4 subsection (d) taken into account in deter-
5 mining the amount of the credit under sub-
6 section (a) for any taxable year shall not be
7 taken into account for purposes of determining
8 the credit under section 41 for such taxable
9 year.

10 “(B) COSTS TAKEN INTO ACCOUNT IN DE-
11 TERMINING BASE PERIOD RESEARCH EX-
12 PENSES.—Any amounts described in subsection
13 (d) taken into account in determining the
14 amount of the credit under subsection (a) for
15 any taxable year which are qualified research
16 expenses (within the meaning of section 41(b))
17 shall be taken into account in determining base
18 period research expenses for purposes of apply-
19 ing section 41 to subsequent taxable years.

20 “(m) BUSINESS CARRYOVERS ALLOWED.—If the
21 credit allowable under subsection (a) for a taxable year
22 exceeds the limitation under subsection (j) for such tax-
23 able year, such excess (to the extent of the credit allowable
24 with respect to property subject to the allowance for depre-
25 ciation) shall be allowed as a credit carryback and

1 carryforward under rules similar to the rules of section
2 39.

3 “(n) DEFINITIONS AND SPECIAL RULES.—For pur-
4 poses of this section—

5 “(1) DEFINITIONS.—Any term which is used in
6 this section and in chapter 329 of title 49, United
7 States Code, shall have the meaning given such term
8 by such chapter.

9 “(2) SPECIAL RULES.—Rules similar to the
10 rules of paragraphs (4) and (5) of section 179A(e)
11 and paragraphs (1) and (2) of section 41(f) shall
12 apply.

13 “(o) ELECTION NOT TO TAKE CREDIT.—No credit
14 shall be allowed under subsection (a) for any property if
15 the taxpayer elects not to have this section apply to such
16 property.

17 “(p) REGULATIONS.—The Secretary shall prescribe
18 such regulations as necessary to carry out the provisions
19 of this section.

20 “(q) TERMINATION.—This section shall not apply to
21 any qualified investment made after December 31, 2015.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 1016(a) of such Code is
24 amended by striking “and” at the end of para-
25 graph (36), by striking the period at the end of

1 paragraph (37) and inserting “, and”, and by
 2 adding at the end the following new paragraph:
 3 “(38) to the extent provided in section
 4 30D(k).”.

5 (B) Section 6501(m) of such Code is
 6 amended by inserting “30D(o),” after
 7 “30C(e)(5).”.

8 (C) The table of sections for subpart B of
 9 part IV of subchapter A of chapter 1 of such
 10 Code is amended by inserting after the item re-
 11 lating to section 30C the following new item:

“Sec. 30D. Energy efficient motor vehicles manufacturing credit.”.

12 (3) EFFECTIVE DATE.—The amendments made
 13 by this subsection shall apply to amounts incurred in
 14 taxable years beginning after December 31, 2005.

15 (g) TRANSFER TO HIGHWAY TRUST FUND TO FUND
 16 HIGHWAY PROJECTS AND AID HIGHWAY USERS.—

17 (1) IN GENERAL.—Section 9503(b)(1) of the
 18 Internal Revenue Code of 1986 (relating to certain
 19 taxes) is amended—

20 (A) by inserting “(before January 1, 2016,
 21 in the case of taxes under section 5896)” after
 22 “2011”,

23 (B) by striking “and” at the end of sub-
 24 paragraph (D),

1 (C) by striking the period at the end of
2 subparagraph (E) and inserting “, and”,

3 (D) by inserting after subparagraph (E)
4 the following new subparagraph:

5 “(F) section 5896 (relating to windfall
6 profit tax).”, and

7 (E) by adding at the end the following new
8 sentence: “For purposes of this paragraph, the
9 aggregate amount which is appropriated to the
10 Highway Trust Fund as determined by ref-
11 erence to taxes received under section 5896
12 shall be reduced by the aggregate amount of
13 the American consumer rebate determined
14 under section 6430, the amount appropriated
15 for each fiscal year to the Low-Income Home
16 Energy Assistance Trust Fund under section
17 9511(b), and an amount of \$1,000,000,000 for
18 each of fiscal years 2006 through 2015.”

19 (2) PORTION TO MASS TRANSIT ACCOUNT.—
20 Section 9503(e)(2) of such Code (relating to trans-
21 fers to Mass Transit Account) is amended by insert-
22 ing “and 18.5 percent of the amounts appropriated
23 to the Highway Trust Fund under subsection (b)
24 which are attributable to the tax under section
25 5896” after “1983”.

1 (3) SPECIAL RULE REGARDING HIGHWAY
2 PROJECTS FUNDED BY WINDFALL PROFIT TAX REV-
3 ENUES.—Notwithstanding section 120 of title 23,
4 United States Code, the Federal share of the cost of
5 any project or activity carried out using funds de-
6 posited in the Highway Trust Fund under section
7 9503(b)(1)(F) of the Internal Revenue Code of 1986
8 shall be 100 percent to the extent such funds are
9 available under such section.

10 (h) EFFECTIVE DATE.—Except as otherwise pro-
11 vided, the amendments made by this section shall apply
12 to crude oil removed after the date of the enactment of
13 this Act, in taxable years ending after such date.

○