

109TH CONGRESS
1ST SESSION

H. R. 4449

To amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to allow a credit against tax for qualified fuel-efficient vehicles placed in service during the taxable year, to establish the Energy Assistance Trust Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2005

Mr. PALLONE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to allow a credit against tax for qualified fuel-efficient vehicles placed in service during the taxable year, to establish the Energy Assistance Trust Fund, 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 Consumer Energy As-
5 sistance and Fairness Act of 2005.

1 **SEC. 2. WINDFALL PROFITS TAX.**

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

6 **“CHAPTER 56—WINDFALL PROFIT ON**
 7 **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.

8 **“SEC. 5896. IMPOSITION OF TAX.**

9 “(a) IN GENERAL.—In addition to any other tax im-
 10 posed under this title, there is hereby imposed on any inte-
 11 grated oil company (as defined in section 291(b)(4)) an
 12 excise tax equal to the excess of—

13 “(1) the amount equal to 50 percent of the
 14 windfall profit from all barrels of taxable crude oil
 15 removed from the property during each taxable year,
 16 over

17 “(2) the amount of qualified investment by such
 18 company during such taxable year.

19 “(b) FRACTIONAL PART OF BARREL.—In the case of
 20 a fraction of a barrel, the tax imposed by subsection (a)
 21 shall be the same fraction of the amount of such tax im-
 22 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; QUALIFIED INVEST-**
 6 **MENT.**

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

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

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

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

22 “(3) OIL REMOVED FROM PROPERTY BEFORE
 23 SALE.—If crude oil is removed from the property be-
 24 fore it is sold, the removal price shall be the con-

1 structive sales price for purposes of determining
2 gross income from the property under section 613.

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

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

10 “(B) the removal price shall be the con-
11 structive sales price for purposes of determining
12 gross income from the property under section
13 613.

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

16 “(c) ADJUSTED BASE PRICE DEFINED.—

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

21 “(A) such base price, multiplied by

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

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

3 “(2) INFLATION ADJUSTMENT.—

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

8 “(i) the implicit price deflator for the
9 gross national product for the preceding
10 calendar year, exceeds

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

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

16 “(d) QUALIFIED INVESTMENT.—For purposes of this
17 chapter—

18 “(1) IN GENERAL.—The term ‘qualified invest-
19 ment’ means any amount paid or incurred with re-
20 spect to—

21 “(A) section 263(c) costs,

22 “(B) qualified refinery property (as defined
23 in section 179C(c) and determined without re-
24 gard to any termination date),

1 “(C) any qualified facility described in
2 paragraph (1), (2), (3), or (4) of section 45(d)
3 (determined without regard to any placed in
4 service date), or

5 “(D) any facility for the production of al-
6 cohol used as a fuel (within the meaning of sec-
7 tion 40) or biodiesel or agri-biodiesel used as a
8 fuel (within the meaning of section 40A).

9 “(2) SECTION 263(c) COSTS.—For purposes of
10 this subsection, the term ‘section 263(c) costs’
11 means intangible drilling and development costs in-
12 curred by the taxpayer which (by reason of an elec-
13 tion under section 263(c)) may be deducted as ex-
14 penses for purposes of this title (other than this
15 paragraph). Such term shall not include costs in-
16 curred in drilling a nonproductive well.

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

18 “(a) WITHHOLDING AND DEPOSIT OF TAX.—The
19 Secretary shall provide such rules as are necessary for the
20 withholding and deposit of the tax imposed under section
21 5896 on any taxable crude oil.

22 “(b) RECORDS AND INFORMATION.—Each taxpayer
23 liable for tax under section 5896 shall keep such records,
24 make such returns, and furnish such information (to the
25 Secretary and to other persons having an interest in the

1 taxable crude oil) with respect to such oil as the Secretary
 2 may by regulations prescribe.

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

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

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

10 “(2) CRUDE OIL.—

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

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

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

24 “(e) ADJUSTMENT OF REMOVAL PRICE.—In deter-
 25 mining the removal price of oil from a property in the case

1 of any transaction, the Secretary may adjust the removal
 2 price to reflect clearly the fair market value of oil removed.

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

6 “(g) TERMINATION.—This section shall not apply to
 7 taxable crude oil removed after the date which is 3 years
 8 after the date of the enactment of this section.”.

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

“CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL”.

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

17 “(6) The windfall profit tax imposed by section
 18 5896.”.

19 (d) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to crude oil removed after Decem-
 21 ber 31, 2005, in taxable years beginning after such date.

22 **SEC. 3. FUEL-EFFICIENT VEHICLE CREDIT.**

23 (a) IN GENERAL.—Subpart B of part IV of sub-
 24 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to other credits) is amended by inserting
2 after section 30C the following new section:

3 **“SEC. 30D. FUEL-EFFICIENT VEHICLE CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—At the election of the
5 taxpayer, there shall be allowed as a credit against the
6 tax imposed by this chapter for the taxable year an
7 amount equal to \$1,000 for any qualified fuel-efficient ve-
8 hicle placed in service by the taxpayer during the taxable
9 year.

10 “(b) QUALIFIED FUEL-EFFICIENT VEHICLE.—For
11 purposes of this section, the term ‘qualified fuel-efficient
12 vehicle’ means a motor vehicle (as defined in section
13 30(c)(2))—

14 “(1) in which the fuel economy (determined in
15 accordance with section 4064) of such vehicle is
16 rated at not less than 30 miles per gallon, and

17 “(2) which is—

18 “(A) an automobile (as defined in section
19 4064(b)), or

20 “(B) a truck or van with an unloaded
21 gross vehicle weight rating not greater than
22 7,500 pounds.

23 “(c) SPECIAL RULES.—

24 “(1) BASIS REDUCTION.—The basis of any
25 property for which a credit is allowable under sub-

1 section (a) shall be reduced by the amount of such
2 credit.

3 “(2) RECAPTURE.—The Secretary shall, by reg-
4 ulations, provide for recapturing the benefit of any
5 credit allowable under subsection (a) with respect to
6 any property which ceases to be property eligible for
7 such credit.

8 “(3) PROPERTY USED OUTSIDE UNITED
9 STATES, ETC. NOT QUALIFIED.—No credit shall be
10 allowed under subsection (a) with respect to any
11 property referred to in section 50(b) or with respect
12 to the portion of the cost of any property taken into
13 account under section 30, 179, or 179A.

14 “(d) CARRYFORWARD OF UNUSED CREDITS.—If the
15 credit allowable under subsection (a) for any taxable year
16 exceeds—

17 “(1) the regular tax for the taxable year re-
18 duced by the sum of the credits allowable under sub-
19 part A and this part (other than this section), over

20 “(2) the tentative minimum tax for the taxable
21 year,

22 such excess shall be carried to the succeeding taxable year
23 and added to the credit allowable under subsection (a) for
24 such taxable year.

1 “(e) TERMINATION.—This section shall not apply to
2 taxable years beginning after December 31, 2008.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for such subpart B is amended by inserting after the item
5 relating to section 30C the following new item:

“Sec. 30D. Fuel-efficient vehicle credit.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2005.

9 **SEC. 4. ENERGY ASSISTANCE TRUST FUND.**

10 (a) CREATION OF TRUST FUND.—Subchapter A of
11 chapter 98 of such Code is amended by inserting at the
12 end the following new section:

13 **“SEC. 9511. ENERGY ASSISTANCE TRUST FUND.**

14 “(a) CREATION OF TRUST FUND.—There is estab-
15 lished in the Treasury of the United States a trust fund
16 to be known as the ‘Energy Assistance Trust Fund’, con-
17 sisting of such amounts as may be appropriated or cred-
18 ited to the Energy Assistance Trust Fund.

19 “(b) TRANSFER OF CERTAIN TAXES.—There are
20 hereby appropriated to the Energy Assistance Trust Fund
21 amounts equivalent to the taxes received in the Treasury
22 under chapter 56.

23 “(c) EXPENDITURES FROM ENERGY ASSISTANCE
24 TRUST FUND.—As provided by appropriation Acts,

1 amounts in the Energy Assistance Trust Fund shall be
2 available—

3 “(1) to make grants under the Low-Income
4 Gasoline Assistance Program Act, and
5 “(2) to carry out the Low-Income Home En-
6 ergy Assistance Act of 1981.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for subchapter A of chapter 98 of such Code is amended
9 by inserting at the end the following new item:

“Sec. 9511. Energy assistance trust fund.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2005.

13 **SEC. 5. LOW-INCOME GASOLINE ASSISTANCE PROGRAM.**

14 (a) SHORT TITLE.—This section may be cited as the
15 “Low-Income Gasoline Assistance Program Act”.

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

17 (1) COVERED ACTIVITIES.—The term “covered
18 activities” means—

19 (A) work activities;

20 (B) education directly related to employ-
21 ment; or

22 (C) activities related to necessary sched-
23 uled medical treatment.

1 (2) GASOLINE.—The term “gasoline” has the
2 meaning given the term in section 4082 of the Inter-
3 nal Revenue Code of 1986.

4 (3) HOUSEHOLD.—The term “household” has
5 the meaning given the term in section 2603 of the
6 Low-Income Home Energy Assistance Act of 1981
7 (42 U.S.C. 8622).

8 (4) POVERTY LEVEL; STATE MEDIAN IN-
9 COME.—The terms “poverty level” and “State me-
10 dian income” have the meanings given the terms in
11 section 2603 of the Low-Income Home Energy As-
12 sistance Act of 1981.

13 (5) SECRETARY.—The term “Secretary” means
14 the Secretary of Health and Human Services.

15 (6) STATE.—The term “State” means each of
16 the several States, the District of Columbia, and the
17 Commonwealth of Puerto Rico.

18 (7) WORK ACTIVITIES.—The term “work activi-
19 ties” has the meaning given the term in section
20 407(d) of the Social Security Act (42 U.S.C.
21 607(d)).

22 (c) EMERGENCY ASSISTANCE PROGRAMS.—The Sec-
23 retary shall make grants to States, from allotments made
24 under subsection (d), to enable the States to establish
25 emergency assistance programs and to provide, through

1 the programs, payments to eligible households to enable
2 the households to purchase gasoline.

3 (d) STATE ALLOTMENTS.—From the funds appro-
4 priated under subsection (l) for a fiscal year and remain-
5 ing after the reservation made in subsection (k), the Sec-
6 retary shall allot to each State an amount that bears the
7 same relation to such remainder as the amount the State
8 receives under section 675B of the Community Services
9 Block Grant Act (42 U.S.C. 9906) for that year bears to
10 the amount all States receive under that section for that
11 year.

12 (e) STATE APPLICATIONS.—

13 (1) IN GENERAL.—To be eligible to receive a
14 grant under this section, a State shall submit an ap-
15 plication to the Secretary at such time, in such man-
16 ner, and containing such information as the Sec-
17 retary may require.

18 (2) CONTENTS.—At a minimum, the applica-
19 tion shall contain—

20 (A) information designating a State agency
21 to carry out the emergency assistance program
22 in the State, which shall be—

23 (i) the State agency specified in the
24 State plan submitted under section 402 of
25 the Social Security Act (42 U.S.C. 602); or

1 (ii) the State agency designated under
2 section 676(a) of the Community Services
3 Block Grant Act (42 U.S.C. 9908(a)); and
4 (B) information describing the emergency
5 assistance program to be carried out in the
6 State.

7 (f) PARTICIPATION OF INDIAN TRIBES.—

8 (1) RESERVATION.—If, with respect to a State,
9 the Secretary—

10 (A) receives a request from the governing
11 body of an Indian tribe or tribal organization in
12 the State that assistance under this section be
13 made directly to the tribe or organization; and

14 (B) determines that the members of the
15 tribe or organization would be better served by
16 means of grants made directly to provide bene-
17 fits under this section,

18 the Secretary shall reserve from amounts that would
19 otherwise be allotted to the State under subsection
20 (d) for the fiscal year the amount determined under
21 paragraph (2).

22 (2) DETERMINATION OF RESERVED AMOUNT.—

23 The Secretary shall reserve from amounts that
24 would otherwise be allotted to the State not less
25 than 100 percent of an amount that bears the same

1 ratio to the State allotment for the fiscal year in-
2 volved as the population of all eligible Indians for
3 whom a determination has been made under para-
4 graph (1) bears to the population of all individuals
5 in the State who are eligible for assistance through
6 a grant made under this section.

7 (3) AWARDS.—The sums reserved by the Sec-
8 retary on the basis of a determination made under
9 paragraph (1) shall be made available by grant to
10 the Indian tribe or tribal organization serving the in-
11 dividuals for whom such a determination has been
12 made.

13 (4) PLAN.—In order for an Indian tribe or trib-
14 al organization to be eligible for a grant award for
15 a fiscal year under this section, the tribe or organi-
16 zation shall submit to the Secretary a plan for the
17 fiscal year that meets such criteria as the Secretary
18 may prescribe by regulation.

19 (5) DEFINITIONS.—For purposes of this sub-
20 section—

21 (A) INDIAN TRIBE; TRIBAL ORGANIZA-
22 TION.—The terms “Indian tribe” and “tribal
23 organization” mean a tribe, band, or other or-
24 ganized group recognized in the State in which
25 the tribe, band, or group resides, or considered

1 by the Secretary of the Interior, to be an Indian
2 tribe or an Indian organization for any purpose.

3 (B) INDIAN.—The term “Indian” means a
4 member of an Indian tribe or of a tribal organi-
5 zation.

6 (g) ELIGIBLE HOUSEHOLDS.—

7 (1) IN GENERAL.—To be eligible to receive a
8 payment from a State under this section, a house-
9 hold shall submit an application to the State at such
10 time, in such manner, and containing such informa-
11 tion as the State may require.

12 (2) CONTENTS.—The applicant shall include in
13 the application information demonstrating that—

14 (A) in the case of a household that is not
15 located in Hawaii, 1 or more individuals in the
16 applicant’s household individually drive not less
17 than 30 miles per day, or not less than 150
18 miles per week, to or from covered activities;
19 and

20 (B)(i) the household meets the eligibility
21 requirements of section 2605(b)(2)(A) of the
22 Low-Income Home Energy Assistance Act of
23 1981 (42 U.S.C. 8624(b)(2)(A)), other than
24 clause (i) of that section; or

1 (ii) the household income for the household
 2 does not exceed the greater of—

3 (I) an amount equal to 150 percent of
 4 the poverty level for the State involved; or
 5 (II) an amount equal to 60 percent of
 6 the State median income.

7 (3) RULE.—For purposes of paragraph
 8 (2)(B)(ii), a State—

9 (A) may not exclude a household from eli-
 10 gibility for a fiscal year solely on the basis of
 11 household income if such income is less than
 12 110 percent of the poverty level for such State;
 13 but

14 (B) may give priority to those households
 15 with the highest gasoline costs or needs in rela-
 16 tion to household income.

17 (h) PROGRAM REQUIREMENTS.—

18 (1) DETERMINATION OF TRIGGER AMOUNT.—

19 (A) DETERMINATION OF GASOLINE.—The
 20 Secretary of Health and Human Services, in
 21 consultation with the Secretary of Energy, shall
 22 determine a grade of gasoline for which price
 23 determinations will be made under this sub-
 24 section, which shall be a type of gasoline that

1 has a specified octane rating or other specified
2 characteristic.

3 (B) DETERMINATION OF CALCULATION.—

4 The Secretary of Health and Human Services,
5 in consultation with the Secretary of Energy,
6 shall determine a method for calculating the av-
7 erage per gallon price of the covered grade of
8 gasoline in each State.

9 (C) BASELINE.—The Secretary of Health
10 and Human Services, in consultation with the
11 Secretary of Energy, shall calculate, in accord-
12 ance with subparagraph (B), the average per
13 gallon price of the covered grade of gasoline in
14 each State for January 2005.

15 (D) TRIGGER AND RELEASE PRICES.—The
16 Secretary of Health and Human Services, in
17 consultation with the Secretary of Energy, shall
18 calculate—

19 (i) the trigger price for each State by
20 multiplying the price calculated under sub-
21 paragraph (C) by 115 percent; and

22 (ii) the release price for each State by
23 multiplying the price calculated under sub-
24 paragraph (C) by 110 percent.

25 (2) PAYMENTS.—

1 (A) AVAILABILITY.—

2 (i) MONTHLY PRICE CALCULATION.—

3 The Secretary of Health and Human Serv-
4 ices, in consultation with the Secretary of
5 Energy, shall calculate, in accordance with
6 paragraph (1)(B), the average per gallon
7 price of the covered grade of gasoline in
8 each State for each month.

9 (ii) DETERMINATION.—If the Sec-
10 retary of Health and Human Services, in
11 consultation with the Secretary of Energy,
12 determines that the price in a State cal-
13 culated under paragraph (1)(B) for a
14 month—

15 (I) is more than the trigger price
16 for the State, the State shall provide
17 payments in accordance with this sub-
18 section for the following month; and

19 (II) is less than the release price
20 for the State, the State shall suspend
21 provision of the payments, not earlier
22 than 30 days after the date of the de-
23 termination, for the following month.

24 (B) GENERAL AUTHORITY.—Except as
25 provided in paragraph (3), the State shall use

1 funds received through a grant made under
2 subsection (c)(including a grant increased pur-
3 suant to subsection (j)) and any funds made
4 available to the State under section 404(d)(4)
5 of the Social Security Act (42 U.S.C.
6 604(d)(4)) to make payments under this Act to
7 eligible households.

8 (C) PERIOD.—An eligible household with
9 an application approved under subsection (e)
10 may receive payments under this Act for not
11 more than 3 months. The household may sub-
12 mit additional applications under subsection (e),
13 and may receive payments under this Act for
14 not more than 3 months for each such applica-
15 tion approved by the State.

16 (D) AMOUNT.—The State shall make the
17 payments in amounts of not less than \$25, and
18 not more than \$75, per month. The State may
19 determine the amount of the payments on a
20 sliding scale, taking into consideration the
21 household income of the eligible households.

22 (3) STATE ADMINISTRATION.—The State may
23 use not more than 10 percent of the funds described
24 in paragraph (2)(B) to pay for the cost of admin-
25 istering this Act.

1 (4) DEFINITIONS.—For purposes of this sub-
2 section:

3 (A) COVERED GRADE.—The term “covered
4 grade” means the grade of gasoline determined
5 under paragraph (1)(A).

6 (B) RELEASE PRICE.—The term “release
7 price” means the release price calculated under
8 paragraph (1)(D)(ii).

9 (C) TRIGGER PRICE.—The term “trigger
10 price” means the trigger price calculated under
11 paragraph (1)(D)(i).

12 (i) TREATMENT OF BENEFITS.—

13 (1) INCOME OR RESOURCES.—Notwithstanding
14 any other law, the value of any payment provided
15 under this section shall not be treated as income or
16 resources for purposes of—

17 (A) any other Federal or federally assisted
18 program that bases eligibility, or the amount of
19 benefits, on need; or

20 (B) the Internal Revenue Code of 1986.

21 (2) TANF ASSISTANCE.—For purposes of part
22 A of title IV of the Social Security Act (42 U.S.C.
23 601 et seq.), a payment provided under this section
24 shall not be considered to be assistance provided by
25 a State under that part, regardless of whether the

1 State uses funds made available under section
 2 404(d)(4) of the Social Security Act (42 U.S.C.
 3 604(d)(4)) to make payments under this Act. The
 4 period for which such payments are provided under
 5 this section shall not be considered to be part of the
 6 60-month period described in section 408(a)(7) of
 7 the Social Security Act (42 U.S.C. 608(a)(7)).

8 (j) AUTHORITY TO USE FUNDS FOR TEMPORARY AS-
 9 SISTANCE FOR NEEDY FAMILIES.—Section 404(d) of the
 10 Social Security Act (42 U.S.C. 604(d)) is amended—

11 (1) in paragraph (3)(A), by striking “paragraph
 12 (1)” and inserting “paragraph (1) or (4)”; and

13 (2) by adding at the end the following:

14 “(4) OTHER STATE PROGRAMS.—A State may
 15 use funds from any grant made to the State under
 16 section 403(a) for a fiscal year to carry out a State
 17 program pursuant to the Low-Income Gasoline As-
 18 sistance Program Act.”.

19 (k) DISCRETIONARY ACTIVITIES BY THE SEC-
 20 RETARY.—The Secretary of Health and Human Services
 21 may reserve not more than 5 percent of the funds appro-
 22 priated under subsection (l) for a fiscal year—

23 (1) to pay for the cost of administering this sec-
 24 tion; and

1 (2) to increase the cost of a grant made to a
2 State under subsection (c), in any case in which the
3 Secretary determines that emergency conditions re-
4 lating to gasoline prices exist in that State.

5 (l) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There is authorized to be
7 appropriated to carry out this section \$500,000,000
8 for fiscal year 2006 and each subsequent fiscal year.

9 (2) AVAILABILITY.—Any sums appropriated
10 under paragraph (1) for a fiscal year shall remain
11 available until the end of the succeeding fiscal year.

○