

109TH CONGRESS
2D SESSION

S. 2820

To require the Secretary of Energy to provide block grants to States to provide needs-based assistance to households of consumers of high-priced fuel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2006

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

A BILL

To require the Secretary of Energy to provide block grants to States to provide needs-based assistance to households of consumers of high-priced fuel, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fuel Emergency Relief Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FUEL ASSISTANCE BLOCK GRANT PROGRAM

Sec. 101. Purpose.

Sec. 102. Definitions.
 Sec. 103. Authorization of appropriations.
 Sec. 104. Establishment of fuel assistance block grant program.
 Sec. 105. Reports.
 Sec. 106. Lead agency.
 Sec. 107. Application and plan.
 Sec. 108. Determination of eligibility and priority.
 Sec. 109. Limitations on State allotments.
 Sec. 110. Administration and enforcement.
 Sec. 111. Payments.
 Sec. 112. Audits.
 Sec. 113. Report by Secretary.
 Sec. 114. Nondiscrimination.
 Sec. 115. Amounts reserved; allotments.

TITLE II—TRUST FUND AND REVENUE PROVISIONS

Sec. 201. Establishment of Fuel Assistance Block Grant Trust Fund.
 Sec. 202. Revaluation of LIFO inventories of large integrated oil companies.

1 **TITLE I—FUEL ASSISTANCE** 2 **BLOCK GRANT PROGRAM**

3 **SEC. 101. PURPOSE.**

4 The purpose of this title is to establish a fuel assist-
 5 ance block grant program to provide the maximum flexi-
 6 bility to each State to provide needs-based assistance to
 7 households of consumers of high-priced fuel residing in the
 8 State.

9 **SEC. 102. DEFINITIONS.**

10 Except as otherwise specifically provided, in this title:

11 (1) **FUEL COST BURDEN.**—The term “fuel cost
 12 burden” means the expenditures of the household
 13 for fuel divided by the income of the household.

14 (2) **HOUSEHOLD.**—The term “household”
 15 means any individual or group of individuals who
 16 are living together as 1 economic unit.

1 (3) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 450b).

5 (4) LEAD AGENCY.—The term “lead agency”
6 means the agency designated under section 106(a).

7 (5) MOTOR VEHICLE.—The term “motor vehi-
8 cle” has the meaning given the term in section 201
9 of the Petroleum Marketing Practices Act (15
10 U.S.C. 2821).

11 (6) POVERTY LINE.—The term “poverty line”
12 has the meaning given such term in section 673(2)
13 of the Community Services Block Grant Act (42
14 U.S.C. 9902(2)), including any revision required by
15 such section, that is applicable to a household of the
16 size involved.

17 (7) RESERVATION.—The term “reservation”
18 has the meaning given the term in section 3 of the
19 Indian Financing Act of 1974 (25 U.S.C. 1452).

20 (8) SECRETARY.—The term “Secretary” means
21 the Secretary of Energy.

22 (9) STATE.—The term “State” means—

23 (A) a State;

24 (B) the District of Columbia;

25 (C) the Commonwealth of Puerto Rico;

1 (D) any other territory or possession of the
2 United States; and

3 (E) each tribal organization that is deter-
4 mined by the Secretary to be capable of effec-
5 tively administering the fuel assistance block
6 grant program on a reservation.

7 (10) TRIBAL ORGANIZATION.—The term “tribal
8 organization” has the meaning given the term in
9 section 4 of the Indian Self-Determination and Edu-
10 cation Assistance Act (25 U.S.C. 450b).

11 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated to carry out
13 this title \$2,500,000,000 for each of fiscal years 2007 and
14 2008.

15 **SEC. 104. ESTABLISHMENT OF FUEL ASSISTANCE BLOCK**
16 **GRANT PROGRAM.**

17 Not later than 60 days after the date of enactment
18 of this Act, the Secretary shall establish a program to
19 make grants to States in accordance with this title to pro-
20 vide—

21 (1) fuel assistance to eligible households in the
22 State; and

23 (2) funds for administrative costs incurred in
24 providing the assistance.

1 **SEC. 105. REPORTS.**

2 (a) IN GENERAL.—To be eligible to receive and ex-
3 pend payments for a fiscal year under this title, a State
4 shall prepare and submit to the Secretary a report describ-
5 ing the activities that the State intends to carry out using
6 amounts received under this title, including information
7 on the types of activities and the categories or characteris-
8 ties of eligible households to be served.

9 (b) AVAILABILITY AND COMMENT.—A report under
10 subsection (a) shall be made public within the State in
11 such a manner as to facilitate comment by any person (in-
12 cluding any Federal or other public agency) during the
13 development of the report and after the completion of the
14 report.

15 (c) REVISION.—

16 (1) IN GENERAL.—The report shall be revised
17 throughout the year as may be necessary to reflect
18 substantial changes in the activities assisted using
19 amounts provided under this title.

20 (2) AVAILABILITY AND COMMENT.—Any revi-
21 sion in the report shall be subject to subsection (b).

22 (d) NO ADDITIONAL REPORTS.—The Secretary may
23 not impose any reporting requirements on States to carry
24 out this title that are in addition to the reports specifically
25 required under this title.

1 **SEC. 106. LEAD AGENCY.**

2 (a) DESIGNATION.—The chief executive officer of a
 3 State desiring to receive a grant under this title shall des-
 4 ignate, in an application submitted to the Secretary under
 5 section 107, an appropriate State agency that complies
 6 with subsection (b) to act as the lead agency for the State.

7 (b) DUTIES.—

8 (1) IN GENERAL.—The lead agency shall—

9 (A) administer, directly or through other
 10 State agencies, the financial assistance received
 11 under this title by the State;

12 (B) develop the State plan to be submitted
 13 to the Secretary under section 107(a);

14 (C) in conjunction with the development of
 15 the State plan, hold at least 1 hearing in the
 16 State to provide to the public an opportunity to
 17 comment on the provision of fuel assistance
 18 under the State plan; and

19 (D) coordinate the provision of fuel assist-
 20 ance under this title with other Federal, State,
 21 and local fuel assistance programs.

22 (2) DEVELOPMENT OF PLAN.—In the develop-
 23 ment of the State plan described in paragraph
 24 (1)(B), the lead agency shall consult with appro-
 25 priate representatives of units of general purpose

1 local government on issues relating to the State
2 plan, including consideration of—

3 (A) local fuel assistance needs and re-
4 sources;

5 (B) the effectiveness of existing fuel assist-
6 ance; and

7 (C) the methods by which funds made
8 available under this title may be used to effec-
9 tively provided assistance to consumers for high
10 fuel costs.

11 **SEC. 107. APPLICATION AND PLAN.**

12 (a) APPLICATION.—To be eligible to receive assist-
13 ance under this title, a State shall prepare and submit
14 to the Secretary an application at such time, in such man-
15 ner, and containing such information as the Secretary
16 shall by rule require, including—

17 (1) an assurance that the State will comply
18 with the requirements of this title; and

19 (2) a State plan that meets the requirements of
20 subsection (c).

21 (b) PERIOD COVERED BY PLAN.—A State plan con-
22 tained in the application under subsection (a) shall be de-
23 signed to be carried out during a 2-year period.

24 (c) REQUIREMENTS OF A PLAN.—

1 (1) LEAD AGENCY.—The State plan shall iden-
2 tify the lead agency.

3 (2) USE OF BLOCK GRANT FUNDS.—

4 (A) IN GENERAL.—The State plan shall
5 provide that the State shall use the amounts
6 provided to the State for each fiscal year under
7 this title—

8 (i) to provide fuel assistance to eligi-
9 ble households residing in the State; and

10 (ii) to cover administrative costs in-
11 curred in providing the assistance.

12 (B) ELIGIBILITY STANDARDS.—The State
13 plan shall include—

14 (i) the State household eligibility
15 standards for receiving fuel assistance
16 under this section, which standards shall
17 meet the requirements of section 108;

18 (ii) the form and dollar amount of
19 such fuel assistance; and

20 (iii) the methods of providing such
21 fuel assistance to the eligible households.

22 (C) MAINTENANCE OF EFFORT.—The
23 State plan shall provide assurances that funds
24 received under this title by the State will be
25 used only to supplement, not to supplant, the

1 amount of Federal, State, and local funds oth-
 2 erwise expended for fuel assistance in the State.

3 (D) SECTARIAN PURPOSES AND ACTIVI-
 4 TIES.—No financial assistance provided under
 5 this title shall be expended to promote any sec-
 6 tarian purpose or activity, including sectarian
 7 worship or instruction.

8 (d) APPROVAL OF APPLICATION.—The Secretary
 9 shall approve an application that satisfies the require-
 10 ments of this section.

11 **SEC. 108. DETERMINATION OF ELIGIBILITY AND PRIORITY.**

12 (a) DETERMINATION OF ELIGIBILITY STANDARDS.—

13 (1) IN GENERAL.—In determining the house-
 14 hold eligibility standards included in the State plan
 15 under section 107(c)(2)(B), a State receiving assist-
 16 ance under this title—

17 (A) shall determine which households that
 18 meet the requirements of paragraph (2) shall be
 19 eligible for fuel assistance under this title, ex-
 20 cept that a household shall not be ineligible
 21 solely on the basis of household income if such
 22 income is less than 110 percent of the poverty
 23 line; and

24 (B) may use additional criteria to deter-
 25 mine household eligibility.

1 (2) HOUSEHOLD ELIGIBILITY CRITERIA.—A
2 household that may be eligible for fuel assistance
3 under this title is a household—

4 (A) in which not less than 1 individual can
5 demonstrate that the individual owns, or has
6 entered into a long-term lease agreement for, a
7 motor vehicle; and

8 (B)(i) with a total income that does not ex-
9 ceed the greater of—

10 (I) an amount equal to 250 percent of
11 the poverty line; or

12 (II) an amount equal to 70 percent of
13 the State median income; or

14 (ii) in which 1 or more individuals are re-
15 ceiving—

16 (I) assistance under the State pro-
17 gram funded under part A of title IV of
18 the Social Security Act (42 U.S.C. 601 et
19 seq.);

20 (II) food stamps under the Food
21 Stamp Act of 1977 (7 U.S.C. 2011 et
22 seq.);

23 (III) supplemental security income
24 payments under title XVI of the Social Se-
25 curity Act (42 U.S.C. 1381 et seq.); or

1 (IV) payments under section 1315,
2 1521, 1541, or 1542 of title 38, United
3 States Code, or under section 306 of the
4 Veterans' and Survivors' Pension Improve-
5 ment Act of 1978 (30 U.S.C. 1521 note).

6 (b) PRIORITY.—In providing fuel assistance to eligi-
7 ble households, a State receiving assistance under this title
8 shall give priority to eligible households with the greatest
9 fuel cost burdens and, in particular, such households that
10 do not have a viable alternative to motor vehicle transpor-
11 tation.

12 **SEC. 109. LIMITATIONS ON STATE ALLOTMENTS.**

13 (a) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO
14 CONTRACT, GRANT, OR ASSISTANCE.—Except as other-
15 wise specifically provided in this title, nothing in this
16 title—

17 (1) entitles any household to assistance or a
18 contract or grant; or

19 (2) limits the right of a State to impose addi-
20 tional limitations or conditions on assistance or a
21 contract or grant under this title.

22 (b) CONSTRUCTION OF FACILITIES.—No funds made
23 available under this title shall be expended for the pur-
24 chase or improvement of land, or for the purchase, con-

struction, or permanent improvement (other than minor remodeling) of any building or facility.

SEC. 110. ADMINISTRATION AND ENFORCEMENT.

(a) ADMINISTRATION.—The Secretary shall—

(1) coordinate all activities of the Department of Energy relating to fuel assistance, and, to the maximum extent practicable, coordinate the activities with similar activities of other Federal entities; and

(2) provide technical assistance to assist States in carrying out this title, including assistance on a reimbursable basis.

(b) ENFORCEMENT.—

(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall—

(A) review and monitor State compliance with—

(i) this title; and

(ii) the plan approved under section 107(d) for the State; and

(B) have the power to terminate payments to the State in accordance with paragraph (2).

(2) NONCOMPLIANCE.—

(A) IN GENERAL.—

1 (i) APPLICATION.—This subparagraph
2 applies if the Secretary, after reasonable
3 notice to a State and opportunity for a
4 hearing, finds that—

5 (I) there has been a failure by
6 the State to comply substantially with
7 any provision or requirement set forth
8 in the plan approved under section
9 107(d) for the State; or

10 (II) in the operation of any pro-
11 gram or activity for which assistance
12 is provided under this title, there is a
13 failure by the State to comply sub-
14 stantially with any provision of this
15 title.

16 (ii) NOTICE.—If the Secretary makes
17 the finding described in subclause (I) or
18 (II) of clause (i), the Secretary shall notify
19 the State of the finding and that no fur-
20 ther payments will be made to the State
21 under this title (or, in the case of non-
22 compliance in the operation of a program
23 or activity, that no further payments to the
24 State will be made with respect to the pro-
25 gram or activity) until the Secretary is sat-

1 isfied that there is no longer any such fail-
2 ure to comply or that the noncompliance
3 will be promptly corrected.

4 (B) ADDITIONAL SANCTIONS.—In the case
5 of a finding of noncompliance made pursuant to
6 subparagraph (A), the Secretary may, in addi-
7 tion to imposing the sanctions described in sub-
8 paragraph (A), impose other appropriate sanc-
9 tions, including recoupment of money improper-
10 ly expended for purposes prohibited or not
11 authorized by this title, and disqualification
12 from the receipt of financial assistance under
13 this title.

14 (C) NOTICE.—The notice required under
15 subparagraph (A) shall include a specific identi-
16 fication of any additional sanction being im-
17 posed under subparagraph (B).

18 (3) PROCEDURES.—The Secretary shall estab-
19 lish by regulation procedures for—

20 (A) receiving, processing, and determining
21 the validity of complaints concerning any failure
22 of a State to comply with the State plan or any
23 requirement of this title; and

24 (B) imposing sanctions under this section.

1 **SEC. 111. PAYMENTS.**

2 (a) IN GENERAL.—

3 (1) PAYMENTS.—A State that has an applica-
4 tion approved by the Secretary under section 107(d)
5 shall be entitled to a payment under this section for
6 each fiscal year in an amount that is equal to the
7 allotment of the State under section 115 for the fis-
8 cal year.

9 (2) STATE ENTITLEMENT.—Subject to the
10 availability of funds under section 103, this title—

11 (A) constitutes budget authority in ad-
12 vance of appropriations Acts; and

13 (B) represents the obligation of the Fed-
14 eral Government to provide for the payment to
15 States of the amount described in paragraph
16 (1).

17 (b) METHOD OF PAYMENT.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 the Secretary may make payments to a State in in-
20 stallments, or in advance or by way of reimburse-
21 ment, with necessary adjustments on account of
22 overpayments or underpayments, as the Secretary
23 may determine.

24 (2) LIMITATION.—The Secretary may not make
25 the payments in a manner that prevents the State
26 from complying with section 107(c)(2).

1 (c) SPENDING OF FUNDS BY STATE.—Payments to
2 a State from an allotment under section 115 for a fiscal
3 year may be expended by the State in the fiscal year or
4 in the succeeding fiscal year.

5 **SEC. 112. AUDITS.**

6 (a) REQUIREMENT.—After the close of each program
7 period covered by an application approved under section
8 107(d), a State shall audit the expenditures of the State
9 during the program period from amounts received under
10 this title.

11 (b) INDEPENDENT AUDITOR.—An audit under this
12 section shall be conducted—

13 (1) by an entity that is independent of any
14 agency administering activities that receive assist-
15 ance under this title; and

16 (2) in accordance with generally accepted audit-
17 ing principles.

18 (c) SUBMISSION.—Not later than 30 days after the
19 completion of an audit under this section, the State shall
20 submit a copy of the audit to the legislature of the State
21 and to the Secretary.

22 (d) REPAYMENT OF AMOUNTS.—Each State shall
23 repay to the United States any amounts determined
24 through an audit under this section to have not been ex-
25 pended in accordance with this title, or the Secretary may

1 offset the amounts against any other amount to which the
2 State is or may be entitled under this title.

3 **SEC. 113. REPORT BY SECRETARY.**

4 Not later than July 31, 2007, and annually there-
5 after, the Secretary shall submit to the Committee on En-
6 ergy and Natural Resources of the Senate and the Com-
7 mittee on Energy and Commerce of the House of Rep-
8 resentatives a report that contains—

9 (1) a summary and analysis of the data and in-
10 formation provided to the Secretary in the State au-
11 dits submitted under section 112; and

12 (2) an assessment, and if appropriate, rec-
13 ommendations for Congress concerning efforts that
14 should be undertaken to improve fuel assistance in
15 the United States.

16 **SEC. 114. NONDISCRIMINATION.**

17 (a) IN GENERAL.—The Secretary shall not provide
18 financial assistance for any program, project, or activity
19 under this title unless the grant or contract with respect
20 to the program, project, or activity specifically provides
21 that no person with responsibilities for the operation of
22 the program, project, or activity will discriminate with re-
23 spect to the program, project, or activity because of race,
24 religion, color, national origin, sex, or disability.

1 (b) ENFORCEMENT.—The powers, remedies, and pro-
 2 cedures set forth in title VI of the Civil Rights Act of 1964
 3 (42 U.S.C. 2000d et seq.) shall be the powers, remedies,
 4 and procedures this section provides to the Secretary con-
 5 cerning a violation of subsection (a).

6 **SEC. 115. AMOUNTS RESERVED; ALLOTMENTS.**

7 (a) DEFINITION OF STATE.—In this section, the term
 8 “State” means—

- 9 (1) each of the 50 States;
- 10 (2) the District of Columbia; and
- 11 (3) the Commonwealth of Puerto Rico.

12 (b) AMOUNTS RESERVED.—

13 (1) VIRGIN ISLANDS.—The Secretary shall re-
 14 serve not to exceed $\frac{1}{2}$ of 1 percent of the amount
 15 appropriated under section 103 for each fiscal year
 16 for payments to the Virgin Islands of the United
 17 States.

18 (2) INDIAN TRIBES.—The Secretary shall re-
 19 serve not more than 3 percent of the amount appro-
 20 priated under section 103 for each fiscal year for
 21 payments to Indian tribes and tribal organizations.

22 (c) STATE ALLOTMENT.—

23 (1) IN GENERAL.—Except as provided in para-
 24 graphs (2) and (3), from the amounts appropriated
 25 under section 103 for each fiscal year remaining

1 after the reservations required under subsection (b)
2 (referred to in this paragraph as the “remainder”),
3 the Secretary shall allot to each State an amount
4 that is equal to an amount that bears the same ratio
5 to the remainder as the population of the State
6 bears to the population of all States, based on the
7 latest available Federal census conducted under sec-
8 tion 141(a) of title 13, United States Code.

9 (2) ADJUSTMENT.—Except as provided in para-
10 graph (3), the Secretary may adjust the allotment
11 required under paragraph (1) to take into account
12 the number of eligible households under this title
13 that reside in a State.

14 (3) INSUFFICIENT FUNDS.—If the Secretary
15 finds that the total amount of allotments to which
16 States would otherwise be entitled for a fiscal year
17 under paragraphs (1) and (2) will exceed the
18 amount of funds that will be made available to pro-
19 vide the allotments for the fiscal year, the Secretary
20 shall reduce the allotments made to States under
21 this subsection, on a pro rata basis, to the extent
22 necessary to allot under this subsection a total
23 amount that is equal to the funds that will be made
24 available.

1 (d) DATA AND INFORMATION.—The Secretary shall
2 obtain from each appropriate Federal agency, the most re-
3 cent data and information necessary to determine the al-
4 lotments required under subsection (c).

5 (e) REALLOTMENTS.—

6 (1) IN GENERAL.—Any portion of an allotment
7 under subsection (c) to a State that the Secretary
8 determines is not required to carry out a State plan
9 approved under section 107(d) and any amounts re-
10 paid to the Secretary under this title, during the pe-
11 riod for which the allotment is made available, shall
12 be reallocated by the Secretary to other States in pro-
13 portion to the original allotments to the other
14 States.

15 (2) LIMITATIONS.—

16 (A) REDUCTION.—The amount of any re-
17 allotment to which a State is entitled under
18 paragraph (1) shall be reduced to the extent
19 that the allotment exceeds the amount that the
20 Secretary estimates will be used in the State to
21 carry out a State plan approved under section
22 107(d).

23 (B) REALLOTMENTS.—The amount of the
24 reduction shall be similarly reallocated among

1 States for which no reduction in an allotment
 2 or reallocation is required by this paragraph.

3 (3) AMOUNTS REALLOTTED.—For purposes of
 4 any other section of this title, any amount reallocated
 5 to a State under this subsection shall be considered
 6 to be part of the allotment made under subsection
 7 (c) to the State.

8 **TITLE II—TRUST FUND AND** 9 **REVENUE PROVISIONS**

10 **SEC. 201. ESTABLISHMENT OF FUEL ASSISTANCE BLOCK** 11 **GRANT TRUST FUND.**

12 (a) IN GENERAL.—Subchapter A of chapter 98 of the
 13 Internal Revenue Code of 1986 (relating to trust fund
 14 code) is amended by adding at the end the following:

15 **“SEC. 9511. FUEL ASSISTANCE BLOCK GRANT TRUST FUND.**

16 “(a) CREATION OF TRUST FUND.—There is estab-
 17 lished in the Treasury of the United States a trust fund
 18 to be known as the ‘Fuel Assistance Block Grant Trust
 19 Fund’ (referred to in this section as the ‘Trust Fund’),
 20 consisting of such amounts as may be appropriated or
 21 credited to the Trust Fund as provided in this section or
 22 section 9602(b).

23 “(b) TRANSFERS TO TRUST FUND.—There is hereby
 24 appropriated to the Trust Fund for each fiscal year an
 25 amount equivalent to the increase in revenues received in

1 the Treasury during such fiscal year as the result of the
 2 amendments made by sections 202 and 203 of the Fuel
 3 Emergency Relief Act.

4 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—
 5 Amounts in the Trust Fund shall be available, as provided
 6 by appropriation Acts, to provide for the fuel assistance
 7 block grant program established under title I of the Fuel
 8 Emergency Relief Act.

9 “(d) TERMINATION OF TRUST FUND.—

10 “(1) IN GENERAL.—Subsection (b) shall not
 11 apply with respect to any fiscal year beginning after
 12 September 30, 2008.

13 “(2) TRANSFER OF REMAINING FUNDS.—On
 14 October 1, 2008, the Secretary shall transfer any re-
 15 maining funds in the Trust Fund to the general
 16 fund to the extent such funds are not needed to
 17 meet any outstanding obligations of the fuel assist-
 18 ance block grant program established under title I of
 19 the Fuel Emergency Relief Act.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
 21 tions for subchapter A of chapter 98 of such Code is
 22 amended by adding at the end the following:

“Sec. 9511. Fuel Assistance Block Grant Trust Fund.”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall take effect on the date of the enactment
 25 of this Act.

1 **SEC. 202. REVALUATION OF LIFO INVENTORIES OF LARGE**
2 **INTEGRATED OIL COMPANIES.**

3 (a) GENERAL RULE.—Notwithstanding any other
4 provision of law, if a taxpayer is an applicable integrated
5 oil company for its last taxable year ending in calendar
6 year 2005, the taxpayer shall—

7 (1) increase, effective as of the close of such
8 taxable year, the value of each historic LIFO layer
9 of inventories of crude oil, natural gas, or any other
10 petroleum product (within the meaning of section
11 4611) by the layer adjustment amount, and

12 (2) decrease its cost of goods sold for such tax-
13 able year by the aggregate amount of the increases
14 under paragraph (1).

15 If the aggregate amount of the increases under paragraph
16 (1) exceed the taxpayer's cost of goods sold for such tax-
17 able year, the taxpayer's gross income for such taxable
18 year shall be increased by the amount of such excess.

19 (b) LAYER ADJUSTMENT AMOUNT.—For purposes of
20 this section—

21 (1) IN GENERAL.—The term “layer adjustment
22 amount” means, with respect to any historic LIFO
23 layer, the product of—

24 (A) \$18.75, and

25 (B) the number of barrels of crude oil (or
26 in the case of natural gas or other petroleum

1 products, the number of barrel-of-oil equiva-
 2 lents) represented by the layer.

3 (2) BARREL-OF-OIL EQUIVALENT.—The term
 4 “barrel-of-oil equivalent” has the meaning given
 5 such term by section 29(d)(5) (as in effect before its
 6 redesignation by the Energy Tax Incentives Act of
 7 2005).

8 (c) APPLICATION OF REQUIREMENT.—

9 (1) NO CHANGE IN METHOD OF ACCOUNTING.—
 10 Any adjustment required by this section shall not be
 11 treated as a change in method of accounting.

12 (2) UNDERPAYMENTS OF ESTIMATED TAX.—No
 13 addition to the tax shall be made under section 6655
 14 of the Internal Revenue Code of 1986 (relating to
 15 failure by corporation to pay estimated tax) with re-
 16 spect to any underpayment of an installment re-
 17 quired to be paid with respect to the taxable year
 18 described in subsection (a) to the extent such under-
 19 payment was created or increased by this section.

20 (d) APPLICABLE INTEGRATED OIL COMPANY.—For
 21 purposes of this section, the term “applicable integrated
 22 oil company” means an integrated oil company (as defined
 23 in section 291(b)(4) of the Internal Revenue Code of
 24 1986) which has an average daily worldwide production
 25 of crude oil of at least 500,000 barrels for the taxable

1 year and which had gross receipts in excess of
2 \$1,000,000,000 for its last taxable year ending during cal-
3 endar year 2005. For purposes of this subsection all per-
4 sons treated as a single employer under subsections (a)
5 and (b) of section 52 of the Internal Revenue Code of
6 1986 shall be treated as 1 person and, in the case of a
7 short taxable year, the rule under section 448(c)(3)(B)
8 shall apply.

○