United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *110th* CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, THURSDAY, DECEMBER 13, 2007 *No. 191*

Senate

The Senate met at 8:30 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of the stars, the Sun, and the Moon, You bring peace to our past, power to our present, and hope to our future. We praise You for being our guide even in the darkest night. Continue to show us the path of life and sustain us with the joy of Your presence.

Bless our Senators. Lift their thoughts above the mundane and help them to see their challenges from a divine perspective. Deliver them from paltry and parochial interests and enable them to fulfill their challenging duties in ways that conform to Your will.

Be a shield to them as they look to You for help, and strengthen them as they seek to accomplish Your purposes. We pray in the name of Him who promised to never forsake us. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

NOTICE

If the 110th Congress, 1st Session, adjourns sine die on or before December 21, 2007, a final issue of the *Congressional Record* for the 110th Congress, 1st Session, will be published on Friday, December 28, 2007, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 27. The final issue will be dated Friday, December 28, 2007, and will be delivered on Wednesday, January 2, 2008.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be formatted according to the instructions at http://webster/secretary/cong_record.pdf, and submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the *Congressional Record* may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

ROBERT A. BRADY, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 13, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will immediately resume consideration of the farm bill and conduct a period of debate until 9:15. This debate time is equally divided between the leaders or their designees.

At 9:15 the Senate will conduct two back-to-back rollcall votes. The first vote will be in relation to the Dorgan-Grassley payment limitations amendment. That amendment is subject to a 60-vote threshold.

The second vote will be a cloture vote on the motion to concur to an amendment to H.R. 6, the Energy bill.

Mr. President, we will continue with other amendments and votes with respect to the farm bill today, so Members can expect other votes.

I would remind all Members that we will likely be in recess from 2 to 3 p.m. because Admiral McConnell and Attorney General Mukasey will conduct a secret briefing in room 407. This is prefatory to the debate that will take place soon on the FISA bill.

We are going to do our very best to finish the farm bill today. We have 23 amendments left on the farm bill. We have a lot to do. We are going to do everything we can do so that we do not have to be in session this weekend. It will take cooperation from Members because there are a number of issues that we have to deal with.

We are going to try to finish the farm bill and the Energy bill today. We have a lot of other things to do today. Hopefully, we can get agreement.

I would also say this to all Senators: We are past the point where you can just have your staff call the cloakroom and say: I have a Senator who objects. If somebody wants to object, we are not going to take cloakroom calls during these last few days of the session. We are not going to accept that.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2419, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs for fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Harkin (for Dorgan/Grassley) modified amendment No. 3695 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increase funding for certain programs.

Brown amendment No. 3819 (to Amendment No. 3500), to increase funding for critical farm bill programs and improve crop insurance.

Klobuchar amendment No. 3810 (to amendment No. 3500), to improve the adjusted gross income limitation and use the savings to provide additional funding for certain programs and reduce the Federal deficit.

Chambliss (for Cornyn) amendment No. 3687 (to amendment No. 3500), to prevent duplicative payments for agricultural disaster assistance already covered by the Agricultural Disaster Relief Trust Fund.

Chambliss (for Coburn) modified amendment No. 3807 (to amendment No. 3500), to ensure the priority of the farm bill remains farmers by eliminating wasteful Department of Agriculture spending on golf courses, junkets, cheese centers, and aging barns.

Chambliss (for Coburn) amendment No. 3530 (to amendment No. 3500), to limit the distribution to deceased individuals, and estates of those individuals, of certain agricultural payments.

Salazar amendment No. 3616 (to amendment No. 3500), to amend the Internal Revenue Code of 1986 to provide incentives for the production of all cellulosic biofuels.

Thune (for McConnell) amendment No. 3821 (to amendment No. 3500), to promote the nutritional health of school children, with an offset.

Craig amendment No. 3640 (to amendment No. 3500), to prohibit the involuntary acquisition of farmland and grazing land by Federal, State, and local governments for parks, open space, or similar purposes.

Thune (for Roberts/Brownback) amendment No. 3549 (to amendment No. 3500), to modify a provision relating to regulations.

Domenici amendment No. 3614 (to amendment No. 3500), to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources.

Thune (for Gregg) amendment No. 3674 (to amendment No. 3500), to amend the Internal Revenue Code of 1986 to exclude charges of indebtedness on principal residences from gross income.

Thune (for Gregg) amendment No. 3822 (to amendment No. 3500), to provide nearly $1,000,000,000 in critical home heating assistance to low-income families and senior citizens for the 2007–2008 winter season, and reduce the Federal deficit by eliminating wasteful farm subsidies.

Thune (for Grassley/Kohl) amendment No. 3823 (to amendment No. 3500), to provide for the review of agricultural mergers and acquisitions by the Department of Justice.

Thune (for Stevens) amendment No. 3569 (to amendment No. 3500), to make commercial fishermen eligible for certain operating loans.

Thune (for Bond) amendment No. 3771 (to amendment No. 3500), to amend title 7, United States Code, to include provisions relating to rulemaking.

Tester amendment No. 3666 (to amendment No. 3500), to modify the provision relating to unlawful practices under the Packers and Stockyards Act.

Schumer amendment No. 3720 (to amendment No. 3500), to improve crop insurance and use resulting savings to increase funding for certain conservation programs.

Sanders amendment No. 3826 (to amendment No. 3822), to provide for payments under subsections (a) through (e) of section 2604 of the Low-Income Home Energy Assistance Act of 1981, and restore supplemental agricultural disaster assistance from the Agricultural Disaster Relief Trust Fund.

Wyden amendment No. 3736 (to amendment No. 3500), to modify a provision relating to bioenergy crop transition assistance.

Harkin/Kennedy amendment 3830 (to amendment No. 3500), relative to public safety officers.

Harkin/Murkowski amendment No. 3639 (to amendment No. 3500), to improve nutrition standards for foods and beverages sold in schools.

Harkin amendment No. 3844 (to amendment No. 3830), relative to public safety officers.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:15 a.m. shall be equally divided between the leaders or their designees and shall be for debate only.

Mr. REID. Mr. President, I designate 5 minutes to Senator BINGAMAN and 5 minutes to Senator CANTWELL, two Senators who have been instrumental in bringing this bill to where we are today on energy.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank the majority leader for yielding me 5 minutes to discuss this bill we are going to vote on, the cloture vote we are going to have in relation to the energy legislation a little later this morning.

One of the objections that has been raised to this legislation is that it still contains a so-called energy tax package. It is very different from what the House passed.

Senator BAUCUS has worked with Senator GRASSLEY to take out provisions that were objectionable to Members, particularly on the Republican side, but it is still a tax package.

Now, what does it do? What it does is extends the tax incentives and credits we put into law in 2005. Those are the tax incentives, the tax credit for the production of electricity from wind, biomass from our clean energy sources. It provides the extension of the solar energy investment tax credit. It provides an extension of residential solar credits to encourage people to use solar heating and energy generation in their own residences. It provides an extension of existing credits for biodiesel.

It creates a new credit for producing ethanol made from nonfood cellulosic material. It tries to extend into the future and expand upon the incentives we put into law in 2005 to encourage the

transition to more of a clean energy technology.

At the beginning of the week, I had the view or the understanding that the disagreement about the tax package centered around the question of which offsets should be used to pay for it. I thought there was general consensus that we ought to have an extension of these tax provisions but that there was disagreement about how we went about paying for them.

It is clear to me that at least for the administration, it is not a question of which offsets should be used to pay for it, the real issue, from their perspective, is they do not consider these tax incentives very important, and they do not believe they are important enough to be paid for.

They believe if they are going to be extended, they should be extended without any increase in revenue anywhere else in the Tax Code to offset that. This is a very unfortunate view on the part of the administration as I see it because it sets up a circumstance where, if we are not able to get the votes to pass this tax package as part of the overall energy package this morning, then we are in a circumstance where the administration says: We will not support—the administration will not support—a tax package that is paid for, and the Congress, under our pay-go rules, most likely will not be able to muster the votes to pass a tax package that is not paid for.

So we have a checkmate situation that is particularly bad for the country and cuts short the effort we tried to begin in 2005 to encourage more development of energy from renewable sources and more energy efficiency through these tax provisions.

There are some in the Congress, in the Senate, who are going to say, well, they support doing something on taxes but not here, not now. We should not do it as part of this bill. We ought to do what we can. It is nearly Christmas, and then we will come back next year and deal with taxes.

The problem is, it does not get any easier next year to deal with this situation. We have already made dramatic changes in this tax package to accommodate concerns of the administration, concerns of Republican Members. But the truth is, we need to go ahead and extend these tax provisions as part of this bill. We need to do so in a way that is paid for. Clearly we need to comply with our pay-go rules and not just add this to the deficit and say it is up to the next generation to worry about finding the revenue to pay for the tax provisions.

I believe it is essential that we pass this, that we go ahead and invoke cloture on the energy package. This energy package that Senator REID is now bringing before the Senate does not have a renewable electricity standard in it. He dropped that again because of opposition from Republican members, opposition from the administration.

But it does have CAFE improvements, it does have renewable fuels standards, it does have energy efficiency standards, it is does have this tax package. I urge my colleagues to support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Ms. CANTWELL. Mr. President, I too rise in support of the cloture motion this morning and ask my colleagues if we are going to pass the Energy bill before the end of this year. I know the American consumer has gotten a wake-up call because they are paying higher gas prices at the pump. But the question is whether Congress and the White House have gotten the same wake-up call.

Fortunately, thanks to the hard work of Members on both sides of the aisle and many staff members we are within grasp of a very important solution. I am not even going to spend my time this morning talking about the important details of this bill because many of my colleagues, including the chairman of the Energy Committee, has extolled its virtues. Perhaps, if I have a minute at the end, I might elaborate on some of these. But it is time to get to the heart of the matter. And that is, the American people need serious relief from a future of high oil prices by making a transition this legislation would provide. That is we need to make sure we have an energy package that starts investing more aggressively in renewable energy and will actually get us competition at the gas pump and on our electricity grid.

I know some are saying the tax title in this bill must go. And some have even been bold enough to say that it's an increase in taxes. That is an interesting position because these are really tax subsidies for the oil industry. They are not a tax increase on consumers. When we passed similar tax provisions in the 2005 energy bill no one on the other side called that a tax increase.

In fact, when the President put broader subsidies in his budget this year, reducing some of the same subsidies, it was called a modification. So do not tell us now that cancelling a subsidy for the oil industry is somehow raising taxes on consumers. What we are really doing is continuing to make consumers pay more at the gas pump because we are not giving them true competition. At the heart of the matter is the fact that of the energy subsidies and investments that our country makes—that is, using American tax dollars to invest in energy strategies that will help our country—right now 75 percent of them is going to the fossil fuel industry. Only about 15 percent is going to clean energy.

Now, I ask my colleagues, when the United States only has 3 percent of the world's oil reserves, is it smart to continue to have the 75 percent investment in fossil fuels? I would say that we should pass this legislation and make more investments in renewable and energy efficiency.

If someone says that somehow this is going to impact the oil industry, I would like to refer them to a quote from Lee Raymond, the former ExxonMobil CEO who said on ''Fox News'' when asked whether Exxon was taking advantage of the new legislation that became law to speed up the development of refineries and capacity here in the U.S., he said ''it will not have a major impact.''

So I do not know why we are so concerned about keeping these subsidies when the industry itself, the big five oil companies are saying it has had a negligible impact. What it has had an impact on is consumers. And even the Joint Economic Committee has pointed out that the removal of these tax breaks are going to have very little impact on consumers. In fact, another third party observer, the Joint Tax Committee, basically said this $300 million in subsidies from the big five oil companies in 2008 that would be taken away would be less than 1 percent. In fact, it would have only a one-quarter of 1 percent impact on their profits.

That is right. They made $120.8 billion in profit in 2006, so taking this subsidy away from them it will have a negligible impact. So what are we holding this up for? Why are we going to hold up the Energy bill because someone does not want to take more subsidies away from the oil industry and put them toward clean energy?

Even President Bush recognized that the oil industry does not need more subsidies. President Bush, in April of 2005, said:

> I will tell you with $55 oil we don't need incentives to oil and gas companies to explore. There are plenty of incentives.

I couldn't agree with the President more. He said that at $55 a barrel. Now that we are at $90, we need to move faster in changing these incentive programs. We all know that fossil fuels will continue to be a big part of the energy mix for decades and that there is a great deal of economic benefit from the incentives in oil and gas today. But what we have to realize is we cannot continue in this same direction. We have to change course. We have to level the playing field and take away subsidies from very mature, very profitable industries and make investments in renewables instead.

I know the President also agrees with that because when he signed the 2005 bill, he said:

> The bill offers new incentives to promote clean, renewable geothermal energy . . . When you hear us talking about less dependence on foreign sources of energy, and one of the ways to become less dependent is to enhance the use of renewable sources of energy.

Again, I couldn't agree with the President more. But this is about getting a package that will help us give consumers the confidence that they are going to have true competition over the price at the pump.

The Energy and Finance Committees had hearing after hearing talking to the experts. I know some people on the other side of the aisle would say that

some of these tax incentives don't expire until the end of 2008. But this is about giving predictability to energy investment strategies. We heard in the Finance Committee testimony after testimony from experts saying: If you want to get more investment in renewable energy, you need to have more predictable energy tax credits. That is why we can see from our failed policies in the past that countries such as Denmark have made more headway, because they made more investment in renewables. Countries such as Japan have made more headway in solar energy because they made the investments. If we want to get beyond petroleum, we have to stop subsidizing it.

The impact of this morning's vote is that our colleagues are going to say we should take out the Finance package and that somehow will be a completion of an energy strategy. I tell my colleagues, nothing could be more important than getting the long-term fundamentals right for investment so that America can get off our dependence on foreign oil.

This legislation does represent nearly a 20-percent reduction in our current CO_2 output and a 35-percent reduction in our foreign oil dependence. But to get those savings, we not only have to pass CAFE, we also have to pass incentives for renewable energy and do it for more than just 1 year so that we have predictable investment in these energy strategies and reap the economic benefits in jobs for America.

I thank the staff and all Members who have worked so hard on this legislation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to urge my colleagues not to vote for this bill and to insist that we have an energy bill that will create more energy for our country.

The Energy bill before us today for a cloture vote will not increase the supply of energy. There are some good parts of this bill. The House and Senate could pass a bill that would do major things for renewable energy sources, for clean energy sources, and for an increase in the supply of energy sources, but the bill that is being brought up today—and I hope it will not get cloture—is a bill that will not increase supply.

We have two problems we need to address in an energy policy. One is the cost of energy. We need to provide more supply in order to bring the cost down. The second is, we are 60 percent dependent on foreign sources for our energy needs, which is an economic and security risk for America.

I cannot imagine the Congress trying to continue to pass a bill that will decrease supply and increase our dependence on foreign sources for our energy needs. We are the greatest nation on Earth. We should be addressing this aggressively to increase supply.

The good part of this bill is the CAFE standards which have been agreed to in a bipartisan way. That will go a long way toward conservation and beginning to make our automobiles more efficient and environmentally friendly. But the $20 billion in taxes on oil supply takes away the increase in supply that is so important to bring down prices.

We are a country that ought to be the model for the world in stability in oil and tax policy. Instead, our country has the reputation for not being stable in tax policy, for changing tax policy every 2 years or every 4 years, so businesses sometimes would rather do their exploration, their production, their refining, their manufacturing overseas because they know they can count on stability in tax policy and regulatory policy. That is absolutely the opposite of what people should be saying about America. America should be the one that our businesses say they can rely on for stable policy. Yet the bill before us will change the incentives we gave for refineries to increase just 2 years after we gave them.

It was beginning to work. Big oil companies that had not invested in refinery capacity for 20 years, because of the regulatory hurdles, were willing to go in and have already announced expansions. I know a big expansion would be going on in Mississippi, a big one in Texas that would add to our refinery capacity so that we would have more supply more cheaply. We would have more dependence on ourselves for our energy needs, and we would bring prices down. This takes away those incentives for refinery capacity to increase. It also will drive overseas the production of oil because we are penalizing our oil companies with this $20 billion in taxes.

What this will do is decrease supply and increase price. I cannot think of a worse message to send and a worse tax policy that would say to the world and to any business that wants to do business in our country that you can count on tax policy for a year or two, but you cannot make long-term plans in America because we may change policy if we change Congress.

We have changed Congress, all right. What we are seeing is a tax-and-spend Congress that we haven't seen in 15 years. Once again, we are going to increase spending and we are going to increase taxes. That is not what we should be doing in an environment in which our economy is fragile. Raising taxes in this economy is going to increase the price of energy, which has a ripple effect throughout our economy. It means every farmer is going to have to pay more for fuel. It means every businessperson, especially small businesspeople, is going to have to pay more for fuel.

I urge my colleagues to vote no on this piece of legislation that the President has said he will veto. Let's stop the games in Congress. Let's do something that will help our energy supply, that will bring prices down. Let's take the good parts of this bill, such as the CAFE standards and the incentives for renewable energy and clean energy. All of those things are very good.

I want clean energy. I want solar power. I want wind power. I want biofuels. I want cellulosic ethanol and corn-based ethanol. But to take one segment of our energy, which happens to be the biggest source today, and increase the price on that, decrease the incentives for the refinery capacity which we must have—these companies do not have to invest and go through all of the regulatory procedures and millions of dollars off their bottom line to go into refinery expansions. They don't have to do it. They had tax incentives to do it 2 years ago. Taking that away pulls the rug out from under those who have already made those investments. It is counterproductive for the economy.

I hope we will provide adult leadership in the Congress. Let's not pass cloture on this bill. Let's do an energy bill that the President will sign, that will have bipartisan support, that will make CAFE standards much more environmentally friendly, and that will increase our supply of renewable and environmentally friendly energy needs. Let's keep the bread-and-butter energy supply we have by increasing refinery capacity so that we bring the cost down to consumers and keep our economy on a more even keel.

I hope my colleagues will vote no today so we can pass an energy bill that will have the support of a bipartisan majority in Congress and get the President's signature. That should be the goal, not political game-playing, which we are seeing this week at the very last minute in Congress. It is not going to do what is right for the country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 11 minutes 45 seconds.

Mr. DOMENICI. Are there any other commitments to speak on this?

Mrs. HUTCHISON. No, Mr. President.

Mr. DOMENICI. I don't need the entire time, but I will speak a while and see what happens.

I am here because there is a misunderstanding somewhere about the CAFE bill that is coming before us. We all acknowledge the CAFE standards bill that is before us is long overdue. We all understand that it is very good legislation. We all understand that the cellulosic provisions—the postcorn ethanol—are very important. It is here, although it has some problems. The President finds some problems with it. So do many on our side find problems with it. But it is in here.

But the issue is not whether that is a good package. The issue is what is going to happen if we decide we are going to pass this bill with the taxes that are in it as it sits before us at the

desk, $21 billion worth of taxes. What is going to happen to the bill if we pass it with those taxes in? It is very simple: It is going to get vetoed. We have heard it. The President has said it. The only thing we could do would be to get a tape recorder and ask him to say it and bring that down here and make it legal and let him tell us. He has said he doesn't want those taxes on this bill.

We still have people voting for this, as I talked to them, because they want this bill. They say it is great; it is a wonderful bill. I ask you, how are you going to get a bill if you leave the taxes on and send it to the President when he has already told you in advance he was going to veto it? What we should do is, if you want the bill, produce a bill the President will sign.

We have already taken one giant step. We took out the mandatory wind for electricity production. A percentage was mandated, and we took that out. Now, today, the issue is, Are we going to take out the taxes? That is the vote when we come to a vote on the Energy bill.

Some people think that is a nice vote; I like the taxes; I am going to vote for them. But the point is, you are not going to get the taxes and you are going to lose with it the energy portion of the bill because the President is going to veto it. I can't answer any more than to repeat what he has said. I am not his spokesman on the floor; I am merely repeating what has come up Pennsylvania Avenue from down there where he lives and up here where we work. He has said: If the taxes are in, the bill is gone. So it looks to me as if those who want a winner ought to vote to take the taxes.

Those who want a loser ought to vote to leave the taxes in and they will get their wish. But they will not only lose the taxes—which some say: They are pretty good; I like them—they will lose the entire Energy bill on CAFE and cellulosic, which follows right after ethanol and is desperately needed to buttress the ethanol market, as my friend who spoke eloquently for her side of this bill knows.

We need the bill on cellulosic. I call it ethanol 2 for simplicity. We need it because we need to get that ethanol market stabilized a little better and come in with a second kind of product instead of just corn. But we are not going to get that, so the wishers are not going to get their wishes, if they vote for the taxes, even if they say: I have looked at them, and I love them. Lots of people love taxes. Some have looked at this $21 billion or $20-plus billion and said: We love them. They are great. They are incentives. They are the right thing.

But, look, the point is, this is not the bill you are going to get them on. You are not going to get the taxes on a bill that is essentially an energy bill. Send the President an energy bill. Send the President an energy bill and look around for another time when we could send him the tax bill.

I still talk to Senators—some yesterday—and they say: Well, I think the taxes belong in. And I ask them: How do you think we are going to get the CAFE standards, which you certainly would acknowledge is one of the most important energy measures we could do? ''Well, we will just vote for it.'' No, we won't. The President is going to veto it if the taxes that you like so much are in it.

So why don't we take the taxes off and send the President a clean bill with CAFE, cellulosic, and a couple other things? It would then be an energy bill which he would want and he would sign, and instead of a veto, we would have a victory party. That would be good, it seems to me.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WEBB). Who yields time?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Republican side has 5½ minutes and the majority has 6 minutes 52 seconds.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that immediately prior to the cloture vote, each leader be permitted to use leader time, with the majority leader speaking last.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, if I could respond to a couple of things my colleagues on the other side of the aisle said because this is an important debate. If there are people who want to continue to debate the farm proposal we are going to be voting on this morning, I will be happy to yield the floor. But not seeing that, I am happy to continue the discussion on the Energy bill.

Both Senators from New Mexico have played an incredible leadership role in energy, and the 2005 Energy bill was a bipartisan effort. I certainly know what it is like to take half a loaf. That was not the bill I would have written myself, but I voted for that legislation. I think it started us on a course of making investments in renewable energy technology that was beneficial.

In particular I happen to disagree that the 2005 tax provisions, as they related to more subsidies for the fossil fuel industry, have been a big benefit for us. We even had an executive of an oil company say they did not think they were going to have much impact. So now consumers in my State are paying over $3 at the pump, and home heating oil prices are up 35 percent. So I do not think those subsidies to the oil industry have had any kind of magnificent impact that my colleague from Texas was saying.

What we do know is the investment we started in the 2005 bill in renewable energy is having an incredible impact. The question is whether we are going to give predictability to that industry. I would hate to think this is a vote—whether it is on this bill or any future bill; and this Senator would certainly take these provisions and put them on lots of different vehicles. It does not have to always be in this precise fashion—but the fact is, this bill and these tax incentives will generate over 50,000 megawatts of new, clean energy supply and efficiencies. That is right, it does create new generation.

Mr. President, 50,000 megawatts, in case anybody wants to know, is the same amount of electricity that is used in 26 States today. So the question is whether we are going to have a 1-year extension—that is, until 2008—for renewable energy, or whether we are going to give them 2, 3, 4 years of predictability so we can get that generation, as I said, that will produce enough electricity for 26 States out of renewable and efficiency generation, instead of continuing to use those tax subsidies for the oil industry that, even by their own account, they say are not having a significant impact.

So I would say to my colleagues on the other side of the aisle, I have heard what the President has said. We have heard all along that he thinks these particular provisions are raising revenues on one industry. The President included in his own budget a broader reduction in the subsidies that we had previously passed, and nowhere did he call that raising revenue. So by his own account, it is hypocrisy to now start claiming these are somehow different.

What we need is to pass this Energy bill. I look forward to working with my colleagues in a bipartisan fashion on many of the provisions that are in this legislation that will diversify us off of fossil fuel and get us into renewables and biofuels, so we can lower the price at the pump for consumers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, are we in morning business at this time?

AMENDMENT NO. 3695, AS MODIFIED

The PRESIDING OFFICER. The Senate is debating the Dorgan-Grassley amendment.

Mr. DORGAN. Mr. President, how much time remains before the vote?

The PRESIDING OFFICER. The proponents have 2 minutes 25 seconds, and the opponents have 5 minutes 29 seconds.

Mr. DOMENICI. Mr. President, I say to the Senator, would you like a couple minutes?

Mr. DORGAN. Mr. President, let me understand, we are debating my amendment, and I have 2 minutes left on my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I say to the Senator, somebody spoke off your amendment.

Mr. DORGAN. I understand. About energy?

Mr. DOMENICI. About energy.

Mr. DORGAN. Mr. President, let me take the time that remains on our side, at least.

We have a 9:15 vote, and the vote is a vote on determining whether we are going to continue to do business the way we have always done business on these issues or whether we are going to vote for some change here and some reform.

This amendment is very simple. It provides some payment limitations with respect to the farm bill. It says those people who have never farmed and are never going to farm, living on land that has not produced a crop for 20 years, should not be getting farm program payments. But they are today, and they will under the bill that is here on the floor of the Senate.

I support the bill on the floor of the Senate, but I want to improve it by amending it with these payment limitations. My colleague, Senator GRASSLEY, joins me. My colleague, Senator NELSON from Nebraska, joins me, and others.

This issue is some payment limitations. We are supposed to provide a farm program that helps family farmers during tough periods. This farm program has become a set of golden arches for some of the biggest corporate farms in this country. Millions of dollars are being sucked out of this farm program in large payments for large corporate agrifactories. That is No. 1.

No. 2, as I have indicated, we have farm program payments going to people who have never farmed and never will farm. Mr. President, in the last 5 years, $1.3 billion went from this country's Treasury in farm program payments to people who are not farming. Think of that: $1.3 billion.

Do you think there might have been a better use for that? Do you think maybe if we recovered that $1.3 billion we could provide a better safety net for family farmers when they run into a tough patch or a tough spell? In my judgment, the answer is yes, we could do much better.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Mr. President, let me ask my colleague from New Mexico if he is intending to use the remaining time.

Mr. DOMENICI. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes 21 seconds.

Mr. DOMENICI. Mr. President, I was, I say to the Senator, but I will be glad to give you a couple minutes. Go ahead and take a few minutes.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I virtually said what I intended to say. If my colleague from New Mexico wishes to speak about the Energy bill, there has been a lot of work on an energy bill which is very important. There has not been much debate or discussion about it. I do not object to continuing that discussion.

But I do want to say this 9:15 vote is very important. It is about change and reform. It is about doing the right thing for family farmers. I hope the Dorgan-Grassley-Nelson amendment will be supported and that we will finally say to the American people: Yes, we are about change. We are about reform. We are about doing things right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself the remainder of the time I have.

I want to start over again to make sure everybody understands what I have to say. Sometimes the most simple thing is the most difficult to explain.

This is a very simple proposition. We have put in a bill—the Energy bill—the work of two or three committees. It is not all an Energy Committee bill. The lead pony in the bill is an important provision with reference to the mileage on automobiles, and we have, for the first time in more than two decades, changed that in this bill.

We have an ethanol 2, which is cellulosic, which follows on right behind ethanol to make sure ethanol is stabilized and we get a huge product in years to come to take the place of oil-based petroleum.

Those were in a bill, and they were working their way through, and the decision was made: Well, we will put on that some taxes. They put on $21 billion in taxes and another item that was long passed—we will leave it alone—and all of a sudden the President of the United States said: Well, don't send me that bill. I will veto it.

Now, I am one who happens to believe him. Since I believe him, I think what we ought to do is see what we can do to make it most probable we will get these two energy provisions that we need—the ones I have just alluded to for the third time today.

It would appear to me what we ought to do to get those energy provisions, to most probably get them—you never know until the President signs; and this still has to go one time to the House—but it appears to me rather simple. The way to do that is to take out the taxes the President does not want.

They may be good incentives. They may be good taxes on bad people—whatever it is Senators have to say—but they are bad taxes for those who want this Energy bill. They are bad taxes for anyone who wants these two new provisions of the Energy bill, bad because the President will veto them and we will get nothing.

So I urge that you vote today against cloture so we will have this bill before us, and we know, then, the majority leader will do something to see that we get a bill. He will have some time to work on what kind of language he wants to send to the House. It is very limited with amendments because this is not a very ordinary way the House sent us this bill. They sent us this as a message on one of their bills, and that is very unique.

Nonetheless, let's not get into that.

It is simple today: Do you want an energy bill? If you want an energy bill, then don't vote for cloture so taxes can be taken out of this bill, and then all you have to do is send it to the House after you fix it up, if you would like to, if the majority leader wants to repair it, because it needs some repair.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. So there we go. I thank the Senate for listening. I think it is a pretty simple proposition and I hope everybody understands. If they want this bill, they ought to know how to vote. Thank you.

Mr. JOHNSON. Mr. President, I rise in support of Dorgan-Grassley amendment No. 3695, of which I am a cosponsor, to enact commonsense, meaningful farm program payment limitations. My bipartisan colleagues from North Dakota and Iowa and I have offered a straightforward and fiscally responsible proposal that would target our farm program payments and safety net.

The current farm program payment structure has, quite simply, failed rural America. Approximately 71 percent of our farm benefits are absorbed by only 10 percent of the farming community. Our omnibus farm bill is intended to promote programs that function as a safety net for farmers, in contrast to the cash cow they've become for a few producers. I do not favor eliminating our farm program benefits, but rather prefer that they are targeted to small- and medium-sized producers instead of large agribusiness.

According to farming data from the 2002 census, farms in South Dakota that received program payments collected $16,518 on average. The average producer in my State, then, received under $17,000 in benefits, which pales in comparison to the $360,000 current supposed ''limit'' and does not touch the proposed $250,000 hard payment cap.

The Dorgan-Grassley amendment includes several specific limits. Under this amendment, direct payments could not exceed $20,000 per producer; countercyclical payments are capped at $30,000; marketing loan gains are limited to $75,000; and total payments are restricted to $125,000. The amendment would allow for doubling by a spouse, and also require direct attribution. The amendment closes the triple entity loophole that has opened up an avenue of opportunity for excessive payments.

In 2002, the Senate saw a strong vote in favor of payment limitations with 66 Senators voting in favor of a $275,000 cap for farm program payments. We need 60 votes this morning to pass the Dorgan-Grassley amendment, because of the filibustering that has been threatened by the minority party, and

we are working to achieve that goal. That being said, in a time of budgetary constraints, I find it unconscionable that a Member of Congress would not vote to restrict such egregious spending and vote to promote our rural communities. I urge my colleagues to support this amendment.

Mr. COCHRAN. Mr. President, first I want to thank the chairman of the committee, the distinguished Senator from Iowa, Mr. HARKIN and the distinguished ranking member, the Senator from Georgia, Mr. CHAMBLISS, for their leadership during the debate of this farm bill.

I commend them for their response to the needs and interests of our Nation's farmers and ranchers. In my State, most of our farmers are deeply concerned about the amendment offered by Senator GRASSLEY and Senator DORGAN. If it is approved it will adversely affect family farms in many States by eliminating the ability to receive financing and making it harder for farmers from efficiently marketing their crop.

Since the passage of the 2002 farm bill there has been a good bit of controversy surrounding the issue of payment limits. Much of this has been based on misinformation and is a result of misunderstanding of modern agricultural practices. While I am pleased that the legislation passed by the committee contains significant reforms to address the concerns raised over the past 6 years, these reforms are not easy for producers in my State of Mississippi to accept and will result in many farms having to significantly alter their farming operation.

I believe it is important for us to understand just how significant the reforms in the committee passed bill are. This legislation applies direct attribution to the individual farmer, thus making all farm payments transparent. The committee passed legislation would limit the direct payment a single producer can receive to $40,000. The legislation reduces the amount of a countercyclical payment to $60,000. In addition, the Senate language reduces the adjusted gross income means test for producers from $2.5 million to $750,000. While this may still sound like a lot of money, when you consider production costs such as a four-hundred thousand dollar cotton picker, fuel prices, fertilizer costs, and technology fees for seed, these support levels are quite low.

Many crops of the Midwest are enjoying record prices right now due mostly to the use of corn in the current ethanol boom. The most prevalent crops in the South, cotton and rice, are not seeing the record prices created by renewable fuel incentives and tax credit subsidies; and it is important to point out that none of these subsidies are subject to an arbitrary limit.

Mr. President, this amendment would have a very negative impact on the livelihood of thousands of farmers. It would undo what many farmers today and generations before them have established through hard work, surviving natural disasters, and the Great Depression. This amendment is an attempt to make farmers in my State to conform to the way others operate in very different regions of the country. Mr. President, not every farmer should be made to fit in the same mold. I urge the Senate to reject the Grassley-Dorgan amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment No. 3695, the Dorgan-Grassley payment limit amendment.

The majority leader is recognized.

Mr. REID. Mr. President, it is my understanding that there is a unanimous consent order in the Senate that prior to the next vote, Senator MCCONNELL and I would be recognized; is that true?

The PRESIDING OFFICER. The leader is correct.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays are ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the chamber desiring to vote?

The result was announced —- yeas 56, nays 43, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—56

Akaka	Ensign	Murray
Allard	Enzi	Nelson (FL)
Barrasso	Feingold	Nelson (NE)
Bayh	Feinstein	Obama
Biden	Grassley	Reed
Bingaman	Hagel	Reid
Boxer	Harkin	Sanders
Brown	Hatch	Schumer
Brownback	Johnson	Smith
Byrd	Kennedy	Specter
Cantwell	Kerry	Stevens
Cardin	Klobuchar	Sununu
Carper	Kohl	Tester
Casey	Lautenberg	Thune
Clinton	Levin	Warner
Collins	Lugar	Webb
Dodd	Menendez	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murkowski	

NAYS—43

Alexander	DeMint	Martinez
Baucus	Dole	McCaskill
Bennett	Domenici	McConnell
Bond	Graham	Pryor
Bunning	Gregg	Roberts
Burr	Hutchison	Rockefeller
Chambliss	Inhofe	Salazar
Coburn	Inouye	Sessions
Cochran	Isakson	Shelby
Coleman	Kyl	Snowe
Conrad	Landrieu	Stabenow
Corker	Leahy	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	
Crapo	Lott	

NOT VOTING—1

McCain

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RENEWABLE FUELS, CONSUMER PROTECTION, AND ENERGY EFFICIENCY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, each leader is permitted to use leader time prior to a vote on the motion to invoke cloture with respect to H.R. 6.

NHTSA REGULATIONS ON FUEL ECONOMY

Mr. LEVIN. Mr. President, I support this bill and, in particular, the provisions that require the Department of Transportation, through the National Highway Traffic Safety Administration, NHTSA, to set new fuel economy standards for vehicles that will reach an industry fleet wide level of 35 miles per gallon by 2020 based on my understanding that these new Federal standards will not be undercut in the future by regulations issued by the Environmental Protection Agency regulating greenhouse gas emissions from vehicles.

I believe that we have taken historic steps in this legislation by putting in place ambitious but achievable fuel economy standards that will reduce our Nation's fuel consumption and greenhouse gas emissions. In this legislation, the Senate and House have come together and established the appropriate level of fuel economy standards and have directed NHTSA to implement that through new regulations. In this legislation, the Congress has agreed that the appropriate level of fuel economy to reach is 35 miles per gallon in 2020, or an increase of 10 miles per gallon in 10 years.

But it is essential to manufacturers that they are able to plan on the 35 miles per gallon standard in 2020. We must resolve now with the sponsors of this legislation in the Senate any ambiguity that could arise in the future when EPA issues new rules to regulate greenhouse gas emissions from vehicles pursuant to its authority under the Clean Air Act so that our manufacturers can have certainty. With that in mind, I want to clarify both Senator INOUYE's and Senator FEINSTEIN's understanding and interpretation of what the Congress is doing in this legislation and to clarify their agreement that we want all Federal regulations in this area to be consistent. We do not want to enact this legislation today only to find later that we have not been sufficiently diligent to avoid any conflicts in the future.

The Environmental Protection Agency has authority under the Clean Air Act to regulate greenhouse gas emissions from vehicles and to delegate that authority, as the agency deems appropriate, to the State of California. This authority was recently upheld by the U.S. Supreme Court, and it is not our purpose today to attempt to change that authority or to undercut

the decision of the Supreme Court. We simply want to make clear that it is Congressional intent in this bill that, with respect to regulation of greenhouse gas emissions, any future regulations issued by the Environmental Protection Agency to regulate greenhouse gas emissions from vehicles be consistent with the Department of Transportation's new fuel economy regulations that will reach an industry fleet wide level by 35 miles per gallon by 2020.

Does the Senator from California and original sponsor of this legislation, Mrs. FEINSTEIN, agree with my view that the intent of this language is for EPA regulations on greenhouse gas emissions from vehicles to be consistent with the direction of Congress in this 35 miles per gallon in 2020 legislation and consistent with regulations issued by the Department of Transportation to implement this legislation?

Mrs. FEINSTEIN. Yes, of course, we have worked hard to come together on this legislation directing NHTSA to issue new fuel economy regulations to reach an industry fleet wide level of 35 miles per gallon by 2020, and it is our intent in the bill before us that all Federal regulations in this area be consistent with our 35 miles per gallon in 2020 language.

Mr. LEVIN. I thank the Senator for her clarification of her intent.

Does the chairman of the Commerce Committee, the distinguished Senator from Hawaii, Mr. INOUYE, agree with my understanding of the intent of this bill that any regulations issued by the Environmental Protection Agency be consistent with the direction of Congress in this legislation and regulations issued by the Department of Transportation to implement this legislation?

Mr. INOUYE. Yes. I. I agree that it is very important that all Federal regulations in this area be consistent and that we provide clear direction to the agency that has responsibility for setting fuel economy standards, the Department of Transportation.

Mr. LEVIN. I thank my distinguished colleague from Hawaii, Mr. INOUYE, for his clarification.

AGENCY MANAGEMENT

Mr. INOUYE. Mr. President, I have worked for many months with the Senior Senator from California and the original sponsor of this legislation, Mrs. FEINSTEIN, to draft a sound policy to increase fuel economy standards in our country. I stated earlier today that ''all Federal regulations in this area be consistent.'' I wholly agree with that notion, in that these agencies have two different missions. The Department of Transportation has the responsibility for regulating fuel economy, and should enforce the Ten-in Ten Fuel Economy Act fully and vigorously to save oil in the automobile fleet. The Environmental Protection Agency has the responsibility to protect public health. These two missions can and should co-exist without one undermining the other. There are numerous examples in the executive branch where two or more agencies share responsibility over a particular issue. The Federal Trade Commission and the Federal Communications Commission both oversee telemarketing practices and the Do-Not-Call list.

The FTC also shares jurisdiction over antitrust enforcement with the Department of Justice. Under the current CAFE system, the Department of Transportation and the Environmental Protection Agency work together. DOT enforces the CAFE standards, and the EPA tests vehicles for compliance and fuel economy labels on cars. The President himself foresaw these agencies working together and issued an Executive Order on May 14, 2007, to coordinate the agencies on reducing automotive greenhouse gas emissions. The DOT and the EPA have separate missions that should be executed fully and responsibly. I believe it is important that we ensure that the agencies are properly managed by the executive branch, as has been done with several agencies with shared jurisdiction for decades. I plan on holding hearings next session to examine this issue fully.

Mrs. FEINSTEIN. I would like to thank the chairman of the Commerce Committee, and I would like to clarify what I believe to be the intent of the legislation I sponsored to increase fuel economy standards in the United States.

The legislation increasing the fuel economy standards of vehicles by 10 miles per gallon over 10 years does not impact the authority to regulate tailpipe emissions of the EPA, California, or other States, under the Clean Air Act.

The intent was to give NHTSA the ability to regulate fuel efficiency standards of vehicles, and increase the fleetwide average to at least 35 miles per gallon by 2020.

There was no intent in any way, shape, or form to negatively affect, or otherwise restrain, California or any other State's existing or future tailpipe emissions laws, or any future EPA authority on tailpipe emissions.

The two issues are separate and distinct.

As the Supreme Court correctly observed in Massachusetts v. EPA, the fact ''that DOT sets mileage standards in no way licenses EPA to shirk its environmental responsibilities. EPA has been charged with protecting the public's health and welfare, a statutory obligation wholly independent of DOT's mandate to promote energy efficiency. The two obligations may overlap, but there is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency.''

I agree with the Supreme Court's view of consistency. There is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency.

The U.S. District Court for the Eastern District of California in Central Valley Chrysler-Jeep v. Goldstone has reiterated this point in finding that if approved by EPA, California's standards are not preempted by the Energy Policy Conservation Act.

Title I of the Energy Security and Independence Act of 2007, H.R. 6, provides clear direction to the Department of Transportation, in consultation with the Department of Energy and the Environmental Protection Agency, to raise fuel economy standards.

By taking this action, Congress is continuing DOT's existing authority to set vehicle fuel economy standards. Importantly, the separate authority and responsibility of the U.S. Environmental Protection Agency to regulate vehicle greenhouse gas emissions under the Clean Air Act is in no manner affected by this legislation as plainly provided for in section 3 of the bill addressing the relationship of H.R. 6 to other laws.

I fought for section 3. I have resisted all efforts to add legislative language requiring ''harmonization'' of these EPA and NHTSA standards. This language could have required that EPA standards adopted under section 202 of the Clean Air Act reduce only the air pollution emissions that would already result from NHTSA fuel economy standards, effectively making the NHTSA fuel economy standards a national ceiling for the reduction of pollution. Our legislation does not establish a NHTSA ceiling. It does not mention the Clean Air Act, so we certainly do not intend to strip EPA of its wholly separate mandate to protect the public health and welfare from air pollution.

To be clear, Federal standards can avoid inconsistency according to the Supreme Court, while still fulfilling their separate mandates.

ENERGY SAVINGS

Mr. KOHL. Mr. President, I rise today to talk to the chairman of the Energy and Natural Resources Committee about energy savings in Federal buildings in H.R. 6, the Energy Independence and Security Act of 2007.

Along with Senators FEINGOLD, BURR, and CORKER, I offered an amendment to H.R. 6 that would require the Federal Government to procure the most energy-efficient commercial water heating systems in new or renovated Federal buildings. This language was not incorporated into the final version of the legislation we will be voting on today.

I would ask Chairman BINGAMAN if the energy savings in the Federal building sections of H.R. 6 apply to all building systems and technologies, not just lighting?

Mr. BINGAMAN. I thank the Senator for his question. The Energy Independence and Security Act of 2007 requires Federal agencies to reduce their energy consumption by 30 percent by 2015 and includes provisions requiring new and renovated buildings to adopt energy efficient systems and technologies in

order to reduce fossil fuel consumption. Federal leadership in building performance and procurement standards in our Federal facilities and in commercial buildings generally is critically important in achieving our energy conservation goals. The energy savings requirements for our Nation's Federal facilities incorporated in the Energy Independence and Security Act of 2007 are intended to apply to all building systems and technologies.

Mr KOHL. I would like to thank the chairman for all of his help on this issue. Chairman BINGAMAN's leadership on energy efficiency and this Energy bill has been invaluable.

Mr. BAUCUS. Mr. President, they say that ADM William ''Bull'' Halsey, who commanded the Pacific Fleet in World War II, once said:

There aren't any great men. There are just great challenges that ordinary men like you and me are forced by circumstances to meet.

Today, the circumstances around energy policy provide us another set of challenges. Today, we will see whether we can rise to meet them.

Prices for gasoline, heating oil, electricity, and natural gas have accelerated upward. Since the Senate last considered energy tax legislation in June, oil prices have soared by $30 a barrel. Energy costs have hit working families particularly hard.

Nearly every week, the news reminds us of the fragility of our energy supply, whether it is trouble in South America or Africa or in the Middle East.

As well, people have increasingly acknowledged the challenge presented by the link between energy use and global warming.

To help address these challenges, I am pleased that the Senate will vote today on energy tax incentives designed to promote clean and sustainable energy.

Energy tax policy is not new territory for the Finance Committee. In 2005, the committee designed tax incentives for that year's major Energy bill. And last December, we enacted energy tax provisions as part of the end-of-the-year package.

We are building on that strong foundation today with additional tax incentives. Most of those incentives were approved by a 19 to 5 vote in the Finance Committee this past June.

We did not get 60 votes on the Senate floor in June. But the energy crisis has not subsided. And so we are back here today with an even stronger package of energy tax incentives.

The energy tax proposal before us today continues our commitment to clean energy and renewable fuels. The amendment extends existing tax incentives for solar power, wind power, fuel cells, and energy-efficient homes and buildings. And we provide more than $2 billion for renewable energy bonds.

But we need to go further. And we do in this proposal. We advance three areas critical to our nation's energy future: cellulosic ethanol, hybrid cars, and coal sequestration.

Ethanol made from corn has become familiar territory. Now cellulosic ethanol is the new frontier to explore. This bill proposes a production tax credit of up to $1.00 a gallon for up to 60 million gallons of cellulosic fuel produced from sawgrass, agricultural wastes, and other biomass.

Hybrid cars provide a tremendous opportunity to make our transportation sector cleaner. A high-mileage car with no emissions is territory well worth exploring. Our proposal calls for a new $3,500 credit for plug-in vehicles.

America has vast reserves of coal. But we have concerns about global warming. It is thus imperative that when we use our coal, we need to try to prevent carbon dioxide from escaping into the atmosphere.

Our proposal would provide tax credits for capturing carbon dioxide emitted from industrial use of coal. The proposal also would provide accelerated depreciation for new dedicated pipelines used to transport CO_2 from an industrial source to a geologic formation for permanent disposal. A proposal to encourage the construction of additional refinery capacity is also included.

We do our work in a fiscally responsible way. Lower budget deficits help to keep interest rates low. That helps to make the economy more competitive. Paying as we go may be a tough task. But the proposal contains offsets that are fair and economically sound.

We propose to simplify and improve the tax code by eliminating the distinction between ''foreign oil and gas extraction income'' and ''foreign oil-related income.''

We propose to withdraw the tax breaks under section 199 from the large oil companies. There is strong evidence that the boost from section 199 that the Senate envisioned when we enacted the JOBS Act in 2004 has not been realized.

We have heard from the major oil companies. But the majors collected over a half a trillion dollars in profits since 2001, and they are on track to collect up to a trillion dollars in profits over the next 10 years. The Joint Economic Committee has assured us that these provisions will have no affect on consumer prices for gasoline and natural gas in the immediate future.

The proposal before us today drops a severance tax on the production of crude oil and natural gas from the Outer Continental Shelf in the Gulf of Mexico. That severance tax was contained in the Senate Finance Committee-passed bill but is not in the proposal on which we will vote today.

Here is the territory that we are in: Gas prices are well over $3. The price of a barrel of oil is hovering around $90 a barrel. And concern about global warming is growing.

If we do not move forward today, Americans will look back and ask who blocked energy legislation. And they will be astonished. They are not going to understand how good policy designed to address one of the greatest challenges facing our country—some call it a crisis—was blocked by good Senators in December of 2007.

The proposal before us today will address the challenge. It addresses today's energy policy circumstances. So I urge my colleagues to meet the challenge and vote in favor of this sound energy package.

Mr. SPECTER. Mr. President, I seek recognition today to give my reasons for my vote against invoking cloture on H.R. 6, the Energy Independence and Security Act of 2007 which was sent to the Senate from the House of Representatives on December 6, 2007. It is regrettable that certain tactics and maneuvers prevented a formal conference and there was no accommodation for removal of controversial tax provisions which further complicated the negotiations. I am voting against cloture on energy bill, although I support many of the bill's provisions, because key commitments to at least one of my Republican colleagues were reportedly broken. Further, I understand the bill in its present form would likely draw a veto from the President.

I would have preferred a conference report which did not include taxes on the oil and gas industries. Had there been a formal conference, those taxes might well have been left out of the conference report. It has been reported that the oil and gas industries took steps to oppose convening a conference. If so, they bear some responsibility for the inclusion of the taxes which might have been eliminated had there been a conference.

This past summer, I supported the Senate-passed Energy bill, H.R. 6, which would have promoted oil savings by increasing our national average vehicle fuel economy; alleviated dependence on imported oil by increasing requirements for the use of biofuels and advanced biofuels; advanced the prospects for cleanly utilizing our Nation's abundant coal reserves by furthering research, development and demonstration of carbon capture and sequestration technology; and supported a reduction in our demand for energy by creating new efficiency benchmarks for appliances and authorizing research and development grants for more efficient building materials, processes and vehicle technology.

Furthermore, though the Senate did not include a minimum requirement for the amount of electricity generated by renewable sources, I support such a measure as I have done in the past. On June 14, 2007, the Senate voted 56–39 to table an amendment that would have replaced a 15 percent by 2020 renewable energy standard with 20 percent by 2020 using alternative sources including coal and nuclear energy. This amendment was viewed as undermining a ''renewable'' standard, therefore I opposed the amendment. I am proud that Pennsylvania is leading the way in renewable energy use and development through its Advanced Energy Portfolio

Standard which requires that 18 percent of electricity in the Commonwealth be generated from clean and renewable sources by 2020.

While it would have been preferable for the House and Senate to have been able to work in a bicameral, bipartisan manner to produce legislation that includes both stronger automobile efficiency and a renewable portfolio standard, that clearly did not happen in this instance. Therefore, I face a choice between procedural matters I dislike and policies I support. Many of my colleagues and I will oppose this bill based on the process used by the majority and the inclusion of controversial tax offset provisions. Had there been an opportunity for the two Houses and the two parties to come together, as is the common practice in Congress, to craft this important legislation governing our Nation's energy production and use, I am confident we could have come to consensus on these issues and I still believe this to be the case.

This Nation has many challenges meeting today's energy needs, with the price of oil at $100 per barrel, OPEC manipulating the oil markets, and concerns related to the environment including climate change, all of which will be directly addressed by this bill's provisions. Too often in this Congress, we are faced with questionable procedures which have led to this situation of rancor and breakdown of the bicameral process. I urge the leaders of both parties and chambers to work together to improve this regrettable legislative environment and produce a bipartisan Energy bill.

Considering the current veto threat over the bill, it is my hope that after this difficult vote we can amicably move forward to work with our colleagues in the House of Representatives and the President to enact these policy measures which are important for the energy future of the United States.

As I stated in my introduction, I am troubled by reports from a Republican colleague that the legislation sent over by the House breached key commitments. It is difficult to know exactly what commitments were made, which were kept, and which may have been broken in multiple conversations with many parties. Therefore, in the interest of comity and improving the legislative process, I feel constrained to cast my vote against moving to this Energy bill, despite provisions I support.

Mr. MCCONNELL. Mr. President, the clock is about to run on the 2007 congressional calendar. Our Democratic colleagues are about to show us once again how we can snatch defeat from the jaws of victory, all because they insist on raising taxes.

This time, the majority was on the verge of a real achievement with a bill that would increase the fuel efficiency standard for the first time in years, increase our use of clean, renewable fuels. They had a major accomplishment in their grasp, so why not take ''yes'' for an answer?

Unfortunately, as on so many bills, they simply could not bring themselves to take the accomplishment without inserting an enormous tax hike—a tax hike that they knew would doom this legislation, that they knew would never be signed into law.

There should be absolutely no question about who or what is responsible for the failure of this bill. We have been very clear that the twin millstones of the utility rate increases—the RPS provision and the massive tax hikes—would sink the bill. There was no ambiguity about it whatsoever. The majority had a week to remove them, and they took a good step this week when they agreed to remove one of the millstones but, inexplicably, they made the other milestone—the tax hike—even bigger. If the twin milestones were removed, this important bill would pass Congress this week—would pass the Senate in 2 days—and be signed into law.

By voting for this bill as written, it is a vote for a bill that will not become law. Voting for this bill as written is a vote for a bill that will not become law. Worse than that, it is a vote to block the rest of the Energy bill. It is a vote to block historic increases in fuel economy and an increase in renewable fuels.

The majority seems determined to accomplish little this year, and they have helped ensure that with this bill. I believe it is time to quit playing games, get serious, and get rid of the veto bait so this legislation can become law.

Make no mistake, if cloture is invoked with this massive tax hike still attached, it will have killed this bill. The majority will have traded an accomplishment for a tax hike and a veto.

I strongly urge a vote against this $22 billion tax hike by opposing cloture, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, my dear friend, the senior Senator from New Mexico, long time chair of the Budget Committee, long time chair of the Energy Committee—and I underline and underscore ''my friend''—said a few minutes ago this bill was bad because President Bush doesn't want certain provisions in it, bad because President Bush doesn't want them.

We are the Congress of the United States. We can like things even though the President may not like them. That is our responsibility constitutionally. It is time for this Senate to vote as a third and equal branch of Government and do the right thing for one of the most pressing problems facing America and the world today—energy. ''Bad because the President doesn't want them.'' That is a direct quote.

Without going into all the details, the fact that the President made the worst foreign policy blunder in the history of the country by having Iraq invaded doesn't mean it is good.

The fact that the President vetoed children's health insurance, giving insurance to 10 million children instead of the 4.5 million children, if we are fortunate enough to extend the bill, doesn't make it good because the President doesn't like it.

Global warming, the President doesn't believe it exists and has refused to even acknowledge the words until a few days ago. Does that make it right? No, it doesn't.

The President believes in certain interrogation techniques involving torture. Does that make them right? No.

We, as a Congress, have to stand up and do what we think is right.

Mr. BYRD. Right.

Mr. REID. It is time to stop talking and putting America on a path to a cleaner, safer, and more affordable energy future. The Energy bill originally passed both the House and Senate with strong bipartisan majorities. Democrats and some Republicans agree we must pass this Energy bill for four main reasons: No. 1, we must take action that will help reduce the constantly rising price Americans pay for gasoline.

Mr. BYRD. Right.

Mr. REID. The last time I was in California, I saw one of the marquees, $4 a gallon. In Nevada, everyplace is more than $3 a gallon.

Mr. BYRD. Shame.

Mr. REID. No. 2, we must begin to break our country's addiction to oil. We are addicted to oil. Even President Bush said that. We will use 21 million barrels of oil today. Almost 70 percent of it we import from foreign countries and most are led by tyrannical rulers, despots.

No. 3, we must begin to reverse global warming. It is a crisis caused by our use of fossil fuel.

And No. 4, we must invest in renewable energy. Why? It is good for the environment, and it creates lots of jobs. In Nevada alone, the tax portions of this bill will create thousands of jobs and countless—tens of thousands, hundreds of thousands—jobs throughout America.

Last week, the Republican minority blocked this crucial bipartisan bill from passing. In order to ease these concerns, we have reluctantly removed the renewable electricity standard from the version of the bill now before us. The renewable electricity standard would have required, by the year 2020, 15 percent of our Nation's electricity come from renewable, environmentally sound sources.

That sounds pretty reasonable, 15 percent by the year 2020. We had to take it out. Taking this step would reduce carbon emissions from powerplants by 126 million tons, reduce the cost of natural gas and electricity bills by between $13 billion and $18 billion, and create good, new American jobs.

This is not the last we will hear of the renewable electricity standard. The

Senate has passed a similar bill before, and we will do it again. But in the spirit of compromise and in a genuine pursuit of progress, Democrats have reluctantly agreed to remove that important provision from the Energy bill. But that is not all.

We also compromised by making changes to the energy tax title to accommodate the Republican minority. I would have preferred to make these tax credits permanent, certainly longer than 2 years.

Unless my colleagues vote for this bill, they are not doing anything to help the production of electricity in our country by alternative means. They are doing nothing. The great entrepreneurial minds of our country need these tax credits. They need incentives to invest billions of dollars into renewable energy. They cannot do it without these tax credits. If they do not vote for this tax provision of this bill, they are doing nothing to change our addiction to oil. But this compromise will ensure that critical investments in clean and sustainable sources of energy will continue.

We have business people looking at new solar, wind, and geothermal projects, and they will be spurred to action if we help them make their investment worthwhile.

I hope we reach the 60-vote threshold and send this bill to the House and on to the President today. I hope many Republicans will recognize the importance of this bill for their States and their country.

The White House is objecting to our provision requiring major oil and gas companies to part with a few dollars—a few dollars—of their billions of dollars of tax breaks they are scheduled to receive over the next 10 years.

Let's be very clear. Our bill eliminates those tax breaks for these huge oil companies, international oil companies, an industry raking in record profits of half a trillion dollars in the last 6 years. Those are profits. We want to do our tax program so we can invest in clean energy.

Democrats and Republicans alike should agree that even without the renewable electricity standard, we have an energy bill that reduces energy costs, begin to break our addiction to oil, and reverse the threat of global warming. This is still an important, historic bill. I am very happy to support it and ask my colleagues from both sides of the aisle to hear the call of the American people for lower energy costs, less oil consumption and a cleaner environment and send this historic bill to the President.

I have been told there are Senators who have voted for our version of the bill—that is, CAFE and renewable fuels standard—who are considering voting against this bill because the President says he is going to veto this bill. That is not good enough. We have to flex our legislative muscles and do the right thing and not be stampeded because of 1600 Pennsylvania Avenue. Democrats and Republicans have to heed that call. This could be the first step toward an energy revolution that starts in America and ripples throughout the world, but it can only start in the Senate today.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant journal clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid motion to concur in the House amendment to the Senate amendment to the text with an amendment, with reference to H.R. 6, Energy.

Jeff Bingaman, Barbara Boxer, Ben Nelson, Dick Durbin, Debbie Stabenow, Kent Conrad, Maria Cantwell, Ken Salazar, Tom Carper, Joe Lieberman, Daniel K. Akaka, Daniel K. Inouye, Robert P. Casey, Jr., Mark Pryor, Dianne Feinstein, B.A. Mikulski, Sherrod Brown, Jim Webb.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to concur with an amendment in the House amendment to the Senate amendment to the text of H.R. 6, the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—59

Akaka	Feinstein	Murray
Baucus	Grassley	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Hatch	Obama
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown	Kennedy	Reid
Byrd	Kerry	Rockefeller
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Smith
Clinton	Levin	Snowe
Coleman	Lieberman	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Thune
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murkowski	

NAYS—40

Alexander	Corker	Hagel
Allard	Cornyn	Hutchison
Barrasso	Craig	Inhofe
Bennett	Crapo	Isakson
Bond	DeMint	Kyl
Brownback	Dole	Landrieu
Bunning	Domenici	Lott
Burr	Ensign	Martinez
Chambliss	Enzi	McConnell
Coburn	Graham	Roberts
Cochran	Gregg	Sessions
Shelby	Sununu	Warner
Specter	Vitter	
Stevens	Voinovich	

NOT VOTING—1

McCain

The PRESIDING OFFICER (Mr. NELSON of Nebraska). On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, this was a good, hard-fought battle. I am disappointed we did not pick up one more vote, but I know how difficult it was for some of my Republican colleagues to vote the way they did, and I admire and appreciate that very much.

We are going to finish this bill today, if at all possible. What we would like to do is go back to the farm bill for a while, and as soon as we get the path forward on this bill, we will come back. My intention is to eliminate the tax title, and we would vote, then, on a piece of legislation that deals with CAFE and deals with renewable fuel.

Now, we, of course, really believe in the tax title, as I indicated in my speech before the vote, and hopefully we can work together to get that done. We all know we need to do renewable fuel, and really in a big way. I hope my friends on both sides of the aisle will work with us very early next year to get this done. It is extremely important.

But everyone should understand, as disappointed as I am and as disappointed as people throughout the country are, what we are going to wind up with is still historic—the first increase in fuel efficiency standards in 32 years. And we have increased them significantly. There has been a push from everybody to change various portions of what we have left, and there may be a little bit of tinkering with some of it but very little of it.

We are going to move forward as quickly as we can today to complete this legislation. If we have to file cloture on the rest of it, we will do that. If we do that, that will mean there will be a cloture vote on Saturday, just so everyone understands. Hopefully, this is the last weekend before we adjourn for the year, so I hope we don't have to do that. I hope we can have people working here together to maybe overcome some of the procedural hurdles we normally have to go through to move this legislation.

Also, we are going to finish the farm bill this week. Today is Thursday, tomorrow is Friday, and the next day is Saturday. We are going to finish the farm bill. I had a conversation earlier this morning with the Democratic

manager of the bill, I didn't have a chance to speak to the Republican manager, but we would like to have all voting completed tonight or early—sometime before noon—tomorrow. If that is the case, we have a number of other issues that are extremely important that we want to try to get a handle on before we leave. We need to take a look at the intelligence authorization bill. That is a conference report which has been completed. We also have to do the Defense authorization conference report. We need to complete that.

We have to take a hard look at FISA. It would be in the best interests of the Senate and this country if we could determine what the will of the Senate is on the domestic surveillance program. It expires on February 5. I hope prior to our coming back here in January that we have the Senate's position on that and we send it to the House before we leave here.

Then, finally, it is kind of a moving target, but the spending bill we are going to get from the House—I have spoken to the Republican leader today. We are going to figure a way to go forward on that when we get it from the House. It appears at this time we will get it sometime Tuesday—maybe Monday but probably Tuesday.

Then—there are no secrets here; I wish we could have a few more—we have to do the domestic spending, get that done. Also, as much as it pains me to say this, we have to do something about the supplemental appropriation for the President for the war in Iraq.

Those are the main issues we have. With the little bit of time we have, there are a number of holds we are trying to work our way through. I had a good conversation with Senator COBURN yesterday and he has indicated a willingness to let us move some of those. I hope that in fact is the case. As much as I disagree with Senator COBURN on so many things, I have found him to be an absolute gentleman and someone who is a man of his word. He has different beliefs than I do. He is entitled to those. He does it because it is a matter of principle. That is obvious. From all I know about him, it is not because of political purposes but because it is something he believes in. I came to learn a long time ago that other people's beliefs are as important as mine.

That is the track forward.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007—Continued

Mr. REID. I ask unanimous consent we now move back to the farm bill.

The PRESIDING OFFICER. The farm bill is now pending.

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me join the leader indicating there is no reason we should not and we will pass the Energy bill today. Now that it is clear it is not going to be a bill to raise taxes and drive up the price of fuel at the pump, I think there is broad bipartisan support for this bill. This is the way the Senate ought to function, coming together behind those things that are achievable.

The bill, with the changes the majority leader has indicated we are going to make, could be signed by the President and it will be something we could all be proud of.

We also intend to finish the farm bill as rapidly as possible, so I share his goals for today, and tomorrow if need be. I think we should move forward with the farm bill and finish it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before the Senator from Nevada leaves, I wish to note first I was very pleased to accept your definition of our relationship—good friends. We are friends. I thank you for that and I want to say that now.

I do want to say to you about the bill we have had a long fight about, and we just finished about as difficult a vote as we have had in a long time, that the bill you are going to send back to the House, this bill up here, with a few alterations and the taxes out, this bill, I guarantee, will get signed and it will become law. It will be the most significant act we can take to reduce our dependence on foreign oil, all by itself. It will get passed, now that we are finished with the hurdles, and you will be the one who will be leading it through the remainder of its journeys and you will be there when, indeed, it becomes the law of the land. It will be the most significant energy act we can do.

It was done by the Committee on Commerce, led by Senator INOUYE and Senator STEVENS. Because they know how to work, they passed it when we could not pass it for years. Now it is ready to go. It is not dead. The vote caused it to stay alive and go down its way to the President for his signature.

I think the Senator's accomplishments in this regard are to be commended. We are going to get a great bill and you will be part of it. I am sorry it is not exactly what you want, and you can rest assured there will be some of us helping you and helping the other side when it comes to the incentives you spoke of in your remarks. Some of us think they are important. We just don't think they belong on this bill and they do not deserve a veto.

I thank the Senator for his kindness as we work this through. I hope we can make a couple of changes that Senator INOUYE thinks are important before the bill is sent to the House.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, my heart is heavy, and I say that seriously, recognizing next year at this time Senator DOMENICI will be in the last few days of his 36-year service in the Congress of the United States. During 25 years of that, I have worked with him. My next year will be 26 years. As partisan as he is and as partisan as I am, we have worked toward meeting the demands of the State of Nevada, heavily involved in the defense of this country for decades, as is the State of New Mexico. In the process of our working together, we have helped the country. The safety and reliability of our nuclear stockpile as it exists today is a result—and I say this in no way to boast but to be factual—of what Senator INOUYE and Senator DOMENICI and I put into effect as members of the Energy and Water Subcommittee on Appropriations. We do not need to dwell on this longer than to say his dedicated service to the country is something I recognize, the people of New Mexico and of our country will recognize for many years to come.

Mr. DOMENICI. I thank the Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, this last vote was a historic vote for America. This was a decision about whether we were going to look to the future to change to an energy policy and a environmental policy consistent with America's best interests. Pitted in that vote were the oil companies, the energy companies of years gone by, and those energy sources for our future. The energy companies of years gone by prevailed.

The irony is that the Republicans, Senator MCCONNELL and others, have stood steadfast in protecting the subsidies for the oil companies of America. That is a time-honored tradition in the Senate. Whether you agree with it or not, the Senate, by and large, has been very kind to the oil companies and the oil industry throughout our history. We couldn't have seen a vote they would have been happier with than the last one, because in the last one, the last vote, we suggested that subsidies for oil companies should give way to tax incentives for new sources of energy, sources of energy that are clean, renewable, sustainable, and that vote failed by one vote.

Isn't it ironic, at a time when oil companies in America have enjoyed the highest profit margins in their history, that the Republican argument is we must continue the tax subsidies for those oil companies? Isn't it ironic, at a time when Americans are paying higher and higher prices at the pump for gasoline, while oil companies have the highest profits in their histories, the Republicans argue we should not penalize these oil companies in any way or they will take it out on the consumers? It is a craven political position. It is a position which is devoid of leadership. It is a position which looks to the past instead of to the future.

The future suggests these oil companies should be held accountable like

every company. With $90-a-barrel oil, why in the world would they need a Federal subsidy? Why in the world would the Members of the Senate protect that subsidy when these oil companies are enjoying the highest profits in the history of their industry?

I think many of us believe there is a future that is much different. It is a future which most Americans are praying for—when we are less dependent on foreign oil, when we are using energy sources that are kind to the environment, and where we are reducing greenhouse gas emissions that cause climate change and global warming. That is the future. The future just failed by one vote. The past was preserved with those who voted against this last motion.

The oil companies now are celebrating in their boardrooms. Not only do they have the highest profits in history, they continue to have a death grip on this Senate. They continue to be able to muster enough votes to stop us from moving forward with the energy for America's future. It may be a great political victory today for the oil companies, but I will tell you the day is coming, and soon, when the American people will have a voice. In the election in 2008, they can decide whether to elect those political figures who are preserving the past, ignoring the future, or vote for those who want real change.

I think this was a historic vote. To lose by one vote in terms of moving us forward, to say that President Bush—who has his own history in the oil industry—is going to dictate America's energy future, is to condemn us, I am afraid, to a future that is not hopeful. It is a future where this administration, having rejected Kyoto, still stands in lockstep with the oil industry and their view of the world. That has to change. That has to change if our future generations and our children are going to have a liveable world, one where they can cope with the changes in the environment and say that our generation did not let them down. The Senate let them down with this last vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, aren't prices of gasoline high enough? Why would we want to raise the price of gasoline for the American consumer by raising taxes and the costs of doing business on the people who produce oil and gasoline for the American consumer? That is exactly the argument I think we heard from the distinguished assistant majority leader: Taxes are not high enough on domestic producers of oil and gasoline.

I think this vote we had was a very important vote because what we said is we think prices are too high and should not be any higher. We do not believe we ought to depend more and more on imported sources of oil and gas. We believe we ought to produce more domestically, here in the United States.

The kind of arguments we hear from the other side of the aisle so often demonstrate a kind of schizophrenia when it comes to a national energy policy, further burdening those who produce oil and gasoline here domestically and then at the same time railing about the high prices.

Congress can pass laws, Congress can repeal laws, but the one law Congress cannot repeal is the law of supply and demand. One of the ways we are going to find our way to a more reasonably priced gasoline at the pump is if we increase the supply. We know we are in a global competition for oil and gas. That is one of the reasons why the prices continue to go up, because supply is not keeping pace. One of the things we need to do is to take reasonable steps to open areas that are now out of bounds to domestic exploration for these precious natural resources—in an environmentally responsible way, as the modern oil and gas industry is capable of doing. It doesn't do any good to rail against big oil or to try to use any sector of the economy as a political football when it hurts the American consumer and the American people.

I agree with the distinguished Senator from New Mexico that it was important that we defeat this tax increase that would raise the price of gasoline at the pump for the American consumer. Now we can come together and work on another important element of our national energy policy and that is conservation. We need to conserve and to use our natural resources more efficiently. That is what the CAFE provisions of this bill will do. Yes, we need to explore and put money into research and development of renewable fuels to try to find new and more efficient ways to limit our reliance on oil and gasoline.

But in the near term, we know that is going to be part of the puzzle. We need to explore clean nuclear energy as a source of electricity. France produces more than 80 percent of its electricity using nuclear power; for America, it is around 20 percent. We need to get away from the scare tactics and using the energy companies that we are going to have to, in part, rely upon to find our way out of where we are and come up with a comprehensive energy strategy which says, yes, we need to tap into all sources of energy in an environmentally responsible way and a way that will limit carbon production and will help with the issue of climate change at the same time. But we are not going to do it by raising taxes on the domestic oil and gas industry.

I would just point out that the competitors, for most of the people whom the majority wants to add taxes to, are competing with people like Hugo Chavez and Ahmadinejad in Iran, state-owned oil companies that would not be subject to this increase in taxes. So they are literally targeting the domestic producers in a way that will further harm our ability to become less dependent on imported oil and gas.

I am proud of the vote the Senate had today. I hope we will go forward and come up with a commonsense, bipartisan resolution on the CAFE and renewable standards portion of this bill, that we will pass the bill and send it to the President for a quick signature. It would be one of the very few areas where this Congress will have actually done something positive here in the last year, and I think we ought to not give up that opportunity but take advantage of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, sometimes here in the Senate we have so many competing views and so many different kinds of votes, some of them procedural, that it is hard to tell when something good happens. I wish to talk about such an opportunity that we have right now. This is a little bit like something my late friend Alex Haley used to say: ''Find the good and praise it.''

We are on a path in the Congress now to do something the Senate did a few weeks ago, which was to take a step that our country's largest energy laboratory, the Oak Ridge National Laboratory, has testified before our committees would be the single most important step we could take to reduce our dependance on foreign oil. By reducing our dependance on foreign oil, we would do something that we could actually honestly say would help to lower the $3-a-gallon gasoline price over time, something that we could honestly say would help deal with the urgent issue of climate change, something that we could honestly say would put us on a different path toward clean energy in this country. And those are the new fuel efficiency standards.

There is a clear consensus in this body—I gather in the House of Representatives, too—that for the first time in more than two decades, the Congress should say to everyone who makes cars and trucks in this country: You have to make cleaner cars; these cars have to use less oil one way or the other. We are not really saying to them, or at least I do not think we should say exactly how they achieve that; we are just saying that by the year 2020 the cars and the trucks have to average 35 miles per gallon. This is a big step.

As I said, the Oak Ridge Laboratory testified in the Environment and Public Works Committee, this is the single most important step the Congress can take to reduce our dependance on foreign oil. We have already voted to do it in the Senate, and we have already voted to do it in the House, and we had a vote today to strip away the taxes that the Senator from Texas just talked about. So we are on a path, a clear path to send this bill back to the House and then to the President and, before the first of the year, to take the most important step we can take to reduce our dependance on foreign oil.

There is a lot of talk and genuine concern about climate change. There is not as much commonsense talk about solutions.

On the electricity side, we know what works, and we began, in 2005 with the Energy bill, to take those steps. That bill could have been called—should have been called—a clean energy bill because it started with aggressive steps on conservation and then it went to a renaissance of nuclear power.

The inconvenient truth on solutions to climate change is that conservation and nuclear power are the only way we will be able to deal with climate change in this generation. We hope we will be able to move ahead to sequester the carbon from coal, but we do not have that technology yet in a way that it can be used in a wholesale way. We hope there will be solar thermal powerplants such as the one being built in California, and we hope photovoltaic solar panels will cost less and people can use them on their houses, but those renewable ways to create electricity only produce a very small percentage of what we need. So in this generation, on the electricity side, conservation and nuclear power, which today produces 80 percent of all of our carbon-free electricity, are the real ways to deal with climate change, and in our part of the country, in the Smoky Mountains of Tennessee, the real way to make the air clean.

In the same way, on the fuel side in this country that uses about 25 percent of all of the oil and gas, the single most important thing we can do is what we have already voted for once in this body, the House has voted for once, and if they take this bill and send it on to the President, the Congress will have done it; it will be fuel efficiency standards that say to everyone who makes and sells cars here: Your cars and trucks have to average 35 miles per gallon by the year 2020.

So in the midst of all of the procedural votes and debating these genuinely held differences of opinion, I simply want to put a spotlight on the fact that this Congress is poised to send to the President the most important thing we can do to lower prices, to reduce the dependance on foreign oil, and to deal with the climate change. It is the kind of result, the kind of bipartisan result that most Americans would like to see happen here. They know we have our differences. We will be back and forth on our votes. That is what we are here for. The tough issues come to the Senate. That is why we are a debating society. But in the end, we do not come here just to state our principles; we come here to get principled solutions. We are on our way to one of the most important principled solutions we can have in terms of energy efficiency.

I congratulate the Senators who have been so much involved in this. I hope we will pass the legislation that the Senator has promised, the majority leader has promised to produce here. I hope the House of Representatives will pass it, as well, and send it to the President. I hope that over Christmastime, Americans will look at this Congress and say: Good for you on energy independence, on climate change, on cleaner air, on reducing our dependance on foreign oil. You took the most important step you could take, and that is what we think a Congress ought to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me join with the Senator from Tennessee in applauding an action that ultimately now will be taken by the Senate and therefore by the Congress to add substantially to an energy policy in this country that begins us down the road in a long march toward a higher degree of energy independence.

I have been in the Congress 27 years. I have always supported, up until this year, leaving CAFE or fleet standards for efficiency alone.

I got here in 1980. We had just come out of the 1970s oil crisis. We had put policy in place that was helping transform the automobile industry in our country to a more efficient fleet average. But over the course of the last 5 years, I have seen it become increasingly important that we focus on every aspect of energy in our country.

I used to be somewhat selective in what ought to be produced versus what ought not be, where we ought to put our incentives, where we ought to put our tax dollars to improve availability in the marketplace. But it became increasingly obvious to me that just a few miles per gallon per automobile in this country could make all the difference in the world.

We now import $1 billion a day in oil, approximately; $360 billion of America's money goes overseas to foreign nations which are, at best, indifferent to our interests, and at worst, using the term that I call ''petronationalism,'' use the power of their energy not only to squeeze us, but then they take that money and reinvest in our country or invest somewhere else, in many instances not in our interests.

I have always been frustrated that a great nation such as ours could not move toward energy independence, could not set as a goal that by a certain time our country could and would become energy independent in all sectors if we did the following things and if we began to drive public policy in that direction. So this spring, Senator BYRON DORGAN of North Dakota and I did something I had never done before: We introduced legislation for a mandatory 4-percent change in fleet efficiencies on an annual basis. Well, you would have thought the roof caved in.

The automobile industry came to me wringing their hands and saying: We simply cannot do that. You have always been with us.

I said: Yes, that is right. In 27 years, I have not changed, frankly, and in 27 years you have not changed, and it is time we do change a little bit.

Now there are a lot of new efficiencies coming on out there, from hybrids to flex vehicles, and hopefully we are going to see a hydrogen fuel cell car on the market in a very short period of time that will begin to move its way in the market. So the automobile industry deserves a lot of credit for beginning to recognize the need to change what we use to drive America's transportation fleet.

But the opportunity to change the industry, to cause them to move down that road in a discernable and a direct way because it is the public policy of this country, is something I decided to become a part of. I believe it was with the introduction of that bill, with Senator DORGAN and I working together, that we got those kinds of things out of the Commerce Committee and into the Energy bill that passed the Senate. And that was a strong energy bill. It had all of the right blends and mixes in it to begin to create a cleaner energy consumptive world for us and at the same time a more independent and a more efficient world.

Today's vote was critical. We are going to send an energy bill to the President in relatively short order, I hope, that has a lot of those things in it and that causes America's transportation fleet to move in the right direction.

Mr. President, $3 dollars a gallon for gas is coming out of the hip pockets of moms and dads in this country today, and if that pace continues to go up, it is going to do more to change—I think in a negative way—the American economy than anything we have seen. We ought to be all about helping the average American change that equation, and I think efficiencies do that. Conservation is critical as a component of a total energy package because that which you save you do not have to produce. Just a couple of miles to the gallon across America's transportation fleet is millions and millions of barrels of oil. That is what we ought to be about. It will be a cleaner fleet and a fleet that will produce less carbon into the atmosphere.

All of us are concerned about greenhouse gasses and climate change, and efficiencies and new technologies, in my opinion, are the best direction to lead us to accomplish a cleaner world, and today a critical vote occurred that will allow us to do that.

AMENDMENT NO. 3666

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I rise to speak on amendment No. 3666, which we will have a vote on at some point later in the day.

This amendment to the farm bill addresses manipulation in the livestock industry. We have had consolidation in agribusiness over the last many decades. In the meat packer industry, for example, there are four major meat packers that control 80 percent of the

market in the United States. Being big is not necessarily bad, but it can allow companies to manipulate and control the marketplace. We all know a monopolistic and controlled marketplace doesn't benefit anybody. Without competition, without that free market, we put our cow/calf producers at risk.

The meat-packing companies have the past because of packer ownership manipulated forward contracting and pressure on producers to distort the supply and demand, maximizing their profits often at the expense of the cow/calf producer. The producer ends up being price taker and not price maker due to manipulation of the marketplace and restriction of the free market we all expect in the cattle industry.

Way back in about 1921, this Government had the foresight to realize the free market system was a good one and that it wasn't working quite right, even with the antitrust laws which were deemed inadequate. So they passed an act called the Packers and Stockyards Act. That act has worked pretty well over the many decades since 1921. Unfortunately, court decisions recently misinterpreted the intention of the act.

Back in 2005, a lawsuit was brought forward by a handful of livestock producers. This lawsuit claimed market manipulation by the meat-packing industry, thereby artificially lowering the price the cow/calf producer would get for their cattle. A jury awarded $1.28 billion in damages. Some time later, three judges decided to rewrite the Packers and Stockyards Act instead of interpreting it. They overturned the decision based on a legitimate business reason.

Amendment No. 3666 once again clarifies the Packers and Stockyards Act to its original intent, reintroducing competition into the marketplace, helping maintain a level and competitive playing field between widely dispersed cattle producers throughout the country and highly concentrated meat packers.

I don't think there is a person in this body who doesn't think the free market system is a good one. Currently, what we have in the meat-packing industry is four companies that control 80 percent of the marketplace. The CEOs of these four companies could go out on the golf course and determine how they are going to manipulate the marketplace. We need to make sure as a government we have protection in place for our family ranchers. That is what this amendment will accomplish. It will reinstate the Packers and Stockyards Act to its original form which worked so well for so many years.

We have 170 groups in favor of this amendment. There is going to be some groups that oppose it. The truth is, if we want to have a vibrant cow/calf producer environment and economy, we need to pass the amendment. We need to make sure they have every market advantage they deserve. It is tough enough on the farm and on the ranch to make a living. Right now in Montana, I didn't check the weather this morning, but it is probably a heck of a lot colder than it is here. In some places in Montana, because of drought, they are out feeding cattle right now. They are doing an honest day's work, and they should get an honest day's pay. When you have monopolization in the marketplace, it takes away the ability to get an honest day's pay for an honest day's work. This amendment is going to help the folks in Montana where agriculture is the No. 1 industry and the No. 1 issue. If we are going to keep this industry vibrant, we need to pass this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I yield 15 minutes to the Senator from Kansas, Mr. ROBERTS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. I thank my distinguished colleague for yielding me time.

I rise to speak in opposition to the amendment offered by my distinguished colleague from Montana. Despite the fact our Nation enjoys but apparently some do not appreciate the fact that production agriculture does provide the best quality food at the lowest price in the history of the world to feed not only America but the world's hungry, we have heard repeated calls for reform—and I know my colleague thinks his amendment falls into that category—of farm programs. While targeted and pertinent reform is certainly needed and this farm bill does take major steps forward in answering those calls, it seems to me we must be cautious of what lurks under the banner of reform. We must be mindful of the unintended consequences of our actions, and nowhere in this bill is that more evident than in the livestock title.

I represent a State where cattle outnumber people more than two-to-one. I have always said, usually they are in a better mood, especially with the weather we have been having. Cattle represented 61 percent of the agricultural cash receipts by generating over $6 billion in 2005; obviously more in 2006. I tell you this so you understand when I say the livestock industry is vital to Kansas and, I know, other States that are represented very ably in the Senate and to our national economy and our livelihoods. The underlying bill expands the scope of the Agricultural Fair Practices Act and the Packers and Stockyards Act. But these expansions will have major implications on the industry, and we must proceed with caution.

In the livestock hearing held in April, witnesses referenced a study which showed alternative marketing arrangements account for only 38 percent of the transactions in the fed cattle market. The cash market is responsible for 62 percent. Only 4.5 percent of transactions went through forward contracts and 5 percent through packer ownership. More importantly, this study concluded that alternative marketing agreements do benefit all segments of the cattle industry. It is through these marketing agreements that consumers are able to buy specialized products such as Certified Angus or Ranchers Reserve, or all-natural products.

Competition issues are nothing new to this body. I agree our producers need to be able to compete in today's markets. I share the concern of the Senator from Montana in this regard. It is the role of the Government to protect producers from unfair practices and monopolies. I understand the calls from some for increased Government involvement. At the same time, we must take careful steps to ensure that in any action we might take, we do not suffer from the law of unintended consequences and risk the significant gains the livestock industry has experienced to meet our consumers' needs. Regardless of the Senator's intent—I don't question that—I am concerned this amendment does that.

This amendment takes away a business's ability to make decisions freely. Let me lay out a scenario I think can be fully understood. Let's say you are a producer who has developed a program that produces a higher quality product than I, another producer, and both of us are trying to sell our product to the same packer. If the packer picks you, not me, or any other producer to fill the contract because your product does perform better or meets the demands of the customer, under this amendment, I can bring a lawsuit for that or that other producer can bring a lawsuit against the packer, even though they were making a decision based on sound business principles. The language is as clear as day in this amendment, ''regardless of any alleged business justification.'' Certainly, a packer can defend their cattle buying choices as a business justification.

This amendment would allow lawsuits to be filed regardless of this business justification. This amendment will result in all producers being treated the same—sounds good—regardless of how efficient or inefficient their operation may be and regardless of the quality of product they produce.

I know it would be easy, maybe nostalgic, maybe something we would want to do as we are sitting around having a cup of coffee, to return to the production days of 20 or 30 years ago. The market has changed dramatically. Production today is more efficient because of consumer demands. In this regard, the consumer is king. They want specialized products. They want all-natural beef. They want Certified Angus. They want U.S. premium beef or many other products that are produced under specified standards that meet a higher quality. Thankfully, the entire livestock industry, from growers

to feeders to packers to retailers, has made great strides in recent years to meet the demands of the marketplace. I am concerned this amendment puts all these consumer, market-driven products and investment at risk. This amendment does discourage innovation in the industry. Our producers would receive no premiums for adding value to their products. Why would anyone invest additional resources into their production system if they were not allowed to receive a return on their investment? This amendment, combined with the language in the underlying bill, will spur lawsuit after lawsuit and stifle innovation. This amendment does remove choices from producers and from processors and consumers.

I urge my colleagues to oppose it.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I believe my colleague had 15 minutes yielded to him. I ask unanimous consent to use the remainder of his time to speak on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. May I inquire how much time remains?

The PRESIDING OFFICER. There is 8½ minutes.

Mr. BROWNBACK. Mr. President, I join my colleague from Kansas in opposition to the Tester amendment. I appreciate my colleague from Montana offering this amendment. I respect his background and knowledge. He has worked in this field. He has lived this. He is living it in his own operation in Montana. I have a lot of respect for that and for what he is targeting. I have spent all my life in the agricultural business. I was raised on a farm, have undergraduate degrees in agriculture. I was Secretary of Agriculture in Kansas. I have worked on these issues a long time. We have all wanted to get more money in agriculture and keep more family farms operating. That is everybody's desire. I believe that is the desire and intent of this amendment.

However, in my State in Kansas, as my colleague has described, this is going to hurt family farm operations, and it will hurt people who are trying to get more money in their operation from the marketplace. I would like to briefly describe one example I recently experienced, an operation of a small family feed yard that does operate for a number of different individuals in the eastern part of Kansas. It is the Knight Feedlot. They have been operating for quite a few years in Lyons, KS. They have an innovative program. It is an alternative marketing program. They raise hormone-free, antibiotic-free cattle. They sell the meat directly from this feed yard into premium grocery stores in Connecticut and New York. It is the sort of thing many of us have been talking about. Let's get the producer closer to the consumer and sell the product they want. This is hormone-free, antibiotic-free beef. Anybody in this room who has raised cattle knows that if you are going to go hormone free and antibiotic free, you have increased your risk and the cost of your operation substantially to meet that consumer need. These guys are doing that. Any animal that gets sick, they have to pull out of the program because they have to keep the animal alive. To do it, they are going to use antibiotics, so the animal is out of the program when that takes place. It winnows down fairly fast. When you get weather fluctuations such as are taking place now, you get more problems and more animals out of the program.

But eventually, because of a contractual operation they have with a packer—because these are feeders, they are not packers—they are able to get their animals identified through the system, they are able to get the packer to deliver that meat to the counter in Connecticut and New York, because my Kansas feeders are not lined up to do that, they have a contractual arrangement to do that, and, as a result, they are able to get a substantial premium for their beef.

The consumer in Connecticut and New York can see who produces it, and the pictures of Kenny and Mark Knight are by the display counter on the beef case in these stores. They have been there, and they have been there to sell their beef. It works. It works for them, and they get a substantial premium for this beef. The consumer likes it, and they like seeing who has produced their beef.

That operation would be illegal under the direction of this amendment. I believe this amendment would generate lawsuits against that very type of operation.

I respect my colleague from Montana and his efforts to preserve the family farm operation—family farm operations like what my parents have and my brother is on. This amendment is not the way. It is micromanagement from here. One of the things I have certainly seen is you cannot micromanage America, and you should not try. The best is to set up fair playing rules. We have rules in this system. But we should not punish people who are trying to innovate to get more money for their producers in innovative fashions and using alternate marketing means and being successful at it.

The Knights had to invest a substantial amount of money to get this arrangement set. They had to hire somebody to do the marketing. They had to hire somebody and get enough cattle to be able to enter into a contractual arrangement with the packer to keep these cattle identified and keep them identified to be able to deliver to the consumers in Connecticut and New York. Without that, they are not packers, they cannot do this. This amendment would hurt their operation. As a matter of fact, it would make it illegal and bring lawsuits against it.

I urge my colleagues to vote against this amendment on a number of grounds: No. 1, it prohibits innovation, and No. 2, it really tries to micromanage something we should not try to micromanage. It is going to hurt my Kansas feeders.

For all those reasons, I urge opposition to the Tester amendment.

I yield the floor and reserve the remainder of the time, if there is any on our side on this.

The PRESIDING OFFICER (Mr. BROWN). Who yields time?

Mr. CRAIG. Mr. President, may I make an inquiry?

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Are there any more who wish to debate the Tester amendment prior to us moving to—

Mr. TESTER. Yes.

Mr. CRAIG. All right.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. TESTER. Mr. President, first of all, I want to thank the good Senators from Kansas for their comments. I, too, respect your opinion. I ask that you pay careful attention to what I am about to say. I am actually in the specialty crop business personally. It has been well documented, I raise organic crops. I do not raise organic beef, but I am around people who raise organic beef and market it freely. They will be able to continue to market it freely with the adoption of this amendment. So the folks, the Knights you talked about, in Kansas are still going to be able to market their hormone-free beef.

It speaks specifically in the Packers and Stockyards Act about restraining commerce and creating a monopoly. They cannot have an alleged business justification to do that. When you are adding value to a product, you are increasing the value. When you are raising specialty crops or you are specializing in grass-fed beef or specializing in hormone-fed beef or antibiotic-fed beef, you still have access to those premium prices.

What the Packers and Stockyards Act does is it protects the cattle producers and those feeders you talked about. It allows them to stay in business, to be able to get that premium price. What this amendment does is protects them from those four packers—who control 80 percent of the country's meat supply; and it could be fewer than that next year controlling 80 percent of the meat supply if they buy one another out—it protects them from those four packers setting prices by using an alleged business justification to create a monopoly or restrain the commerce around the meatpacking industry.

It is critically important that you know that the unintended consequences you talk about are not going to exist with this amendment. Those unintended consequences are simply not there. What this amendment will do is it will reinstate the free market system in our cattle industry.

The point I made earlier, in my opening statement, is where you can literally have four CEOs of four companies that control 80 percent of the meatpacking industry be able to manipulate forward contracts, be able to manipulate the transactions within their business, and put on a business justification for it, and now all of a sudden it is OK under the Packers and Stockyards Act. That simply is not right. We ought not go encouraging monopolization anywhere, much less in agriculture that puts our producers at risk to driving them off the ranches in this country.

In Montana, we have about four times as many cattle as we do people, I believe. It is a big issue. Premiums are still going to be there. Specialized beef is still going to be there. The ability to add value to our meat products is still going to be there for them to get the price they deserve for it. What this will stop is the meatpackers from—and I read right straight from the Packers and Stockyards Act—restraining commerce, creating a monopoly, regardless of any alleged business justification.

Next paragraph: restraining commerce, regardless of any alleged business justification.

The last time I heard, the last time I checked, if you are getting paid a premium, you are not restraining commerce, you are promoting commerce.

And it goes on: to manipulate or control prices regardless of any alleged business justification.

There are no boogeymen in these amendments, folks. This is a good amendment. We dealt with an amendment yesterday that talked about producers and the kind of pressures they are under and the mental health aspects that impact farmers and ranchers when they are put under financial pressures. I believe we adopted that amendment.

The fact is, if you want to help farmers' and ranchers' success, adopt this amendment. It will make them more financially vibrant.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The sponsor of the amendment has 19 minutes, and there is 17 minutes for the opposition.

Mr. HARKIN. We have 19 minutes?

The PRESIDING OFFICER. The sponsor has 19 minutes; the opposition has 17 minutes.

Mr. HARKIN. Mr. President, I ask the Senator, will he yield me 4 or 5 minutes?

Mr. TESTER. You bet.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I rise in support of the amendment offered by the Senator from Montana. I am a cosponsor of the amendment.

First, I will just make an observation. In this body, out of 100 Senators, we have 2 bona fide farmers, one on the Republican side, my colleague from Iowa, Senator GRASSLEY, and one on our side, the Senator from Montana, Mr. TESTER. These are people who actually do farm—not just own a farm, but they actually do farm. So when I hear them talk about things in agriculture, I give a lot of weight to it, not that they are always right, obviously. They would not claim that, I am sure. But you have to give some weight to their arguments, especially when they are making it on behalf of farmers.

So when this amendment was first offered by the Senator from Montana, I began to look at it and consider it because I, too, had thought about the issues raised by the Senators from Kansas about whether it would be restrictive of a packer who wanted to provide premiums. I think he maybe mentioned an Angus cut or a cowboy cut, Black Angus bone-in rib eye, those that have premiums.

So I was concerned. I asked my staff: Let's look at this and make sure we are OK on this. I think the way the amendment is drafted does, in fact, allow those kinds of contracts to be made because they are not manipulative of a marketplace.

What the Tester amendment really goes to, I think—and I think it is clear in the way it is drafted—it goes to the packers who, let's say, might engage in collusive practices that would, in fact, depress the market price on a certain day or during a certain time and then claim they have a pro-business reason for doing so.

I have not seen a business yet, in case after case—where they have colluded or where there has been some dealings—where they have not said, well, it is better for their business. Of course, if they can increase their profits, it is always better for their business, but increasing their profits at what expense? At the expense of a farmer who is relying upon the livestock market.

So I think the amendment is one that really gets to the heart of the case, the Pickett case. We all know about the Pickett case. I think the Eleventh Circuit Court of Appeals really went riding off the range. I do not know where they came up with some of their thoughts on that. It is not the first time that the courts have gotten off course.

The Packers and Stockyards Act was enacted to protect producers from packers. That was the intent, and it has been the intent ever since, to protect producers from packers. It was never intended to be some bill to ensure that packers are competitive or that they are competitive with other packers. That was never the intent of the Packers and Stockyards Act. It is to protect producers from packers to make sure there is as level a playing field as possible out there for the market to work.

Markets: many buyers, many sellers—that is how a market works. If you have many buyers and one seller, no market. If you have one buyer and many sellers, no market. You have to have many buyers and many sellers for the market to work. That is what the Packers and Stockyards Act aims to protect.

So, again, the amendment is not in any way intended to infringe upon contracts or forward contracts or the kinds of contracts that were mentioned in terms of giving premium prices for different kinds of meat produced. It was never intended—I know the Senator talked about the law of unintended consequences, but, again, I think the amendment is clear. The intent is to ensure anti-competitive practices in the marketplace are not allowed—are not allowed—regardless of a business justification.

So, again, right now I think we have a case where the packers—I know a lot of them—I would like to say the ones I know are honest and above board, and they are. But that does not mean they all are. When it comes to making a profit here, maybe dealing something on the side. Eventually they will think they have a green light to engage in collusive practices to manipulate the market, and all you have to do is go into court and say: Business justification. What is the business justification? I made more money. I made more money. But at whose expense? At whose expense?

That is why this amendment is so important. I think it is important we shine a light and at least clarify for our producers that the Eleventh Circuit Court's opinion on this is not the law of the land. We decide the law, not the Eleventh Circuit Court of Appeals.

Mr. HARKIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise today in opposition to this amendment.

I, too, have great deference to those folks who till the soil and produce products that we all enjoy as consumers from an agricultural perspective. I am not a farmer, but I am a lawyer. I have read laws all my life. Frankly, all you have to do is read this amendment to realize that the amendment would prevent businesses from using legitimate business justifications as a defense against claims of unlawful practices under the Packers and Stockyards Act.

I would simply go to the first page, section 2, where it says on page 1232 that we are going to strike the clause regardless of any business justification. This clearly is a determination that should be left to the discretion of the U.S. courts and not summarily decided in advance by Congress.

A business should be able to offer as a defense that their actions were done legitimately as a means of conducting business. The court has the option to

examine this defense and gauge it against those practices deemed unlawful under the Packers and Stockyards Act.

If a producer believes a packer has conspired to create a monopoly, he has a right to sue that packer. What if the packer's decision was made not as an effort to create a monopoly but as an effort to secure higher quality cattle from a consistent supplier? The courts simply must have the discretion to make this determination.

Including language in the Packers and Stockyards Act that enumerates unlawful practices and adds the phrase ''regardless of any alleged business justification'' is simply prejudicial against American businesses.

I am sympathetic to producers who are concerned about their evolving role in the livestock marketplace, but this amendment is overreaching and will inject uncertainty into legitimate business decisions.

Let's not attempt to stack the deck on behalf of one party over another. We should allow the courts all due discretion in determining if the actions of American businesses are justified under the Packers and Stockyards Act.

I urge my colleagues to vote against this amendment.

Mr. President, I am happy to yield to the Senator from Kansas, Mr. BROWNBACK.

Mr. BROWNBACK. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. The opposition has 15 minutes remaining.

Mr. BROWNBACK. Mr. President, I wish to use 5 minutes of that time.

I respect those who do farm. My dad does, and I have a lot of respect for him. I have a brother who farms as well, and it is tough. It is a hard life.

I went to law school, and in my background I taught agricultural law. I have written two books on it, if anybody is interested. I don't think they are still for sale because they never sold very well.

But my point in saying that is one of the key things which is always talked about in agriculture is the Packers and Stockyards Act. It was developed back in the 1920s and 1930s because of this imbalance that was developing and was really heightened at that point in time even more so than today between the packers and producers. There were a lot more producers that were a lot smaller at that point in time and taken advantage of by packers. It was a very unscrupulous setting, and they passed the Packers and Stockyards Act. It was a very important piece of legislation, particularly in farm country, and it did have a substantial impact and continues to have a substantial impact today.

The situation today is different than it was back then. What you have now are a number of producers that are, in many cases, of a larger scale and trying to get closer to the consumer. You have small producers as well, such as my family, who are small producers and who often will link up with bigger sized producers and feed yards to try to get more money for their cattle. Everybody is trying to get more money for their cattle, and that is what I want to take place: more money for the producer for the cattle.

Unfortunately, because of the way this is drafted and because of being a lawyer and being somebody in the agricultural industry—and you are taking away: regardless of any alleged business justification. So my family says we are going to try this hormone-free, antibiotic-free beef, but we have to pool together at a feed yard that is big enough to negotiate with the packers to do this, and so they do that. We have 1,000 head of cattle from everybody—all 20 or more people who are doing this—and then they are going to market it directly on forward. That is a business justification to pay my family more for their cattle. That is a business justification for them to do it.

But we have taken it right out of here. We have said: regardless of any alleged business justification.

So, now, while my family is trying to move with this packer group through the feed yard to get closer to the consumer to take advantage of this, which is a business justification, this says, no, you can't assume that in the Packers and Stockyards Act. So somebody on the other side of this, or somebody just wanting to be ornery about it says: Look, you can't do that. You can't do it. It is right here.

I know the author's intent is not that intent. I also am a lawyer. This is something you can do under this draft of it. I appreciate the sentiment with which this is made. I appreciate the history of the Packers and Stockyards Act. It has been important. It remains important today. This isn't the way to get at this. This is going to cause people to have to go back to a generic marketplace for beef. You can say: Well, I am fine with a generic marketplace for beef—most people are—but there are a lot of people who like specialty beef. That is where the producer gets in and gets a bigger slice of the pie is when he goes at the narrow marketplace for a specialty-type product and segments his marketplace. This, I honestly believe, is going to cut off these types of arrangements for farm families in my State, and I believe a lot of other places, to be able to get into them.

I understand the intent. I look at it on the surface, and we could probably say good idea, but this is something whereby lawyers who practice in this field are going to see a real opportunity to shut something off, and I think there are plenty of people who are desirous of doing something like that. I would urge my colleagues to vote against this amendment.

I retain the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Would the Senator from Montana yield me some time, please?

Mr. TESTER. Yes.

Mr. GRASSLEY. Why don't you say how much I can have.

Mr. TESTER. How much do you want?

Mr. GRASSLEY. I would like to have 5 minutes.

Mr. TESTER. I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. GRASSLEY. Mr. President, what the Senator from Montana is trying to do has to be done if we are going to have justice for the family farmer. We have been involved in suits regarding the packing houses for 20 years. I remember when I first came to Congress, we were trying to overturn the Illinois Brick case because it stood in the way of the family farmer getting justice in business. So you end up fighting the National Manufacturers Association and the U.S. Chamber of Commerce to bring justice to family farmers.

Finally, in a lawsuit down in Alabama, we get a jury who says the family farmer is right, but you get a judge who overrules the jury.

Now, I want to speak about not just this particular case, because Senator TESTER is doing that, but I hope everybody in this Senate remembers that on several different occasions, everybody in the food chain beyond the farmer's gate was lining up against the farmer. I will cite just a recent example in regard to food and fuel and the ethanol issue and corn going to $4 and the price of food going up and every farmer getting blamed for it. Every person in the food chain outside of the farmer's gate was involved in that conspiracy that had nothing to do with the price of food rising, but the family farmer got blamed for it when food went to $4—or when corn went to $4. But when the price of corn went down to $2.85, I didn't see the price of food go down. But the conspiracy exists.

This court case and this judge and this ruling on the Packers and Stockyards Act is contributing to that conspiracy. We need to get behind it and get some justice for the family farmer.

Now, if you want to know why there is a justification in doing what we are doing, all you have to do is go to a statement that a CEO of a major corporation made a few years ago—a little bit unrelated to this, but somewhat related to it—which is: Why do slaughterhouses and packing companies own livestock? We own livestock, the answer was, in a very candid way; we own livestock because when prices are high, we kill our own, and when prices are low, we buy from the farmer.

What we need is a marketplace that has a great deal of transparency. We fight, trying to get information on sales from these packing companies under price discovery. We pass legislation to make price discovery real. Then we get regulations from the U.S. Department of Agriculture—we get regulations from the U.S. Department of

Agriculture to the extent that we do not meet the goals of the legislation, and we don't get as much information under the regulations of the Department.

I had a staff person who just wanted to go back to Iowa and work for the Department of Agriculture. He is going to work for the Packers and Stockyards Act. I said to him: You know, you want to go there because you don't want to do anything, because they don't do anything to help the family farmer. I didn't change his mind. He is still there working, and I hope he is doing a good job. He knows how I feel about it. Maybe he will actually get something done.

But we have to get rid of this attitude that you are going to let everybody beyond the farmer's gate gang up on the farmers, particularly when there is a court case where the jury is giving justice to the farmers.

We have to pass this amendment so we get justice for the family farmer.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Mr. President, can I inquire as to how much time is remaining?

The PRESIDING OFFICER. The supporters of the amendment have 7 minutes 30 seconds; the opponents have 10 minutes 40 seconds.

Mr. CHAMBLISS. I yield 5 minutes to the Senator from Kansas, Mr. ROBERTS.

Mr. ROBERTS. Mr. President, let me say to my good friend from Iowa who is shaking the hand of my good friend from Montana that justice and conspiracy are in the eyes of the beholder. I thank him for his feeling for agriculture and his passion for all of agriculture and all that he represents. He is an outstanding champion of agriculture. However, in this particular case, I don't agree.

I am going to use an example. Instead of cattle, I am going to use hogs. If producer A contracts with five neighboring producers to supply his contract with packer A, but he decides he only wants to buy from neighbor 1 and 2 because the others are currently having animal health issues, as referenced by my distinguished colleague from Kansas, the others are having these health issues impacting that producer A's performance and pricing. Neighbors 3 and 4 and 5 under this amendment can sue producer A because—yes, they have been injured because they are no longer selling hogs to producer A. So producer A's business defense is that animal disease issues in the barns of neighbors 3, 4, and 5 are producing weak performers, and he made a business decision to not buy from them.

The Tester amendment simply takes away that defense. This is hogs, not cattle. So producer A will lose and have to pay damages and attorney's fees. I don't think that is the road we want to go down.

Now, 20 years ago the beef industry lost market share. There have been a lot of studies as to why. Many livestock associations, State by State by State, knew they were losing market share while producing what is now defined as a generic commodity. Through innovation and management of genetics, premium products have been developed, and the consumer has responded. I mentioned the variety of products the consumers wish to buy and do buy. To return to this market scenario of 20 years will be a loss to consumers, a loss to producers, and, quite frankly, I am going to warn, there will be a movement to increase imports to meet these demands. If, in fact, this packer cannot get this particular product for a consumer demand and we have a generic commodity and we will not produce that, he will go overseas. He will ask for beef imports. That will be one of the laws of unintended effects.

I urge the defeat of the Tester amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana is recognized.

Mr. TESTER. Mr. President, I thank the Senators from Kansas for their time. I appreciate a good discussion on the amendment. If they would not have come to the floor, we would not have had this good discussion. I also thank Senators GRASSLEY and HARKIN for cosponsoring this amendment. I particularly thank Senator HARKIN for his comments on the floor, and also Senator GRASSLEY for his comments.

Senator GRASSLEY and I are arguably the two folks in the Senate who are in production agriculture. I am very proud of that fact personally. I know Senator GRASSLEY is, too. I know everybody in this body wants to make sure that people in production agriculture get a fair shake—not over and above what they deserve but a fair shake. That is what the farmers want and what this bill is supposed to be about.

In this body, we all know you can only make good decisions if you have good information. We also know if you take just three words—and I will admit this is called the ''no justification amendment.'' But if you take those three words and set aside all of the other words around it, they don't mean a heck of a lot. You can interpret them to mean anything you want. I am not an attorney. I respect those in this body who are and folks around this country who are. But you need to take the entire bill and look at the language as it is inserted into the bill.

If a farmer or rancher has health issues with their herd, whether it is pork, chickens, beef, or any other livestock they are marketing for food purposes, they don't have to buy it. That isn't restraining trade or commerce. That is not creating a monopoly. That is what those words revolve around—those three words—''no business justification.'' You have to take at least the segment before, if you are going to get an idea of what it says. It says the effect of restraining commerce or creating a monopoly ''regardless of any alleged business justification.''

If you want to put the boots to the ranchers—it won't happen all the time, and let's hope it happens very little. In fact, if they don't put this amendment on the farm bill to make the Packers and Stockyards bill what it was when it was originally passed in 1921, you are not going to have a free market system. You are going to have a system where the four major packers can manipulate the marketplace when they feel like it. They may never feel like it. But if times get tough, what the heck, make a few extra bucks and keep the stockholders happy.

It was talked about today that it is going to make beef or pork into a generic commodity. I led the charge on country-of-origin labeling in Montana. We passed it in 2005. I want our products to be different. I am all in favor of certified Angus beef and grassfed and all those specialized things that the consumer wants. This bill doesn't take that ability away. If you have sick cattle, you don't have to buy them. If you have Angus certified beef, you can market it that way, as long as it meets their criteria—certified Angus beef I am talking about, not stockyards.

In fact, this is good for production agriculture. Senator GRASSLEY talked about farm gate prices. If you want to hold them artificially low and keep putting in subsidies, these are the kinds of things you do. If you want to have a free market system where people get a fair price for a fair day's work for the product they worked so hard to get on the market, the family farms and ranchers—cow/calf operators, in this particular case—this amendment needs to be passed.

How much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes 10 seconds.

Mr. TESTER. In closing, there are no unintended consequences here. This is straightforward. If you read the language as it goes in the Packers and Stockyards Act, it can be interpreted no other way other than if a company wants to restrain commerce or create a monopoly, period.

It will stop packers from, as Senator GRASSLEY talked about, dumping cattle when prices are high. It will make the market work better.

In closing, I again thank the Senators from Kansas. I thank Senator GRASSLEY and Senator HARKIN. I ask this body to take this amendment for what it is. It is an amendment that will indeed support family farm cow/calf producers on the ranches of this country.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Two minutes. The opposition has 7 minutes 40 seconds.

Mr. CHAMBLISS. We have a couple more speakers who are on the way. As soon as they arrive, we will yield time to them.

Mr. TESTER. Mr. President, I will speak after they get done, so I will retain my 2 minutes.

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I appreciate the generous offer from the ranking member.

This is tough. Senator TESTER is a friend, but he is misguided. The fact is that the law today has served us well in this country. I think it is vitally important for all Senators to realize that agriculture is a business that reacts and changes to market demands.

We have put legislation into place that allows the markets to operate, and these laws serve as guidelines for farmers in how they make their business plans for the future. As a matter of fact, we are the envy of the rest of the world. The agricultural markets in this country, the hogs raised and sold and eaten, the chickens and the turkeys—and in North Carolina's case, we rank extremely high; we are No. 2 in hogs and turkey production. I daresay every person in the room, and even in America, has eaten pork from North Carolina at one point or another. One of the reasons hog farmers in my State have been able to grow and produce the best pork in the world is the regulatory forces that govern the livestock industry.

What we are being asked to do in this amendment is to turn that on its head. Today, current law says if a producer wants to bring suit against a processor for injuries to the producer's business, they have to show that they have actually been injured. Let me restate that. Current law says if a producer wants to bring suit against a processor for injuries to the producer's business, they have to show they have actually been injured. That is a threshold that ought to be for everything that a suit is brought on.

Let me put in practical terms exactly what the Tester amendment would do. It would say that a company that contracts with a producer, a grower, and because they have determined that that grower has exceeded the minimum standards, has done things that technologically enhanced the products they are going to purchase, that if they reward them by paying them more money because the product is better, they are now susceptible to a grower who may not be dealing with 10,000 hogs, he may be dealing with 10 hogs. He might not adapt his surroundings to the new technologies; therefore, the meat is not as good. But if they are not paid the same, he will go to court and sue that he should have been paid the same thing as the contract for 10,000.

What is the net result of it? If I were in a State that had smaller producers who felt disadvantaged from a price, I might look at it differently, but what is the impact? The impact is that companies are not going to raise everybody's boat, they are going to lower everybody's boat. They are going to pay every producer less. There will be no incentive for new technologies to go into agriculture—specifically hogs, turkeys, and chickens. There will be no choice for consumers between grades of products, some that taste better than others, because we will now dumb down to what this new standard is, and that standard will be to make sure you are not susceptible to lawsuits. Everybody, regardless of size, regardless of the quality of the product, will be paid the same.

I will say that again. Regardless of the quality, regardless of the size of the purchase, because of this one little change, which is that you have to prove you were injured, producers will be obligated. You might say it is their choice; but if a choice is between being sued every time there are contracts that say different things, or accepting one standard and applying that to everybody, they are going to accept one standard and apply it to everybody because they cannot pass on the litigation costs of these foods.

Please tell me when 1 minute is left.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. BURR. I hope my colleagues here understand that the law, as currently written, works. It has served this country well and it has produced choice, it has produced quality, and it has fairly reimbursed all who entered into it. Let's not change it, and let's make sure the products that America has chosen and continues to choose in the marketplace are driven by the marketplace, not manipulated by this body in Washington.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TESTER. Mr. President, I thank the Senator from North Carolina, my comrade in the Russell Building. I appreciate his comments. You have to have good information to make a good decision. There are a couple of things I need to point out. First, in production agriculture, we are not price makers, we are price takers. When you have 80 percent consolidation in the meat packing industry, you don't have much choice when they don't have this language in the Packers and Stockyards Act.

If you are talking about rewarding a grower because they have less fat, or bigger ribeye size, or leaner beef, this doesn't stop that from happening. I believe there are enough attorneys in the room that if you read this Packers and Stockyard Act in its entirety, which is about a page, you will find out that the alleged business justification applies to when you are restraining commerce or creating a monopoly. If you want a free market system, which you talked about, this body needs to pass this amendment so there is a free market in the pork, poultry, beef industry. Pork, by the way, is more consolidated than beef. Chickens are worse yet. All I want for farmers and ranchers and the people in production agriculture—the cow/calf operators, in particular—is that they get a fair shake.

If we pass this amendment No. 3666, you will allow those cow/calf operators to get a fair shake in the marketplace and be able to become financially viable, so this Government doesn't have to talk about subsidies, and they can get their paycheck from the marketplace, and it is a fair paycheck.

With that, I ask the Senate to vote for this amendment. I thank my fellow Members for the good debate.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired.

The question is on agreeing to the amendment.

Mr. CHAMBLISS. Mr. President, have the yeas and nays been requested on this amendment?

The PRESIDING OFFICER. They have not.

Mr. CHAMBLISS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BROWNBACK. Parliamentary inquiry as to whether this could be a voice vote so we can move on. We have a number of amendments. I inquire as to that issue. I will suggest the absence of a quorum to sort this issue through. We might be able to save the body some time. I wish to speak with people about it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ROBERTS. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue with the call of the roll.

The legislative clerk continued with the call of the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3720 WITHDRAWN

Mr. HARKIN. Mr. President, I ask unanimous consent that the Schumer amendment No. 3720 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

AMENDMENT NO. 3640

Mr. CRAIG. I ask unanimous consent that the pending amendment, the Tester amendment, be set aside and amendment 3640 be called up.

The PRESIDING OFFICER. Is there objection? The Senator from Iowa.

Mr. HARKIN. Will the Senator yield?

Mr. CRAIG. I will be happy to yield.

Mr. HARKIN. The yeas and nays have been ordered on the Tester amendment. I ask unanimous consent that the vote on or in relation to the Tester amendment occur at a time to be determined later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the unanimous consent request from the senior Senator from Idaho, Mr. CRAIG? If not, the amendment is once again pending. The Senator from Idaho.

Mr. CRAIG. Mr. President, earlier on, we thought we had a 40-minute time agreement. We are going to start the debate on this amendment. Some of our colleagues want to discuss it. With that in mind, let me open the debate on amendment No. 3640, an amendment we think is critical to America's farmers and ranchers and the value of private property.

Ever since the Supreme Court in 2005 decided on the Kelo decision, I have felt and many others have felt, including the American Farm Bureau, that America's farmers' and ranchers' property is now at a greater risk today than ever before by the issuance of eminent domain, or the broadening of the power of Government as it relates to that issue.

I debated this amendment earlier. Several of my colleagues are on the floor and want to debate this amendment. Let me now turn to my colleague from Colorado, the senior Senator, Mr. ALLARD, and yield to him 10 minutes for the purpose of debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from Idaho for his leadership on this particular issue. I am involved because farmers and ranchers all over the country are being impacted by their land values since the Supreme Court's ruling in Kelo.

As was stated by the Farm Bureau, farmers and ranchers have been particularly vulnerable to States or local municipalities taking their land for private economic uses, open space or other purposes.

Farmlands in several States have already been taken for open space purposes. The Farm Bureau goes on to say the amendment would strongly discourage the exercise of eminent domain for open space purposes.

I have a strong record of supporting limitations on eminent domain. I have to rise on behalf of my farmers and ranchers in Colorado in support of Senator CRAIG's amendment. This amendment would protect farmland and ranchland throughout this great Nation from land condemnation for use as open space.

I wish to be clear at the outset that this amendment would not affect uses of eminent domain that have been found to be justified. There are a few legitimate uses for eminent domain powers. Necessary use of eminent domain for items such as utility corridors or military and national security needs would not be affected.

America's farmers and ranchers are some of the best land managers around. Not only do they manage their land in a manner making it the most productive in the world but also in a way that makes it some of the most scenic land in our country and certainly a valuable way of keeping open space because of the nature of their operations.

The vistas of rural America possess some of the most remarkable scenery in the world. However, while their beauty is remarkable, their true value lies in the foods and fibers they produce.

An unsettling trend is now unfolding in small towns and rural communities from coast to coast. The use of eminent domain to condemn working agricultural lands or lands that will be transferred from one private property owner to another. This is an expansive use of eminent domain.

This condemnation results not only in weakening our national security by threatening our food supply but harms the economies of rural America and steals—yes, steals—private land from rightful owners.

Senator CRAIG's amendment, which I support, along with Senator BROWNBACK, would discourage this disturbing occurrence. It prohibits access to Federal financial assistance for a period of 5 years to any State or unit of local government choosing to exercise the use of eminent domain to take working agricultural ground for the purpose of open space.

This reasonable and measured approach would help protect America's agricultural land by making governments weigh the need of taking land against their desire for Federal funds.

Senators should remember the right to own property was one of the key principles on which this Nation was founded. I daresay that if the Founding Fathers were here today, they would support passage of Senator CRAIG's amendment.

As Thomas Jefferson noted in 1775 in the Declaration on Taking Up Arms:

> The political institutions of America, its various soils and climates, opened a certain resource to the unfortunate and to the enterprising of every country and insured them the acquisition and free possession of property.

Let me say this again: ''The free possession of property'' is the principle the Craig amendment supports. I have a long legislative record of supporting the rights of the private property owner. The State of Colorado also has a long record of opposition to the taking of private property. As a Senator, I believe it is important to ensure that private property owners are able to retain possession of their land. There is a right way and a wrong way to do things. Working with willing sellers is the right way. Condemning working agricultural land for open space is the wrong way. I urge my colleagues to listen to their conscience and support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho is recognized.

Mr. CRAIG. We are operating under an open time agreement. With that in mind, I yield 10 minutes to our agricultural counsel from the great State of Kansas, Senator BROWNBACK.

The PRESIDING OFFICER. The junior Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I am the senior Senator from Kansas to Senator ROBERTS. I wanted to acknowledge that on the floor.

Mr. CRAIG. I said ''counsel.''

Mr. BROWNBACK. I was called the junior Senator from Kansas.

The PRESIDING OFFICER. The Chair's mistake. I apologize.

Mr. BROWNBACK. I thank the Presiding Officer. I appreciate that greatly. I always need to watch my junior Senator and make sure he is in his place.

Mr. President, I note, properly, my junior Senator is the dean of the Kansas delegation, even if he is the junior Senator.

I rise in support of the Craig amendment. I wish to make comments that I think are pertinent and germane to the farm bill because I believe this admendment is pertinent and germane to the farm bill. I know colleagues are looking at this amendment saying it is a private property rights issue, it belongs in the Judiciary Committee and this is an issue we should track through that committee. This is an issue involving agricultural lands, which I think is wholly appropriate for the farm bill.

Also, private property issues are so key and central to farming in the United States. It is in many places dominantly private property issues. In the West, there are a lot of public lands and agricultural use in public lands areas. But private rights dominates throughout the agricultural system of our country. There was a shock sent out with the Kelo case when the Court said you now don't have to have this justification of a public use for private property to be taken and can condemn it.

Many were shocked on all sides of the aisle—right, left, middle, people in urban areas, people in rural areas. I wish to say specifically people from rural areas were particularly struck by this decision because they all feel an

attack frequently from people in governmental entities to take lands for power lines, parks, land that should go back to them in some cases, if it is a railroad line that has been abandoned and the deed said the land will revert to the farmland owner and then it is taken for a trail. People are saying wait a minute, I thought we had private property rights, basic in our constitution, basic in our philosophy, basic to agriculture.

This is a narrow issue to get at the Kelo decision. It is well crafted by the Senator from Idaho to support those private property rights. The amendment will deter States and local governments from taking working agricultural land against the will of the landowner only to designate that same land as open space. Here I think you can look at that and say, well, obviously, that is something we should protect, that private property right. If there is to be eminent domain, it has to be listed on a public purpose, like we have had eminent domain laws for some period of time now, and not just taking it to keep an open space. If that is to take place, there needs to be a different set and a different system rather than what is being allowed or expanded after Kelo by local or State units of government.

This narrows the decision of Kelo back to what it was prior to Kelo—a protection of private property rights. I think that is important. I think it is a key issue and one that is a top priority to agriculture and landowners. Indeed, the President of the American Farm Bureau Federation said after Kelo:

No one's home or farm and ranch land is safe from government seizure because of this ruling.

Well, let's make sure their land is safe. We can do that, and this is an amendment that helps to do that. I think it is an important amendment to help to do that. If you voted in support of private property rights, I would hope you would support the Craig amendment, whichever side of the aisle you are on, and say there is an appropriate way and there is an inappropriate way and the appropriate way to make sure you have eminent domain is for a public purpose and not just taking agricultural lands to maintain open spaces and reducing the value of that land or its workability as agriculture.

This is an important, good amendment, and I urge my colleagues to support it.

I yield back to the sponsor of the bill.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Idaho.

Mr. CRAIG. Madam President, it is important for my colleagues to understand this is a private property rights debate. For some who have said, well, this is in the jurisdiction of the Judiciary Committee—and I understand the other side is going to ask for a 60-vote threshold—one of the reasons we are on the floor in a post-Kelo decision environment is because things are beginning to happen out there that frustrate all of us.

My colleague from Kansas echoes the sentiment of the American Farm Bureau and their president, speaking out about the risk now that open space property, farming property, ranching property has as a result of Kelo. Some would say on the floor it doesn't appear to be a problem. Let me suggest it is.

In Scattaway, NJ, a family protested its eviction from their 75-acre farm the town had seized under eminent domain for an open space designation. That happened in New Jersey. In Woodland, CA, in Yolo County, CA, the board of supervisors decided to seize a large area of farmland using eminent domain and declared the property open space. So here a government entity steps in and says: We are going to take open space and make it open space and we are going to use our power to do that—no willing seller, no willing buyer, a new shaping of eminent domain.

Eminent domain, as we knew it pre-Kelo, said, public use for a legitimate public use, and that usually almost always fell into rights of way, roads, power lines, and those kinds of things where, for the public good, access was being denied.

Kelo tipped that upside down.

New Brunswick, NJ. New Brunswick moved forward to condemn, using its power of eminent domain, a 104-acre farm. Open space again. Telluride, CO. The senior Senator from Colorado was on the floor supporting our amendment. The town decided to use its power of eminent domain to take about 570 acres of an 800-acre ranch and designate the property as open space. Once again, the power is being used.

That is why America's farmers and ranchers and America's agricultural organizations that represent them grow increasingly alarmed.

Sussex County, NJ. The State of New Jersey used its power of eminent domain to take 17 acres of working agricultural property to create a wetlands. Open space again.

Matthews, NC. York County, PA. York County, PA, was the one I used as I introduced this amendment a couple days ago, where the family fought, invested lots of money, and took on the county. As a result, two county supervisors were defeated in the election because they were going after private property for an open space designation, and the county said: Oh, no, you don't; you are out. Ultimately, the family won but at great expense defending their right of private property.

That is why the American Farm Bureau has said this is a high priority for us.

Madam President, Justice Sandra Day O'Connor, dissenting in Kelo v. the City of New London, which has tipped this eminent domain issue upside down, said this in her dissenting views, and it is so clear today the vision of this justice.

The outfall from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more.

She spoke with great wisdom, particularly about the victims—those are the property owners—because that is exactly what is happening out there.

Is open space necessary? You bet it is. Does open space have value? You bet it does. There is no question in an urbanizing environment, parks and parkland and open space is critical. Why not willing seller/willing buyer? Why not go into the market as a city that has taxing power or a county that has taxing power ought to do and say, you know, we are going to raise a bit to go out and buy a piece of open property, instead of taking it? Now, yes, they compensate in eminent domain, but they basically establish the price. They do not have to compete.

So Kelo tipped us upside down, because in New London, as we remember, the city used their right to take away private property and gave it to a private developer because there was someone who was holding up a development. They were trying to hold onto their land. This is a critical private property rights debate and so very necessary.

I mentioned the family in Pennsylvania. For over 3 years, in Pennsylvania, that family fought their local government. How do you do it? You hire attorneys. Attorneys are expensive. You do the battle, you set up the legal case, because the county—in this instance the county government—wanted to take the land. As I mentioned, it didn't sit well with the citizens. Most citizens respect the right of private property. Most citizens understand that under our Constitution, there is a legitimate purpose for taking, and it was called eminent domain when the public good and the public value was clear.

That is the issue. It is quite simple. Now, is it a judiciary issue? Yes, it is. It is also an agricultural, farm bill issue. The reason I am on the floor with the amendment is because this taking is beginning to accelerate across our Nation and our Judiciary Committee has done nothing, to date, to reshape the Kelo decision, to protect the rights of the private property owner beyond the legitimate public good, and it is an important thing we do. That is why we are speaking out at this moment, and that is why it is important.

I yield to the chairman of the Senate Ag Committee.

Mr. HARKIN. Will the Senator yield for a question?

Mr. CRAIG. Sure.

Mr. HARKIN. I have read the Senator's amendment. I have sat and read the whole thing.

Mr. CRAIG. It is quite simple.

Mr. HARKIN. It is quite simple. It doesn't take a lot of time to read it. Then I listened to the Senator talk about the Kelo decision.

I am not a fan of the Kelo decision either, but it seems to me the way the amendment is written—and I ask the Senator this—if someone, if a private farmer had farmland, and a private developer came in and got the local jurisdiction to condemn that farmland and take it for private development, that would be allowed under your amendment?

Mr. CRAIG. Our amendment speaks to open space versus open space.

Mr. HARKIN. I ask the question, though.

Mr. CRAIG. I do not disagree with your interpretation of the current amendment.

Mr. HARKIN. That is what I wanted to make clear; that the Kelo decision——

Mr. CRAIG. Well, I would like to have gone further than that. The concern we had, and what appears to be most visible today in the new use of Kelo, is open space for open space. Municipalities and counties are stepping out—with the cases I gave, Mr. Chairman—and saying that for purposes of parks, we find this is a new tool. Historically, parks were willing seller/willing buyer, and wetlands, and now other broader interpretations of ''public good.''

But Kelo, being specific and relating to private government entities taking property for private development, we do not speak to that. We think it is a broader issue that the judiciary ought to speak to.

Mr. HARKIN. I thank the Senator for yielding and engaging in this colloquy. I was listening to the Senator talk about the Kelo decision, but the Senator's amendment doesn't reach the Kelo decision.

Mr. CRAIG. Oh, I disagree totally.

Mr. HARKIN. Well, if you allow——

Mr. CRAIG. Madam President, let me respond. When the Senator says we don't reach the Kelo decision, we reach a portion of the Kelo decision that is now most frequently impacting farms and ranches, and that is open space for open space.

Municipalities and counties and in one instance, as I cited, a State, prior to Kelo, were not using these powers of eminent domain to acquire open space. They were going out and buying it in the market and competing for it. Now they are. So Kelo, in fact, is being used for this purpose. That is why we are addressing this.

Mr. HARKIN. I will have more to say about that later, but let me ask another question.

Under the Senator's amendment—I wish to make sure I read it correctly—if a local jurisdiction—planning and zoning—decided to condemn some land or to take land for a park, if the amendment were adopted and put into law, that would mean that jurisdiction, whatever that jurisdiction is—it could be a county or a State—couldn't even get any money for education. No title I money for education. They could not get special education money. Let's say, money for special education, they wouldn't be able to get that either; is that a correct reading? For 5 years, they couldn't get that?

Mr. CRAIG. If it were open and currently operating farmland and/or pasture land.

Mr. HARKIN. Yes.

Mr. CRAIG. For agricultural purposes, and they did that for open space purposes, there would obviously, if this were law today, be a great debate in that community. That community would say, you cannot use this power and put our educational monies at risk.

We say, yes, Government monies, Federal Government monies. So it would clearly have a dampening effect. You and I both know, because we have been at those different levels of government, that there are thresholds by which a planning and zoning entity of a county or a municipality can and cannot operate. Would it have a chilling effect? Yes. It would stop them from doing that. That is the intent. Would it put the educational money in jeopardy? No, it wouldn't because they wouldn't put it in jeopardy.

You can use scare tactics, you can create, if you will, stalking kinds of arguments. But you and I both know, in practicality, they are not going to put those other values at risk. Sewage and water money and all of the kinds of other things that you and I work hard to get for our communities—that is not going to be put at risk because what is going to happen is they are going to quit using the Kelo decision. They are going to quit using eminent domain in its broadest sense until this Congress gets back in the business of shaping it again. That is why we are doing what we are doing here.

Mr. HARKIN. I think, then, we get to the crux of this issue. What the amendment of the Senator does is it has the Federal Government telling a local entity, a local government or a State government what it can and cannot do within its own jurisdiction.

This is a very powerful Federal Government, a heavy hand coming in telling people that we know better than they what they should be doing.

Mr. CRAIG. The Senator knows as well as I do that, with wetlands, with endangered species, you name it, the Federal Government, by law, by statute, by regulation, by Clean Water Act, does a lot of things. It is hard to deny that we do because local entities operate under those laws. We are simply asking local entities, in their exercise of eminent domain, to operate within the law. This amendment, broadly supported by American agriculture for fear of taking of their land, and by the livestock industry, and by the Public Land Council and others, says: No, don't do that.

You can point out, if you will, those kinds of arguments. But they are hollow in the sense that we constantly do that, and we have done that. Local governments operate under both local jurisdiction, local law, State and Federal law. So I do not see that as a problem. It can be argued, but it is not precedent setting in any sense of the word.

Mr. HARKIN. I say to my friend from Idaho that all of the things he mentioned—the Clean Water Act and all that kind of stuff—we can get into that, but, yes, if a local entity violates that, they are subject to certain sanctions, usually fines.

Mr. CRAIG. Yes.

Mr. HARKIN. They are not subject to losing all their Federal money for education, for health, for transportation, for everything else—nothing like that. I know of no instance like that in any Federal legislation. If the Senator can find one for me I would appreciate it. I can't.

Mr. CRAIG. I will not disagree with the Senator. I believe the taking of a person's wealth—and you and I in farm and ranch company know the assets of a farmer and rancher are tied in the land. It is their bank. It is their savings. It is their retirement. Some even like to pass it down generationally.

To have a municipality flex a new muscle that grew out of a decision at the Supreme Court level because of an entity in Connecticut using it is ominous and needs to have powerful teeth in it to say to that local municipality or county: Thou shalt not, for these very narrow purposes, use eminent domain.

I am saying you and I come from farm country. We know how valuable that land is. It is that farmer's or that rancher's savings. It is their retirement, should they choose to sell it, and they can sell it to the city for a park if they want to. But for a county or city to step in and take the land when you want to hand it to your daughter or your son or your grandson, generationally, to pass it down through for agricultural purposes—there ought to be teeth, very powerful teeth. I think counties and cities ought not be allowed to do it, period.

Mr. HARKIN. But it seems to me, I say to my friend, those are the governments that are closest to the people, rather than some distant government in Washington telling them what they can and cannot do. Plus, I say to my friend from Idaho, with all due respect, this did not grow out of the Kelo decision. Local governments have had the power of eminent domain probably going back to the founding of our Republic. I was trying to find out exactly when, but probably the early 1800s, maybe the 1700s.

Mr. CRAIG. I have under the Constitution for ''the defined public good,'' and the defined public good was very clear, and we defined it in statute.

Mr. HARKIN. But I say to my friend, defined public good has been parks and recreation areas and things like that.

Mr. CRAIG. But they have not—excuse me. Senator?

Mr. HARKIN. I say to my friend from Idaho I am sure he has visited Gettysburg. Gettysburg National Park would not be a national park were it not for

the power of the State of Pennsylvania to have the right of eminent domain because that is what they used. They had to use it in order to get that land together for Gettysburg Park. I say to my friend, with all due respect, it is a national historical monument. But that is what they had to use to do it.

Should Washington have been able to tell them no, you can't do that?

Mr. CRAIG. Right in the middle of Gettysburg is a private operating farm today. The reason it is there is because they would not allow it to be condemned, and they did not meet the threshold price of a willing seller, willing buyer. The State of Pennsylvania, for rights-of-ways of road, but other than that in almost every instance in my knowledge as it relates to Gettysburg, bought it, acquired it, and they used Federal money to get it and they used the Federal Park Service and a variety of other tools.

No, there is something new happening out there in a post-Kelo environment. You need to talk to your Farm Bureau in your State, and others, and your cattlemen and other farm organizations. Something new is happening in farmland, especially those lands adjacent to rapidly expanding urban environments. It is happening in a post-Kelo environment. That is why we are addressing it today on the Senate floor.

Mr. HARKIN. I say to my friend, again, the amendment doesn't even go to Kelo because my friend admitted a local government could condemn, eminent domain, take private farmland for a private developer. Under his amendment they can still do that.

Mr. CRAIG. We don't speak to that. We speak to the issue at hand today: taking private farmland in municipalities and urban areas, counties and States, for the purpose of open land, and that is a post-Kelo phenomenon.

Mr. HARKIN. It has been that way, as I say, going back to Gettysburg. They did use eminent domain in Gettysburg.

Mr. CRAIG. They did use some, yes, I don't deny that.

Mr. HARKIN. They carved out some sections where they didn't think they needed them, but they did on some other sections. So it has been that way forever. Kelo didn't open floodgates. What it did was open floodgates for private, and that I find anathema; that you could use eminent domain for some private purpose. But for a public purpose such as parks and recreation and things like that, it has been this way since the founding of our Republic, I say to my friend.

My friend, I know is a conservative. It seems to me conservatives are always looking askance at the Federal Government coming in, heavyhanded, and telling local jurisdictions what they can and cannot do. This, it seems to me, would be the heaviest hand that I have seen in my years here.

My friend is right. We, a lot of times, do pass laws, Clean Air Acts, things like that that he mentioned, and we impose fines if they don't do something. But we don't say if you violate it, we are taking away your education money, your health money, your transportation money, and everything else. I just know of no other case like that in Federal law.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, we have not yet a time limit. I have expressed the will and concern of those who are cosponsors of the amendment. I put into the record the expression of our largest national farm organization that sees the threat as clearly as I do, maybe less clear than the chairman sees it because there is a pattern rapidly growing out there in a post-Kelo environment—open space taken for open space purposes. They are taking it from the private landowner. We think there ought to be strong teeth here.

With that, I retain the remainder of my time. Others are here to debate the issue.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I just have a few minutes. I know we want to get to the Brown amendment. The Senator from Ohio has been very patient, waiting a couple of days to get to his amendment. I appreciate that. I have just a couple of things I wanted to respond to.

First, regarding the Craig amendment, I have here a letter dated December 11 from the National League of Cities, the National Conference of State Legislatures, the U.S. Conference of Mayors, and the Council of State Governments, all writing in opposition to the Craig amendment.

It says—I just want to read what they said in this letter:

This amendment is not only ill-advised, but it is also unconstitutional. Amendment No. 3640 would preempt state and local land use laws by prohibiting any federal funding that goes to state and local governments from being used for acquiring ''farmland or gracing land for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purpose.'' This would severely chill state and local historical preservation, community service, and environmental efforts.

Under this amendment, if a state or locality were to use the power of eminent domain for virtually any public purpose, even if such action was completely in accordance with its own statues and land use development ordinances and regulations, the state or locality could lose all applicable federal funding. The 5th Amendment of the U.S. Constitution expressly permits the taking of private property for public use provided just compensation is provided to the owner of the property.

The power of eminent domain has always been, and should remain, a state and local power. The state power to use eminent domain for public purposes is fundamental to a state's and locality's ability to provide for the community needs of its citizens, to protect unique and scenic areas of a state by creating parks, and to preserve wildlife and topography of a significant nature.

Again, we urge you to reject the Craig Amendment No. 3640 because it preempts state and local law and thwarts valid state and local efforts to preserve their natural resources for the use and enjoyment of all citizens.

I ask unanimous consent the letter representing the National League of Cities, the National Conference of State Legislatures, U.S. Conference of Mayors, and the Council of State Governments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 11, 2007.

Hon. TOM HARKIN,
Chair, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the undersigned organizations, we write in strong opposition to the amendment offered by Sen. Larry Craig (No. 3640) to H.R. 2419, the ''Food and Energy Security Act of 2007,'' which is scheduled for floor debate today. This amendment is not only ill-advised, but it is also unconstitutional. Amendment No. 3640 would preempt state and local land use laws by prohibiting any federal funding that goes to state and local governments from being used for acquiring ''farmland or gracing land for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purpose.'' This would severely chill state and local historical preservation, community service, and environmental efforts.

Under this amendment, if a state or locality were to use the power of eminent domain for virtually any public purpose, even if such action was completely in accordance with its own statues and land use development ordinances and regulations, the state or locality could lose all applicable federal funding. The 5th Amendment of the U.S. Constitution expressly permits the taking of private property for public use provided just compensation is provided to the owner of the property.

The power of eminent domain has always been, and should remain, a state and local power. The state power to use eminent domain for public purposes is fundamental to a state's and locality's ability to provide for the community needs of its citizens, to protect unique and scenic areas of a state by creating parks, and to preserve wildlife and topography of a significant nature.

Again, we urge you to reject the Craig Amendment No. 3640 because it preempts state and local law and thwarts valid state and local efforts to preserve their natural resources for the use and enjoyment of all citizens.

DON BORUT,
Executive Director, National League of Cities.
CARL TUBBESING,
Deputy Executive Director, National Conference of State Legislatures.
TOM COCHRAN,
Executive Director, The U.S. Conference Of Mayors.
JIM BROWN,
Washington Director, Council of State Governments.

Mr. HARKIN. I have a letter of December 11 from a number of environmental and wildlife groups: National Audubon Society, Defenders of Wildlife, National Resources Defense Council, Sierra Club, the Wilderness Society, the World Wildlife Fund and others, in opposition to the Craig amendment.

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 11, 2007.

Re Oppose Craig Farm Bill Amendment.

Hon. TOM HARKIN,
Chairman, U.S. Senate Agriculture, Nutrition & Forestry Committee.
Hon. SAXBY CHAMBLISS,
Ranking Member, U.S. Senate Agriculture, Nutrition & Forestry Committee.
Hon. PATRICK LEAHY,
Chairman, U.S. Senate Judiciary Committee.
Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate Judiciary Committee.

DEAR SENATORS: On behalf of our members and supporters, we strongly urge you to oppose the amendment Senator Craig (R–ID) has introduced to the Food and Energy Security Act of 2007 that would prohibit all state, local, and federal use of eminent domain to take farmland or grazing land into public ownership for the purposes of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purposes. It would impose severe sanctions on any state or unit of local government that uses eminent domain for these purposes—a five-year loss of financial assistance and all federal funds appropriated through an Act of Congress or otherwise expended by the Treasury. The Craig amendment arbitrarily imposes absolute bans on certain longstanding uses of eminent domain for public use while totally excluding others, including prisons, public utilities, roads or rights of way open to the public or common carriers, pipelines, and similar uses.

Acquiring land by purchase or donation is preferable, but there are times when eminent domain is necessary and appropriate, both for the public uses that would always be banned by the Craig amendment and those that would always be allowed.

Congress and the courts have repeatedly recognized that local, state, and national parks and recreation, open space, conservation, preservation view, and scenic vistas are clearly valuable public uses that justify eminent domain. For example, the Congressional Research Service's Annotated Constitution cites laws and cases upholding eminent domain, including an 1896 Supreme Court decision confirming the right to condemn in order to ''promote the general welfare'' by preserving an historic site (the Gettysburg Battlefield) for public use and protection.

''E.g., Shoemaker v. United States, 147 U.S. 282 (1893) (establishment of public park in District of Columbia); Rindge Co. v. Los Angeles County, 262 U.S. 700 (1923) (scenic highway); Brown v. United States, 263 U.S. 78 (1923) (condemnation of property near town flooded by establishment of reservoir in order to locate a new townsite, even though there might be some surplus lots to be sold); United States v. Gettysburg Electric Ry., 160 U.S. 668 (1896), and Roe v. Kansas ex rel. Smith, 278 U.S. 191 (1929) (historic sites). When time is deemed to be of the essence, Congress takes land directly by statute, authorizing procedures by which owners of appropriated land may obtain just compensation. See, e.g., Pub. L. No. 90–545, Sec. 3, 82 Stat. 931 (1968), 16 U.S.C. Sec. 79 (c) (taking land for creation of Redwood National Park); Pub. L. No. 93–444, 88 Stat. 1304 (1974) (taking lands for addition to Piscataway Park, Maryland); Pub. L. No. 100–647, Sec. 10002 (1988) (taking lands for addition to Manassas National Battlefield Park).''

The Craig amendment would be a draconian infringement on federalism by the federal government into the traditional rights of state and local governments. It would even ban uses of eminent domain to clear title when no one objects.

The Craig amendment would devastate the ability of states, localities, and the Federal governments to create and protect public parks, to provide for conservation of essential resources and recreation, and to preserve open space. Sometimes, the ability to require a property owner to sell property at a fair price is needed to deal with an unjustifiable ''hold out'' who seeks to stop a worthy public project, or to extort a monopolist's profits from the public.

Finally, as the Congressional Research Service explained about a different proposal, there does not: ''seem to be any proportionality requirement between the prohibited condemnations and the length and scope of the federal funds suspension. If Congress' Spending Power includes a proportionality requirement for conditions on federal funds, as the [Supreme] Court suggests, the absence of proportionality in some of the bill's applications may raise a constitutional issue.''

For all these reasons, we urge you to oppose the Craig amendment.

Sincerely,

Jason Jordan, Government Affairs Manager, American Planning Association; William Snape, Senior Counsel, Center for Biological Diversity; Brian Hires, Colorado Field Coordinator, Center for Native Ecosystems; Bob Dreher, Vice President for Conservation Law, Defenders of Wildlife; Anna Aurilio, Director, Washington DC Office, Environment America; Brian Moore, Director, Budget and Appropriations, National Audubon Society; Karen Wayland, Legislative Director, Natural Resources Defense Council.

Linda Lance, Vice-President for Public Policy, The Wilderness Society; Doug Kendall, Executive Director, Community Rights Counsel; Martin Hayden, Legislative Director, Earthjustice; Sandra Schubert, JD, MA, Director of Government Affairs, Environmental Working Group; Julie M. Sibbing, Senior Program Manager for Agriculture and Wetlands Policy, National Wildlife Federation; Ed Hopkins, Director, Environmental Quality Program, Sierra Club; Jessica McGlyn, Senior Program Officer, World Wildlife Fund.

Mr. HARKIN. Madam President, I think the Craig amendment, about which I just engaged in a colloquy with my friend from Idaho, the Craig amendment really is the heaviest of heavy hands I have ever seen proposed for the Federal Government. First, I do believe also, as I just stated, it does violate the fifth amendment to the Constitution. Also, it doesn't even get to the Kelo decision.

As the Senator himself admitted, even under his own amendment we would have the oddest of all situations. It would then be permissible for a local entity to condemn private land for private use, but it would not be permissible for a local entity to condemn private land for public use. That is the oddest of all circumstances. Again, to say to a local entity that you cannot use the power of eminent domain, granted to you by the Constitution of the United States, for a park or recreation area or whatever it is, a public use for future generations to enjoy—to me, that is an interference in local government and local government decisions.

My friend talked about, yes, somebody may want to pass farmland on to future generations and things like that. I am very sensitive to that. Yes, they should be able to. But shouldn't also a local entity or a State devise parks and recreation areas, also for future generations? There seems to be some thought if a State uses its power of eminent domain, they can just take the land away. The fifth amendment of the Constitution says, no, you have to have just compensation. That is where you get into courts a lot of times.

We have seen eminent domain used for power lines, for example, to go across the State. Again, the amendment of the Senator, I don't know if it would reach the power lines.

Mr. CRAIG. Will the Senator yield for that?

Mr. HARKIN. Yes.

Mr. CRAIG. It is important to state for the record this amendment touches none of the standard uses of eminent domain and historic uses, and I said so and all the other Senators speaking to it said so. Rights-of-ways—this is open space land only. It is very clear, it is very targeted. It does not touch any other area of historic use of eminent domain. OK?

Mr. HARKIN. Madam President, well, I say to my friend, one of the historic uses of eminent domain has been for parks. When was Central Park in New York set aside? The power of eminent domain was for Central Park in New York. I think that has been over a hundred years.

Mr. CRAIG. And a lot of people had their land acquired and purchased; eminent domain was used.

Mr. HARKIN. I say to my friend, I do not have a catalog——

Mr. CRAIG. I think the RECORD is replete now with the fact that there has been an acceleration of counties and cities using it post-Kelo.

Mr. HARKIN. But my point——

Mr. CRAIG. I know what your point is; I know we should be speaking through the Chair for that purpose. In my opinion, it is a broadening of the definition of public use in a post-Kelo environment that has put America's agricultural land at risk in a greater way than ever before. That is why this amendment is brought to the floor.

Mr. HARKIN. I say to my friend from Idaho, that is the point I was trying to make, that you could still have condemnation purposes for a private power line. Maybe a farmer does not want that power line going over his land; he does not like those big cables going over his land.

The State can come in and say: Here is your compensation.

I do not like it.

OK. We use power of eminent domain. We will go to court, and they will build that power line right across your land.

The amendment of the Senator from Idaho would still permit that to happen, would still permit that to go on, still permit that to happen, but it would not permit a local entity to say:

We have a lot of land; we want to preserve a park for future generations. We have some of this land here that is in there, and we need that for the park, and it is generally accepted by the public. You may have one person reticent to do that. So they say: OK, we use the power of eminent domain to do that. But that does not mean they get the land; that means they have to go to court to decide what is just compensation under the fifth amendment.

I say to my friend from Idaho, if he really wants to pursue this, he ought to introduce an amendment to overturn the fifth amendment of the Constitution. Let's have a constitutional amendment. Who knows what it might be next. You think of this as a precedent. What is next? What is next that we might not agree with? Maybe we do not agree with speed limits. I say to my friend from Idaho, maybe we do not agree with what a State's speed limits are, so if you do not adhere to Federal standards on speed limits, we are going to take away all of your education and transportation and health money. How about education policy? Let's say we do not agree with the local school board. We do not agree with the local school board as to what its education policy is. It has to be what the Federal Government says, and if you do not adhere to it, we are going to take away your education money, your health money, your transportation money, and your community development money. We will take it away just because you do not agree with the Federal Government's policy on education. Zoning and other areas like that—think of what kind of a path we are going down if we adopt this amendment.

Again, I say this amendment would again intrude the Federal Government into the local and State jurisdictions that have been preserved by the Constitution of the United States. We ought not to go there.

Madam President, I hope now we are ready to turn to the Brown amendment. I thank the Senator for his patience.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3819

Mr. BROWN. Madam President, I thank the chairman for his outstanding work.

Madam President, I call up amendment 3819.

The PRESIDING OFFICER. Is there objection to setting aside the current amendment? Without objection, it is so ordered. The amendment is pending.

Under the previous order, there will now be 60 minutes of debate equally divided between the sides.

The Senator from Ohio is recognized.

Mr. BROWN. On behalf of Senators SUNUNU, MCCASKILL—who is presiding—MCCAIN, DURBIN, and SCHUMER, I am proud today to offer the Reduction of Excess Subsidies to Crop Underwriters—or the RESCU—amendment to the farm bill.

Our bipartisan amendment takes dollars from where they do not belong, from oversubsidized crop insurers, and invests them in priorities with a return for the United States of America, such as nutrition programs and conservation programs and initiatives that create sustainable economic development in other countries and our own, which, after all, is the key to strong export markets and also to deficit reduction.

The RESCU amendment is based on a simple premise: When resources are limited, we simply cannot afford to waste them. We cannot afford to overpay crop insurers with tax dollars while underinvesting in programs that pay for themselves, programs that preserve farmland and deploy U.S. resources strategically in the global arena.

Our amendment does not increase the cost of crop insurance for any farmer. I repeat: Our amendment does not increase the cost of crop insurance for any farmer. In fact, it has no effect on premiums at all. It does not, as some will claim, dramatically reduce the margin for crop insurers, jeopardizing access to crop insurance. It draws from huge, bloated overpayments and astounding profit margins, making them a little less huge and a little less astounding.

Crop insurers will have no incentive to leave a business that continues to reward them so generously, as this Federal program does with these tax-dollar subsidies. They will have no incentive to leave a business that continues to reward them so generously for their involvement. I can assure you that before and after this amendment, if it is enacted, crop insurers will continue to be generously rewarded for their activities.

This amendment simply seizes an opportunity to do some good while doing no harm. It is a fiscally responsible amendment that reroutes insurance overpayments to accomplish several beneficial goals. Some of the dollars go toward deficit reduction, some of the dollars honor faith-based missions throughout the world by contributing to a like program that feeds hungry children in developing countries, and some of the dollars help family farmers become better stewards of our land and our natural resources. This amendment is not glamorous or earth-changing; it is simply an opportunity to move forward and to do the right thing.

I know some of my colleagues do not want to take any money from crop insurers. They want to continue to shovel more taxpayer dollars to crop insurers. As I mentioned, some of them are worried that taking these dollars will put crop insurers out of business. They are not really worried; that is what they will say. But you just can't get there from here. This amendment is not going to break the backs of those insurers; it is just going to mean slightly less huge profits for those insurers. Let's face it, this amendment does not take crop insurers to the cleaners; this amendment takes a little drop from their rather large bucket.

Federal crop insurance is an essential part of the farm safety net, as it should be and as it will continue to be. However, billions of dollars that are intended to benefit farmers are instead siphoned off by large crop insurance companies.

Listen to this number for a moment. Since 2000, farmers received $10.5 billion in benefits from the Crop Insurance Program, but it has cost taxpayers $19 billion to provide those benefits—$10 billion in benefits for farmers, $19 billion in taxpayer subsidies to get that $10 billion to the farmers. That is because the crop insurance companies have had such huge overpayments, huge profits during those 7 years.

So where does the difference go? According to GAO, crop insurance companies take 40 cents out of every dollar that Congress appropriate to help farmers. Think about that, 40 cents out of every dollar. No place operates that way. Medicare does not operate that way, Medicaid does not operate that way. No other insurance company does that well.

Look at this chart. Private property and casualty insurance profits, 8.3 percent; Federal crop insurance profits more than double that, 17.8 percent. So slicing a little off here, they are still going to be close to double the profits of other private property insurance companies, property and casualty insurance companies.

In the same report, GAO found that crop insurance—this was a GAO report—company profits are more than double insurance industry averages. Again, over the past 10 years, crop insurance companies have almost an 18-percent return, while most of the rest of the private insurance market has an 8-percent return.

This amendment also reduces the exorbitant—I mean exorbitant administration fees crop insurance receives. For each policy they sell, the GAO report shows that the per-policy subsidies to insurance companies will be triple what they were less than 10 years ago. This is the money crop insurance companies receive. A&O is administration and operations. So whatever the premiums are, the Government then—already profitable for the crop insurance company—the Government then pays them a percentage—roughly 20 percent, slightly more than that—in addition so that they can administer and operate this insurance program.

Look, as prices have gone up, as the price of corn, for instance, and soybeans—which I have a huge growing crop, huge corn and soybean production in my State, one of the leading States in the country—the crop insurance companies make more and more money the higher the prices are because the premiums are then higher. If you think the price of corn is high, you are going to buy more insurance, the premiums are going to be higher, and

the A&O—administration and operations—subsidy is 20 percent of an increasingly higher number. That is why you see from $497 million, to $591 million, to $700 million, to 830 million, to, in 2007, $1.172 billion for these administrative bonuses, if you will. These delivery subsidies have tripled because they are linked, as I said, to the total premiums and thus the rising price, particularly of corn and soybeans.

This amendment will reduce the administrative subsidies for each policy to the national average of 2004 and 2006. This level is still well above every year prior to 2006. We are not taking them back to these numbers; we are just modestly bringing them back to this number. This number still was historically the highest ever. It is historically very generous to the crop insurance companies as a subsidy.

This amendment, I repeat, is no threat to the crop insurance industry. It is a threat to something—it is a threat to complacency. Instead of taking the painless route and leaving the crop insurance industry be, we can simply apply a dose of reason and do a world of good. We can help feed children in impoverished nations. We can help restore the McGovern-Dole Program—two of the most respected Members to have served in this distinguished body. We can help bring down, by hundreds of millions of dollars, something near and dear to the heart of Senator CONRAD, I know—we can bring down the Federal deficit.

Simply put, we can do the right thing. I hope Members on both sides of the aisle will support the amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I yield to the Senator from Kansas, Mr. ROBERTS, 15 minutes, followed by Senator GRASSLEY for up to 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mrs. MCCASKILL. Mr. President, I know the Senator from Georgia has yielded to the Senator from Kansas. I am supposed to be presiding now. The kind Senator from Ohio assumed the chair to allow me to speak on our amendment. I hate to hold up the Senator from Ohio who has to leave. If I may, I ask unanimous consent to speak for a couple of minutes on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, we are fine with that.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. I appreciate the courtesy shown by the Senator from Georgia and, importantly, by my friend from Kansas who, although we disagree about football, I know we agree about protecting taxpayers.

Mr. President, we spend a lot of time here talking about whether we can afford things and trying to save money. My father was in the insurance business. In fact, he was commissioner of insurance in the State of Missouri when I was in high school and college. I have no problem with insurance companies making a profit. They are businesses; they should make profit. But we have to take a close look when it is taxpayer-subsidized profit. We are not talking about the normal profit of a private business. We are talking about taxpayer-subsidized profit. I don't care how you look at this insurance industry in this particular niche, this is a wildly profitable insurance industry right now, billions and billions of dollars in profit over the last several years. You have to ask yourself: Isn't there a way we can continue to make sure that crop insurance is readily available? Keep in mind this amendment does nothing whatsoever to cause costs to go up for the farmers. The premium subsidies remain the same.

What this does is say: We can't continue with the deficits we have. We can't afford to do children's health insurance. The President vetoes that. We can't afford another $11 billion for domestic spending. The President threatens a veto on that. We can't afford to do anything except make sure we subsidize a very profitable insurance industry.

We have to stop some of the ability of this particular niche industry. They don't even have to worry about antitrust laws because we have written that into the law for them.

This is a modest attempt. If our amendment had been in place in 2006, the companies still would have received $797 million in underwriting gains alone in comparison to the $885 million they actually received. We are not talking about putting anybody out of business. We are talking about doing what is right in terms of watching taxpayer dollars.

This is about priorities. I want the billions in subsidized profits to go where the needs are. There are many in this farm bill. That is where they are directed. There is also a great attempt to do something about these mind-numbing, jaw-dropping deficits. It seems a lot of our friends on the other side of the aisle don't want to pay for anything. They don't want to pay for AMT. They don't want to pay for anything in the Energy bill. If we keep going down this road, we should do away with an attempt to pay for anything and just print money, see how that works.

It is time we do the right thing on this particular taxpayer-subsidized profit and find a middle ground where we can continue to make sure crop insurance is available and affordable, which this amendment will do, but allow some of the taxpayer money to go to more urgent needs than major profits in this industry.

I thank my colleagues for their courtesy.

The PRESIDING OFFICER (Mrs. MCCASKILL). Who yields time?

Mr. CHAMBLISS. Madam President, I yield 15 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. I thank the Presiding Officer and my friend from Georgia. I see the Senator from Missouri is the Presiding Officer. I wish her well in the Cotton Bowl against Arkansas, as we in Kansas go to the Orange Bowl. I hope she wishes us well.

Despite what has been said, I am rising in strong opposition to the Brown amendment which I think, bluntly put—and I will say it the way I think it is—would kill the crop insurance program, especially in certain sections of the country and, as a result, endanger a great many farmers. I have often said it is more important to prevent the passage of bad legislation—counterproductive legislation, if you will—than it is to add more legislation to the books, regardless of the argument. This amendment certainly falls into that category.

I am always amazed at the number of people who criticize a program that benefits our farmers and ranchers, some of whom do their speaking with their mouths full. It is truly a paradox of enormous irony: Those who enjoy the safest, most affordable food supply in the world, compliments of America's farmers and ranchers, with good intentions or not, do great harm to the very programs that support our producers in providing the bounty that is the modern miracle of American agriculture. It is time to stop. I understand the support for the programs that this amendment alleges by cutting crop insurance or using crop insurance as a bank. Let me go over those programs.

Other than the Conservation Reserve Program, the Environmental Quality Incentives Program is the most popular conservation program in Kansas. Obviously, I am for that program. Obviously, I am for reasonable funding for that program. I have been one of the strongest supporters in the Senate of the McGovern-Dole, or what we call in Kansas the Dole-McGovern, international school lunch program. In fact, I was the Senator who led efforts to get all 100 Senators serving at the time to sign a letter urging them to keep the program under the jurisdiction of the Department of Agriculture. I was the House Agriculture Committee chairman who saved the Food Stamp Program when many wanted to block grant it. The Governors wanted the money, but they didn't want to operate the Food Stamp Program. So I have a little blood pressure, if you will, and heartburn when folks try to tell me my producers don't understand or care about these programs. Just the opposite is true. I take offense at saying the

funding for these programs should be increased on the backs of our farmers and ranchers which will happen if this amendment passes.

I get frustrated when we get amendments that will inflict great harm for the simple fact that some—good intentions aside; I don't question that at all—do not truly understand how a program works, and they don't want to take the time to get their facts straight. We have already increased nutritional spending by $5.5 billion in this bill. We have increased conservation spending by, as the ranking member knows and as anybody who represents farmers and ranchers knows, $4 billion, all the while cutting $6 billion from traditional commodity programs, including $4.7 billion from crop insurance. Haven't we already extracted our pound of assistance and flesh from our farmers and ranchers? Note that I say the crop insurance program directly affects the wherewithal of farmers and ranchers. It is inseparable.

I will tell my colleagues why I think the authors of this amendment have their facts wrong, but first I want to make it clear what will happen if this amendment passes. This amendment does propose to increase the amount of quota share that companies must cede to the Government from 5 percent to no less than 15 percent. It could go higher, a lot higher. Quota share, pardon the vocabulary of agriculture program policy, is the percentage of underwriting earnings that a crop insurance company must cede back to the Federal Government. Currently that is 5 percent of earnings. Put another way, it is an additional 5-percent tax companies must pay to the Government prior to expenses being figured. In addition, if this amendment had been in place for the 2007 crop year, it would have also reduced the administrative and operating expense reimbursement to the companies by an additional 30 percent beyond what is already in the committee-passed bill. If we do the proposed changes in underwriting gains in this program, we will be ceding additional reinsurance risk from the private market, and it will go to the risk management agency of the USDA—that is the outfit that runs the crop insurance program—and the U.S. taxpayer. I don't think we want to do that.

Additionally, we will make it more expensive for companies to service the program and provide it to producers, so much more expensive and risky that it may well cause some companies to pull out of higher risk or underserved States. That is the big issue. You might want to reform it in ways that will not affect your home State where basically you get a lot of rain but don't have a lot of risk and you don't farm—the seed just comes up—as opposed to high-risk areas. That means we may have States where crop insurance would not be available or, at the very least, there may be fewer options available from which producers can purchase crop insurance. If producers can't get crop insurance, it means they will be back here asking for ad hoc disaster aid. For everybody who votes for this amendment, if it passes, I want you to help me to come back here in regard to ad hoc disaster aid. Kansas is now frozen over with yet another blizzard.

Even if we have a permanent disaster package in this bill, which we do, it also means we would be making it harder for many farmers, especially young ones, to get the operating loans and financing they need for their operation. Why would it be harder for them to get financing? It will be harder because most lenders and a good number of landlords require crop insurance as part of their business agreement. So if you take away crop insurance, you hit those young farmers who don't have a lot of equity built up in their operations.

On the other hand, I am sure there are those who say: Well, look at the GAO study on crop insurance. It is important to go over why this is a completely flawed study. Personally, if you presented it in the private business world, I think your job might be in danger. First, it takes into account none of the increases in the participation in the program that have occurred since the passage of the Agriculture Risk Protection Act of 2000, reforms to the crop insurance program that I helped lead in this body, along with our great former Senator Bob Kerrey. We worked hard, and it took us 18 months. We reformed the program. Those efforts have led to increased participation, not only in the plains States but all throughout the country, more especially in the South and for specialty crops and everybody involved in agriculture. As I said, especially in the southern region, represented by our outstanding ranking member, SAXBY CHAMBLISS, but also in regions that grow specialty crops or that have been considered underserved by the program in the past. We fixed that. This increased participation increases the ability to make profits for the companies, but it has also led to a significant increase in the amount of risk they are insuring in this program.

First, the study was ordered in the House—I am talking about the GAO study—by those who, shall we say, have been less than friendly to the crop insurance program and to our farmers and ranchers. That is probably the understatement of my remarks. Second, the GAO study, I believe, is counterproductive because everyone here knows you can get a GAO study to say whatever you want. I have been committee chairman three times. You ask the questions right, they respond with the answers you want. This GAO study claims that crop insurance companies are making huge amounts of money—we just heard that from previous speakers—and are much more successful than traditional property and casualty insurance companies. The first flaw in this study is that they pretty much compared apples and oranges. When looking at the business relationships between crop insurance and traditional property and casualty companies, they compared a 5-year period for the crop insurance program that represented what happens to be 5 of the lowest crop loss years nationally in the history of the program. At the same time they included a time period for looking at the business numbers of the property and casualty industry that included both the 9/11 attacks and Katrina—in other words, one of the worst 5-year business periods in the history of the traditional property and casualty business. If you take a comparison that shows one of the best 5-year periods in history in terms of insured losses for one sector of the industry and you take one of the worst 5-year periods for another sector of the industry, what do you think the numbers are going to look like?

Additionally, this GAO report claims that the companies are making substantial underwriting gains on the premiums they collect which the GAO then assumes is all complete profit. That is one of the arguments that has just been made. Yes, companies do make underwriting gains on a portion of their premium that is collected, if there are not losses. That is the factor that has not been brought up. What the GAO fails to mention is that were a major loss to occur this year—i.e., the 1988 drought, what we have been through in Kansas, or the 1993 flood—the companies would also be responsible for these underwriting losses.

In addition, the GAO report makes the assumption that any underwriting gains by the companies are pure profit. This is ridiculous. There are expenses that are paid out of those underwriting gains. The largest of these expenses is for costs to pay private reinsurance companies for the amount of risk they underwrite for the insurance companies.

Let me explain this in plain English. It is called ''show me'' in Missouri. All lines of insurance, as the Presiding Officer knows, protect their investments by insuring their own risk with private reinsurers. That is the way it is done. Crop insurance companies do the same thing. If they did not do it, again, the risk management agency of the USDA and U.S. taxpayers would have to act as the reinsurers for the program, thus greatly increasing the risk for additional cost for taxpayers. We don't want to go down that road. So if you subtract this and other expenses to obtain net underwriting gains, which the GAO did not do, the numbers look a heck of a lot different.

In addition, the private reinsurance industry has serious concerns with the proposed increase in quota share from 5 percent to a minimum of 15 percent that, again, must be ceded back to the Federal Government. Again, in simple terms, this requirement will force companies to cede an additional minimum of 10 percent of underwriting gains—

prior to expenses even being calculated—back to the Federal Government.

Now, the authors of this amendment and the USDA call it a quota share. I simply call it a tax because that is what it is when you force any company to provide an additional 10 percent or more of their earnings to the Federal Government.

Private reinsurers know the crop insurance business can be very risky. Yes, you can have several profitable years if you do not have widespread weather problems. But if you have a major crop loss across a broad area of the Nation—and I can tell you that has happened again and again and again.

I see Senator CONRAD over there on the other side of the aisle. Senator CONRAD, for Lord knows how many years, had to undergo all sorts of bad weather, all sorts of weather-related tragedies. He had the famous chart of the famous cow named Bossy, that was, unfortunately, legs up and had undergone a rather tragic experience. I kept saying to the Senator: My Lord, I cannot understand this. You have had floods, you have had blizzards, you have had drought. I even told him one time: You ought to move.

That is not an answer.

If you have a major crop loss across a broad area of the Nation—more especially in high-risk Plains States, where we do produce, by the way, in Kansas 350 million bushels of wheat every year or 400 million; that is the other side of the thing in regards to what we actually contribute to the country—why then, if you are in the crop insurance business, you could have a substantial loss in the program, and some have.

Now, reinsurers worry that the increased quota share, or the tax, will make it harder for companies to meet the expense of this insurance and will make them more susceptible to losses. Thus, some reinsurers may pull out of doing business with the crop insurers.

If private reinsurers pull out of crop insurance, then under the terms of the Standard Reinsurance Agreement between the companies and RMA, additional risk will be shifted to the U.S. taxpayer. It is as simple as that.

In addition to the quota share, the reduced administrative and operating expense reimbursement—yet another reduction—will increase company costs. The average A&O reimbursement—again, the administrative and operating expense is currently 20 percent. We have several studies that have indicated the actual cost for the companies of administering the program is around 26.5 percent.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator's time has expired.

Mr. ROBERTS. Madam President, I ask for 3 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Madam President, could we have unanimous consent that we get 3 additional minutes on both sides?

Mr. CONRAD. Madam President, there would be no objection on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. The Senator shall have 3 additional minutes.

Mr. ROBERTS. I thank the Senator.

Yet this amendment proposes taking that reimbursement down even further.

These companies are businesses. Like any good business, if you make the risk too high or increase the costs too much, you will leave the business. Now please listen to this: There are only 16 companies now participating in the crop insurance program today—16. When I first had the privilege of serving in the House of Representatives and serving on the Agriculture Committee, 20 years ago, the number was 60. It went from 60 to 16. If this amendment is adopted, I do not know where it is going. Some companies will not serve certain sections of the country.

Perhaps it is not as profitable as some might claim? If this amendment is adopted, there may well be entire regions of the country where companies will simply no longer provide this service.

If you add additional costs, I think there is a very real risk that the companies will either leave the business completely or at the very least begin to pull out of higher risk States and also those States that are classified as ''underserved'' by the Department of Agriculture.

Bottom line: If you are a Senator representing a higher risk State or specialty crops, I would be very nervous about the impact this amendment could have on producers being able to get adequate crop insurance service in your State.

For those who think companies would not pull out, I would remind you that under the operating contract the companies sign with the Government, they are not required to sell in all States. They can pick which States they do business in.

I know some are going to say: Well, OK, but then why are we doing these A&O expense reimbursements when traditional property and casualty companies do not get them?

That is a question with an easy answer. In the traditional property and casualty business, companies are not required to do business with you or me. If they do so choose to do business with us, they get to determine the rates they should be charging on their policies. They get to load expenses into those rates. And they can require us to pay premiums upfront, premiums that can be reinvested and build the economy.

Crop insurance is different. Similar to the property and casualty business, crop insurance companies do not have to do business in all States. But once they decide to do business in a State, they have to do business with any producer who wants to work with them. They are not allowed to cherry-pick.

Crop insurance companies do not set their rates. They are all calculated and established by the Risk Management Agency. In addition, producers do not pay their premiums upfront. Depending on the crop they raise, and changes in this underlying bill, they will either pay their premiums within 30 days after harvest or by September 30 of each year. So the companies float the cost of doing business until these premiums come in. What if a producer fails to pay their premium? The company is responsible.

Now, that is a major concern. Out in western Kansas, where we went through 5 consecutive years of drought, in some places a lot of producers and their lenders have told me if it was not for crop insurance and direct payments, they would not still be in business, especially our young producers and small banks.

If you adopt this amendment, you are not punishing the crop insurance companies, you are punishing all the producers and farm families out there who are operating on the margins, while providing this country with the most affordable and safe food supply in the world.

I urge my colleagues to vote against this amendment that I truly believe would kill crop insurance for our young farmers and ranchers.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator from Ohio has 21 minutes; and there is 13 minutes in opposition.

Mr. CONRAD. Madam President, might I ask unanimous consent by both sides to make a unanimous consent request at this time on behalf of the leadership of both sides?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Madam President, I ask unanimous consent, on behalf of the combined leadership, that the Senate stand in recess today from 2 to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, there was an understanding that Senator GRASSLEY would be recognized for up to 5 minutes following Senator ROBERTS.

Mr. BROWN. Madam President, I reserve my right to object. Rather than have three or four speeches in a row in support of this amendment, I would like to—particularly since I have more time remaining—at least use a couple minutes now. I will not give a long speech, but I would like to use a couple minutes responding to Senator ROBERTS and then go back and forth, if that would be acceptable to the Senator from Iowa, or if the Senator from Iowa has somewhere to go, I am fine with him speaking now. But I would like to speak afterwards.

Mr. GRASSLEY. Madam President, I would like to speak for 5 minutes.

Mr. BROWN. Madam President, I am fine with that. I would like to be recognized after Senator GRASSLEY, if that is OK with the Senator from Georgia.

Mr. CHAMBLISS. The Senator is correct. The normal procedure would be to go back and forth. After Senator GRASSLEY, Senator BROWN will be recognized, and then I ask that Senator CONRAD be recognized after Senator BROWN.

Mr. BROWN. I thank the Senator. I certainly will reserve my time.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, it would be easy to say I associate myself with the remarks of the Senator from Kansas and let it be that way. But I was around when we set up the Federal crop insurance program. I wish to reflect on the rationale behind it and then, consequently, why I am going to vote against Senator BROWN's amendment.

Remember, for decades of a farm program, we may have had some crop insurance through the Government—and for hail through the private sector—that farmers could buy for some protection, but, for the most part, against natural disasters people relied upon the political whims of Congress to vote for or not to vote for disaster aid.

So this crop insurance program was put in place to give farmers the ability to manage their risk, let the individual farmer make some determinations so he can take risks out of farming, out of the natural disasters that are connected with it—even now, you can take some of the price questions out that are involved with it—and manage his own risk as opposed to relying upon the Senators and the Congressmen to vote or not to vote or when to vote for disaster relief.

So we put this in place. In order for it to be successful, you have to have a network to carry it out. This network is a private-sector network. I think it is working very well. I think it is in jeopardy if the Brown amendment is adopted.

So I have some concerns about the amendment. It could have some very detrimental impacts on the crop insurance program that is so valuable to rural America. So I urge my colleagues to oppose this amendment because I do not believe the amendment is reform. It moves us back to a time when there was more of a reliance upon the political whims of Washington to devote disaster relief.

The amendment seeks to further cut support of the Federal crop insurance program by several billion dollars simply to fund other projects. Additional cuts beyond what the Agriculture Committee has already adopted will prevent the program from providing assistance to America's farmers that is so vital to risk management.

Over the years, Congress has insisted on having the Federal crop insurance program reach out to all farmers, especially small, beginning, and limited-recourse farmers. This is to be done in a fair, equitable, and nondiscriminatory manner, serving as an effective risk-management tool that all can use.

According to the Department of Agriculture, the program is succeeding at this objective. Additionally, crop insurance has become essential to many farmers in securing credit from a bank, rental agreements, as well as providing confidence to more effectively market their crops through the futures market where they can capture higher prices.

The farmers in my State and across the country have used this tool over and over. It must be effective or they would not be using it and paying the premiums each year.

The Senate Agriculture Committee reported a farm bill that contained a two-point cut to the administrative and operating reimbursement, a cut that represents nearly $750 million in reduced program cost. Any cuts to the A&O reimbursement rate beyond those two points that were agreed upon by the committee will likely undermine the program by threatening the service America's farmers both need and deserve.

Further cuts could also jeopardize the continued viability of the private delivery system that is vital to the program's success. This could put private-sector employees out of work and result in the hiring of new Federal employees to serve farmers. Private-sector delivery is efficient and results in good services.

Approximately 30,000 jobs are created by this industry. Those would be in jeopardy, and we would not have small farmers and ranchers serviced the way they are now.

Further, the amendment's proposal to increase the quota share could weaken the crop insurance program and may result in private insurers exiting the program.

In fact, increasing the quota share is counter to the Federal policy of the past 25 years, which successfully has shifted more risk to the private sector for two primary reasons. First, private companies do a better job at loss adjustment. Both the Inspector General and the GAO have repeatedly focused on that point. Second, by shifting more risk to the private sector, Federal costs should be lower over time, as companies have more financial responsibility for indemnities.

It has taken more than 25 years, and we do not want to lose that 25 years.

As a matter of transparency, I wish to tell everybody in the Senate that I participate in a crop insurance program. My constituents ought to know it, and my colleagues voting on it ought to know that as well.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, I thank the Senator from Iowa for adding his knowledge to this debate.

After listening to the Senator from Kansas, I think we might think the sky is falling in Kansas or in Ohio or in Iowa or in Georgia, that the sky is falling on the crop insurance companies.

But when I hear the opponents of this amendment say crop insurance companies may go out of business because of this amendment, or a new argument today, that the reinsurer might go out of business—reinsurance companies that insure the crop insurers—I think you should, again, look at this chart.

On this chart is shown the number of dollars per policy that the crop insurance companies are paid. In the last 10 years, it slowly went up, until about 2004. So a crop insurance company writing a policy would get $591, 4 years ago. They would get this A&O subsidy, this administrative and operating subsidy. Then it went to $700, stayed around $700. Then it went up to $800 in 2006, the highest number in crop insurance program history. Then, this year, it is close to $1,200 per policy of the subsidy. In addition to everything else with crop insurance, we don't need to get into the inner machinations of the subsidies in other ways. But this over-the-top subsidy—I have been very involved in Medicare issues. Medicare is about 2 percent of administrative costs that the Government pays them to operate the Medicare Programs in the 50 States. I don't make the comparison, generally, because it is a very different program. But we give them $1,100 for every policy they write—almost $1,200. Our amendment simply says: Let's go back to the last record-setting year, which is $830 per policy.

So for Senator ROBERTS to claim they may go out of business—all we are doing is going back to the very profitable year they had when they were getting $830. This is all taxpayer dollars. These are private insurance companies making huge profits—making huge profits from our tax dollars. Again, I go back to the profit levels of these Federal crop insurance companies. These are private companies getting financing profits from taxpayers—twice the profits of the average private insurance property and casualty companies.

Then I hear my friend from Kansas, Senator ROBERTS, talk about how business is going to be bad for farmers. Understand, no premium increase. This amendment increases no premiums; it doesn't touch premiums for farmers. But then he makes the case that—he does the oldest trick in the book, making the farmers' interests coincident with the insurance company interests. If you buy car insurance as a driver, you don't think your interests are always the same as the car insurance companies. When you get your health insurance plan, you don't think your interests are exactly identical with your health insurer. So to believe our taking some of the oversubsidized profits—taxpayer dollars—from the private crop insurance companies, that that means we are going after the farmers or that is going to hurt the farmers simply doesn't pass the straight-face test, and here is why.

We spent, if you recall from my earlier comments, $10 billion in subsidies in the last few years which go to the farmers for crop insurance—a $10 billion benefit for farmers, but it took $19 billion of taxpayer dollars to get them those $10 billion. So in other words, a majority of crop insurance spending, this spending is taxpayer dollars. A majority of crop insurance spending goes to insurers, not the farmers. The farmers and the insurance companies don't have identical interests. I am very supportive of family farmers in my State. Most of the agriculture in my State is corn and soybeans. Most of the crop insurance premium dollars are insuring corn and soybeans in this country. Some 75 percent, if I recall, of crop insurance is about corn and soybeans. I am very supportive of those farmers. I will continue to be. I don't want to see taxpayers, whether they are taxpayers in rural Lexington, OH, or whether they are taxpayers in more urban Youngstown, OH, I don't want to see them giving all of these subsidies to insurance companies.

Again, more than half the spending on crop insurance—more than half the spending—goes to the crop insurance companies, not the farmers. We are not touching the 46 percent that goes to farmers. We are not touching those dollars. We don't want those premiums to increase. We are saying, take a little bit away from the crop insurance companies. Go back to their 2006 levels of $830 per policy. They had huge profits in 2006. The crop insurance companies were thriving. The farmers were benefiting from these programs. Why give them the extra $342 per policy when that money could go to programs such as conservation for farmers; EQIP—an important program in Kansas—or go to McGovern-Dole or go to hundreds of millions of dollars in deficit reduction.

So we are taking those taxpayers' dollars, giving them to these private insurance companies so their profits can absolutely go through the roof. Instead, I want those dollars to be used wisely. We are stewards of taxpayer dollars, as my farmers are stewards of their land. I want to support the farmers. I want to support the conservation programs. I want to support the feeding programs. I want to help reduce the Federal deficit. That is why the Brown-Sununu-McCaskill amendment makes so much sense.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Georgia is recognized.

Mr. CHAMBLISS. I yield 10 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator has only 7½ minutes left.

Mr. CHAMBLISS. Did that include the additional 3 minutes we got?

The PRESIDING OFFICER. Yes.

Mr. CHAMBLISS. I ask unanimous consent for an additional 5 minutes for both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I rise to address the amendment of Senator BROWN, the Senator from Ohio, proposing further cuts to crop insurance.

First, I wish to acknowledge what a valuable Member Senator BROWN is of the Senate Agriculture Committee. He has made a real contribution to the work of the committee in bringing this bill to the floor. I respect him for this amendment. He has offered this amendment because he thinks we need to beef up other parts of the farm program—nutrition and conservation—and at the same time he thinks there is more money going to the crop insurance industry than is warranted.

Let me give an alternative view. The amendment before us would cut crop insurance by another $1.8 billion, in addition to the substantial reductions that have already been made in the committee bill. I would like to caution my colleagues about making even more cuts to crop insurance. As the bill stands now, we have already taken $3.6 billion over 5 years, $4.7 billion over 10 years from crop insurance to address other priorities in the bill. This amendment would increase those cuts by more than 50 percent. It would go well beyond what the House did, and it could have a very negative effect on producers' ability to insure their crops.

Let's look at the reforms already contained in the committee bill. The committee bill reduces the loss ratio from 1.075 to 1; it reduces catastrophic insurance and noninsurable—or it has fee increases for catastrophic insurance and the noninsurable program; it has reduced reimbursement for area plans; it has a 2-percent reduction for administrative and operating expenses; and it has total crop revenue offsets of $3.6 billion. That is not insignificant in terms of savings out of this program.

When I look at the proposals of this amendment, I am concerned about the unintended consequences. Specifically, if we act hastily and unwisely without benefit of hearings in the committees of jurisdiction, we could lose participation of private insurance companies, smaller crop insurance companies that rely on reinsurance could exit the business, and producers would have fewer choices. Rather than having competing companies delivering a product, we would be begging them to stick around.

The loss of participating insurance companies is only one part of the story. Reduced reimbursement for delivery of the program would result in agents abandoning the program as well. Where and how far will our producers have to travel to obtain coverage? I don't particularly like the prospect of farmers and ranchers calling my office telling me their agent has quit and they can't find someone to explain to them crop insurance. I think that might be the outcome if we adopt this amendment.

Proponents have been quoting the GAO's May report as justification for further reductions. I read the report. I also read a report completed by the respected accounting firm of Grant Thornton. Frankly, I am concerned that when GAO made its comparisons of crop insurance profitability to property and casualty insurers, they were comparing apples and oranges.

The GAO compared profitability over 5 years, showing crop insurance at 17.8 percent return compared to 6.4 percent for property and casualty. Of course, that comparison included the only loss year for property and casualty and relatively good years for multiperil crop insurance. Grant Thornton instead looked at a 14-year period. Their analysis shows something quite different, with crop insurance profitability at 12.2 percent compared to 17.4 percent for property and casualty. Further, Grant Thornton notes that crop insurance expenses have fallen short of administrative and operating reimbursements since 1997. That is quite a different story.

Grant Thornton's report suggests the GAO didn't make fair comparisons because they chose nonrepresentative years and did not account for significant differences between property and casualty insurance and crop insurance. Frankly, there is a dramatic difference between crop insurance and what is required in order to provide it and other insurance products. There are more administrative expenses to administer a crop insurance program than most of us understand. Agents are constantly being trained and retrained to keep up with the new Government rules we pass. They need to understand not only government regulations but company rules, loss adjustment, and maintain production history records.

In addition, loss adjustments occur on a much greater frequency than for any property and casualty company. I have actually had perhaps the misfortune of studying insurance in college. Crop insurance is a totally different insurance coverage than other insurances that have been referenced on the floor. It is no wonder Grant Thornton reported crop insurance expenses have exceeded administrative and operating reimbursement every year since 1997. I might add, while the GAO outlined what they believe are vulnerabilities for fraud, waste, and abuse, this amendment doesn't do anything about those questions. In fact, because it reduces available resources for administration, I am inclined to think this proposal may make the fraud and abuse situation worse.

While I applaud my colleagues for trying to increase resources for conservation and nutrition, I would point out the bill before us increased conservation by over $4 billion above the baseline, increased nutrition by $5 billion above the baseline, and we did it largely by taking money from crop insurance already. This is a double hit.

We have taken nearly $7.5 billion from the commodity programs. We have taken $4.2 billion directly from

commodities, and over $3.6 billion from risk management. Where did the money go? The money went to nutrition and conservation. They were the big winners. It is like people have completely forgotten what occurred.

This is a chart that shows the sources and uses of funds. Thirty-four percent of the money—the new money—provided in this bill came out of commodities. Thirty-two percent—almost a third—came out of crop insurance. We have already tapped them. Where did the money go? Forty percent of it went to conservation, and 47 percent went to nutrition. Now, when is enough enough? When is there a fair balance?

I wish to emphasize, we have hit the commodity title for $7 billion already. When does it stop? When is enough enough? When is fair fair? Sixty-six percent of this bill is going to nutrition. Sixty-six percent of this bill is going to nutrition. Nine percent of this bill is going to conservation.

Commodity programs are less than 14 percent. Let's be clear. When we wrote the last farm bill, it was estimated that three-quarters of 1 percent of Federal spending would go to commodity programs. But that isn't what happened in the real world. We didn't get three-quarters of 1 percent of Federal spending; we got one-half of 1 percent of Federal spending in the current farm bill for commodities. You know how much we are going to get in this farm bill? Not three-quarters of 1 percent, not one-half of 1 percent, but one-quarter of 1 percent. That is what is going to go for commodities in this bill.

This amendment says let's take another $1.8 billion and give it to the parts of the bill that have already been the big beneficiaries, the part of the bill that already has had the biggest increases—conservation that got 40 percent of the new money, nutrition that got 47 percent of the new money.

This amendment ought to be defeated. There are questions raised by it that are legitimate and they ought to be the focus of a hearing. The House already agreed to do so. The Senate ought to follow suit, but we ought not to make a rash, hasty decision that can endanger crop insurance, which is critically important for our producers.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Who yields time?

The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, will the Chair let us know how much time remains on each side?

The PRESIDING OFFICER. The Senator from Ohio has 17½ minutes, and the Republican side has 2 minutes.

Mr. BROWN. I thank the Chair.

Will Senator ROBERTS take his last 2 minutes?

Mr. CHAMBLISS. I am sorry, what is the question?

Mr. BROWN. I have a good bit of time left. You have a couple of minutes. I want to close, but I want to make some comments first.

Mr. CHAMBLISS. The Senator can talk and we will take our 2, and then he can close.

Mr. BROWN. I thank the Senator. I think we should wrap this up.

I appreciate the comments of my friend from North Dakota, who has fought more effectively and passionately for his farmers in North Dakota than perhaps anybody in the Senate. But this debate is not about how much money has gone to conservation, to nutrition, or in or out of direct payments. This amendment is the subsidies, the taxpayer dollars, that go directly into crop insurance, the huge, bloated subsidies, the taxpayer dollars, that go to these companies that, by any measurement, are the most profitable insurance companies in America—Federal crop insurance, with 17.8 percent profits; and private property and casualty insurance, with 8.3 percent.

I know crop insurance is different; they have Federal rules. But in the end, this profit is all about taxpayer subsidy. This is the same kind of profit that a private property and casualty insurance company has. It is taxpayer dollars from taxpayers in Providence, RI; Topeka, KS; Columbus, GA; and Mansfield, OH.

I heard Senator CONRAD's discussion of a Grant Thornton analysis over the last dozen or so years. I don't know who paid for that study. It doesn't matter. I know who paid for the GAO study, and I know about the professionalism, even though called into question by my friend from Kansas, when the audits don't come out the way some people want them to. I know about their professionalism and what they said about crop insurance, and I know what they said about overpayments and profitability.

Most importantly, that study from Grant Thornton looks over a period of many years. I probably would not have offered this amendment in 1999, 2000, 2001, or 2002. But look at where we are today. Look at the subsidies we provide to crop insurance from taxpayer dollars. I repeat that these are taxpayer dollars, the subsidies to these crop insurance companies: $723, $696, $830 per policy with the subsidy, leading up to this year, when the policy jumps to a $1,172 subsidy.

All we are saying is to take this huge overpayment from this year and go back to the already very profitable year in 2006. This is not a debate about what farmers get. Farmers' premiums don't increase. They will get the same services. Farmers will still have the same access, in spite of what some people say, to these crop insurance policies. So it is a matter of whose side you are on. Are you on the side of the farmers or the taxpayers and the side of conservation and nutrition? Or are you on the side of a very small number of crop insurance companies that are reaping huge profits, getting huge subsidies, getting bloated numbers of dollars from taxpayers in their pockets? Whose side will you be on? We should be on the side of the family farmers and taxpayers.

I reserve the remainder of my time, and I will close after Senator CHAMBLISS uses his last couple of minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, crop insurance has experienced tremendous growth and success since the enactment of the 2000 crop insurance bill, which increased premium subsidies to producers and made other program improvements. In my State of Georgia, we were not a big user of crop insurance in years past. In 1994, only 38 percent of eligible acres were insured; whereby, in 2006, 89 percent of eligible acres were insured. This is a valuable tool that our farmers now have available to them, and it saves the taxpayers money by decreasing the amount of annual emergency disaster programs we have to come and ask for relative to agriculture.

In the committee-approved farm bill, over $4.7 billion has been taken out of the crop insurance program to fund other farm bill priorities. These savings were achieved to answer criticisms of the program, some of which were raised by Senator BROWN, and are directed to improve operational efficiency. We have tried to manage these funding reductions in a way that will not unduly harm the program or the delivery system.

Twenty-one agricultural organizations have sent a letter opposing the Brown amendment. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 12, 2007.

Hon. SAXBY CHAMBLISS,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAMBLISS: We urge you to vote ''no'' on the Brown-Sununu-McCaskill amendment that is said to ''reform'' the federal crop insurance program.

The Senate Agriculture Committee has already carefully considered the crop insurance program and adopted manageable changes that reduce costs and improve efficiency while capturing nearly $4 billion in savings to fund other farm bill priorities.

The public-private partnership responsible for managing and implementing the program has responded very well over the years to Congress' desire to have a federal crop insurance program that reaches out to farmers across the nation, especially small, beginning and limited-resource farmers, in a fair, equitable and non-discriminatory manner to provide effective risk management. There is very tangible evidence the program is achieving this objective. For example, farmer risk protection is projected to reach at least $65 billion in 2007, providing protection to more than 80 percent of the insurable acreage.

With this magnitude of expansion, crop insurance has become essential not only for individual farmer risk management, but also, in many cases, to borrow money or rent land. Without a crop insurance safety net that is fairly and effectively available, many family farms will not be able to rent land and obtain credit to produce a crop. Furthermore,

the crop insurance program helps farmers have the confidence to more effectively market their crops through the futures market where they can capture higher prices and increase their annual income.

We are concerned the changes that would be made to the crop insurance program by the Brown amendment have not been thoroughly and effectively analyzed by the Agriculture Committee and will cause unintended harm to the availability and delivery of a vital farm security program.

To protect what it has taken Congress more than 25 years to build, we urge you to vote ''no'' on the Brown amendment.

Sincerely,

American Soybean Association.
American Sugar Alliance.
Corn Producers Association of Texas.
Minnesota Corn Growers Association.
National Association of Wheat Growers.
National Barley Growers Association.
National Cotton Council.
National Farmers Union.
National Sorghum Producers.
National Sunflower Association.
New Mexico Peanut Growers Association.
North Carolina Peanut Growers Association.
Oklahoma Peanut Commission.
Peanut Growers Cooperative Marketing Association.
Southwest Council of Agribusiness.
USA Dry Pea & Lentil Council.
USA Rice Federation.
US Canola Association.
US Rice Producers Association.
Virginia Peanut Growers Association.
Western Peanut Growers.

Mr. CHAMBLISS. Mr. President, these organizations recognize the importance of a solid crop insurance program, and in the letter they state:

> Without a crop insurance safety net that is fairly and effectively available, many family farms will not be able to rent land and obtain credit to produce a crop.

They express concern that changes proposed by Senator BROWN will cause unintended harm to the availability and delivery of this vital farm security program.

With that, I urge a vote against the Brown amendment.

I yield back our remaining time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I will not use all my time. I have a couple of points. Several of the speakers have said that the committee already made substantial cuts in crop insurance subsidies from the Government. That is not quite true. There was a bit of a cut, but the cuts were much less than the House of Representatives had in their bill. The House made cuts in the shared risk and the A&O, the administration and operating expenses. They say the crop insurance companies were already cut by $3.5 billion. The vast majority of these savings were due to the sleight of hand, the shifts in time. The CBO cost estimate indicates that only $700 million were actually cut.

According to the CBO, the supplemental disaster package adds an additional $2.1 billion to crop insurance. So they took a little here and added more there. It adds up to a net gain of $1.5 billion to crop insurance companies. Their lobby is strong and they are doing well. They have a lot of influence on this body. But the fact is, in the end, this is about one thing: This chart shows that the majority of crop insurance spending goes to insurers, not family farmers or large farmers—not to farmers, period. A majority of this money—the underwriting gains paid to companies was $840 million. Administrative subsidies paid to companies was $960 million. Fifty percent of crop insurance spending goes to crop insurance companies, not to farmers.

About $10.5 billion in the last 7 years has gone to farmers benefiting from the crop insurance program, but it took $19 billion from taxpayers to pay them that $10 billion. What kind of program is that? We get $10 billion in public benefits, but it takes $19 billion to provide those public benefits. No other Federal program does it that way. If it were Medicare, we would bring them in here and have hearings and destroy them if they were spending that much of the services they are supposed to provide, with that much in administrative costs. Again, over 50 percent—more than half—of crop insurance spending goes to insurers, not farmers.

The Brown-Sununu-McCaskill amendment will do what we need to do. It will say no more bloated, oversubsidized spending, no more taxpayer dollars of this magnitude will go to the crop insurance companies. Let's use that money for nutrition, for conservation—and, again, don't forget, hundreds of millions of dollars from the Brown-Sununu-McCaskill amendment will go to reduce the national debt. Taxpayers save, family farmers are better off, and the natural resources in this country—something Senator HARKIN has worked so effectively on for so many years—will make all of the difference in this. I ask my colleagues to vote for the Brown-Sununu-McCaskill amendment.

I yield the floor.

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. There is 10 minutes.

Mr. BROWN. Mr. President, I will yield whatever time I have left to Senator HARKIN.

Mr. HARKIN. Mr. President, I take a back seat to no one in my support for the crop insurance industry. I was here, as Senator GRASSLEY said, on the House Agriculture Committee when we set up this system. I was on the Conservation and Credit Subcommittee. I remember why we did this. We had a bad system before, with the Government putting these policies out, relying upon ad hoc disaster payments. Eventually, we went to all crop insurance delivered through the private sector. I was one of the initial supporters of that. I fought very hard for the private sector to get this business, for obvious reasons. No. 1, we had our private companies out there already insuring houses, cars, and different things, such as equipment, for farmers. Why should they not also provide crop insurance? It made logical sense.

I think the years have proven us right. The private crop insurance industry in America has worked well. It has done an outstanding job. It has met all of the things we expected them to do when we created this program in 1982. So I have followed this all these years, and I have supported this industry and what they have been doing all these years. I still do. I take a back seat to no one.

I will be frank; when the Senator from Ohio first came up with his proposal on crop insurance in my discussions with him, I thought this was too big of a cut. I thought it was a little bit too heavy. I thought they were too harsh. But I do think that over the weeks, in working with Senator BROWN and in moderating the size of the cuts and to shape the message about what needs to be done to reform the financial incentives provided to crop insurance companies, I think he is on the right path. I think the Senator from Ohio makes valid points about the problems with the current mechanism for reimbursing private crop insurance companies for the expenses they incur in delivering the Federal crop insurance program for farmers.

No one who is knowledgeable about how the program works—and I believe I am very knowledgeable about it—can deny that the significant increase in total premiums over the last few years has been driven by the increase in commodity prices, especially corn, wheat, and soybeans, which has resulted in an increase in A&O reimbursement per policy. That surge generated higher revenues for the companies that have not necessarily had an increase in expenses over the same period.

So we have had a system whereby the reimbursements are tied to commodity prices. Well, we have seen this huge increase in commodity prices in the last few years. In fact, I penciled out here that we went from about $3.5 billion to more than $5 billion in just a few years.

The insurance companies get, as we know, 21 percent of that amount. That is the reimbursement rate, 21 percent. That is a huge increase. The Senator from Ohio pointed out on his chart the increases in those years.

What the Senator is proposing is that we take the average of, I believe, it is 2004, 2005, and 2006, and we cap it at that level. It does not apply to the crop-year of 2007, and it would not apply to 2008, if I am not mistaken. I think it starts in 2009. It does not apply to 2007 or 2008. It does not start until 2009.

I have told some of my friends in this industry that I think this approach may be better for them in the long run to base it on those levels rather than to roll the dice. We have seen crop prices go up, and we have seen them go down. Obviously, I would like to see them stay up. But that is ignoring history.

I said to my friends in the industry: Look, this is not a bad deal. We cap the highest levels we have seen, except for

this year, obviously, for 2007, and that is the reimbursement rate. I think it might in the long run be better for them.

I don't see this as onerous on crop insurance. Some say there is going to be this big cut, but that does not apply to 2007 and 2008. By the time we get to 2009, there may not be any cuts at all, as a matter of fact, depending upon what happens with prices. In fact, it may be better. It actually may be better.

In exchange, what we do get is some more money for conservation, for EQIP. We need more money in the EQIP program, the Grasslands Reserve Program, the Farmland Protection Program, as well as the McGovern-Dole Food for Education Program. I think it is a pretty fair tradeoff. If I thought for 1 minute this was going to devastate, destroy, unduly harm the crop insurance industry, I could not support it. But I believe it is a fair and equitable approach and, quite frankly, I think the methodology is much better in the long term. ''Long term,'' what do I mean? Five years? Probably 5, 7, 8 years. It may be better for the crop insurance industry than hooking onto commodity prices.

Quite frankly, thinking back over the years, I find it hard to argue why it should be connected to commodity prices. What does that have to do with reimbursement? What does that have to do with policy numbers? We should have something that will protect our insurance people from undue happenings and events such as that, and I think that is what this methodology does. We took the average of those 3 years and capped it at that. In conference, we can look at putting in an inflation factor.

It seems to me that makes much more sense for the future of the program. As I said, for that we get more money for the conservation programs, the McGovern-Dole International School Lunch Program, and it also lifts the sunset provision on our nutrition program. Right now the increases we put in the Food Stamp Program with the standard deduction and minimum benefit sunset in 5 years.

Someone in the Democratic Caucus said recently to me: Why are we sunsetting in 5 years the programs that go to the poorest people in our country, yet we don't sunset the programs that go to some of the wealthiest people in our country? Fair question. So in order to lift this sunset, we need additional money, and the money we would save would go to lift the sunset provisions on both the standard deduction and the minimum benefit.

For those reasons, I support the amendment.

Mr. President, I yield the floor.

Mr. BROWN. Mr. President, I yield back our time on the amendment. I thank the Senator from Iowa.

Mr. ROBERTS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that at 3 p.m. today, the Senate proceed to conclude the debate with respect to the Klobuchar amendment No. 3810, and that the previous order with respect to the vote threshold remain in effect; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Klobuchar amendment; that upon disposition of that amendment, the Senate then vote in the relation to the amendments listed below in the order listed; that there be 2 minutes of debate equally divided and controlled prior to each vote; that after the first vote, the vote time be limited to 10 minutes; with no second-degree amendment in order to any of the amendments covered under this amendment, prior to the vote; that the amendments covered here be subject to a 60-vote threshold; that if any of these amendments achieve an affirmative 60 votes, it be agreed to and the motion to reconsider be laid upon the table; that if it does not achieve that threshold, it be withdrawn: Coburn amendment No. 3530; Tester amendment No. 3666; Brown amendment No. 3819, and that the managers' package of cleared amendments be considered and agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I guess we are going to be in recess for an hour, from 2 to 3 p.m. We will come back at 3 p.m. and finish debate on the Klobuchar amendment. We will have that vote, and at the conclusion of that time, we will have three other votes. There should be four votes in sequence at that time.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3 p.m.

Thereupon, the Senate, at 1:55 p.m., recessed until 3 p.m. and reassembled when called to order by the Presiding Officer (Mrs. MCCASKILL).

FARM, NUTRITION, AND BIOENERGY ACT OF 2007—Continued

AMENDMENT NO. 3810

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of amendment No. 3810.

Who yields time? The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Without objection, the time will be equally divided between the two sides.

The legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. KLOBUCHAR. Madam President, I am here to address my amendment, No. 3810, and I want to talk about the importance of reform to this farm bill.

I was disappointed today when the amendment of Senator DORGAN and Senator GRASSLEY was defeated. It was a very important amendment. In other years, we actually had enough votes for this amendment, before I was here, but we weren't able to muster the votes necessary to block the filibuster. Well, we have one more opportunity, and that opportunity is this afternoon.

America's farm safety net was created during the Great Depression as an essential reform to help support rural communities and protect struggling family farms from the financial shocks of volatile weather and volatile prices. I believe after 75 years, the reasons for that safety net still exist, and I believe the farm bill that came through our committee has some very good things in it. It is forward thinking; it is about cellulosic ethanol. It is about finally having some permanent disaster relief. It is about a strong safety net for America's farmers. But there is one thing missing from this farm bill, Madam President, and that is the kind of reform that we need to move forward.

I want to demonstrate what we are talking about here with our amendment, which is cosponsored with Senator DURBIN and Senator BROWN, and why I think it is so important to this bill. As you know, I come from a farm State. It is sixth in the country for agriculture. I am proud of the work our State does and our farmers, and we have diverse farming. I know some of the farmers in my State may not like this, but the vast majority of them support this reform because they know if we don't reform ourselves, someone else will do it for us.

What I am talking about is farm subsidies going to people who shouldn't have them, such as Maurice Wilder, who is a guy that is very wealthy, and who was the No. 1 recipient of commodity payments from 2003 to 2005. He has collected more than $3.2 million in farm payments for properties in five States, even though his net worth is more than $500 million. We also have $3.1 million in farm payments going to residents of the District of Columbia, $4.2 million going to people in Manhattan, and $1 million of taxpayer money going to Beverly Hills 90210.

Now, what can we do to change this? The first thing we are doing is we are getting rid of the three-entity rule, which cuts down on abuse and allows these payments to go to the people they should go to, and ending the practice of dividing farms into multiple

corporations so that they get multiple payments.

The second thing we could have done—and sadly we defeated it today—was the Dorgan-Grassley amendment, which would have put a limit on the actual payment at $250,000. That is a lot of money where I come from.

But there is a third thing that we still have the opportunity to do today. I ask my colleagues, those who are fiscal conservatives and who really care about fairness in this country, to look at this amendment and think about what we are doing. Right now, under existing law, no matter how much you net in income—and I am here talking about deducting expenses because expenses don't count. So when my colleagues talk about farms that might have higher expenses, those are out of it. This is just adjusted gross income.

So for full-time farmers who have unlimited incomes, they can be making millions and millions and millions of dollars. They still qualify for subsidies. And because we weren't able to get it passed and put a limit on subsidies, they do not have that $250,000 cap. Part-time farmers right now, under existing law, can make $2.5 million, and they get subsidies and marketing loans, since we were unable to pass this limitation today.

The President's number, which came with the administration's suggested agriculture proposal, was a $200,000 limit—a $200,000 limit for both full and part time. The Agriculture Committee in the House is chaired by COLLIN PETERSON of Minnesota, and I wouldn't call him a radical guy. He has been a friend of farmers forever. He put the limit at $1 million for full-time and $500,000 for part-time farmers. And he has recently been saying publicly that he thinks it should go lower than that, especially since we do not have the total limit on subsidies that was contained in the Dorgan-Grassley amendment.

Now, what does the Senate bill do—the bill that came out of our committee? It has not changed for full-time farmers. No reform for full-time farmers. For part-time farmers, very slowly, it gets to a $750,000 limitation in income—for part-time farmers.

This amendment says $750,000 for full-time farmers should be the limit—$750,000 in income on top of expenses. Now, if you have a bad year and you are a big farmer, you are still going to qualify. But if you make over $750,000, that is where there is a cutoff. It is great you are making money—you should put it in the bank—but then you don't qualify for the subsidies. If you are a part-time farmer, under our amendment you can make $250,000 or under, and then you will qualify for the subsidies. And here is where we are talking about these investors, the people who aren't full-time farmers, people making less than 66 percent of their income from farming.

Now, what does this amendment do? Let's consider what it means. If you live in a city, and you have a job as an investment banker and make $2 million a year, you don't get the government checks. Right now you can, but under our amendment you won't be able to. And if you are a full-time farmer, meaning more than 75 percent of your income comes from farming, under current law there is absolutely no limit on your income, and you will still get those government checks. This puts some reasonable limits on the income when you qualify for the government farm subsidy checks. That is what it does.

I have to tell you this: With the kind of budget battles we have ahead of us, we have to look at what we are doing and we have to be thinking: Is this fair? When we have a limited amount of money, Madam President, and we are going to have to deal with Social Security and Medicare and all these issues, if we can't even say, for farmers making over $750,000, we are not going to put some limit on these government checks, I really don't understand how we are going to grapple with these tougher issues. It is a matter of fairness because I believe this money should be going to family farmers.

That is what this system was set up to do. It should be going to the hard-working farmers in this country, not to art collectors in San Francisco and not to real estate developers in Florida. That is all we are trying to do with this amendment. So I would appeal to my friends on both sides of the aisle and suggest that this is our opportunity to act. We have the chair of the House Agriculture Committee already putting in their bill some limits and indicating they may want to go lower. We have an opportunity to be part of that change.

I am going to give the other side some opportunity to speak and save the rest of my time, but I will end with a little holiday story. I thought we needed a little holiday cheer today, on a very difficult day.

My daughter and I, when she was 9 years old, went to see the movie ''Polar Express.'' We watched this fanciful movie, and after we came out, she said to me: Mom, you know, there was one thing in that movie that wasn't true.

And I looked at her and thought, what could it be? Could it be when this big body of water froze over so the train could go over it? Was it when a million elves suddenly appeared at the North Pole? Was that the one thing that wasn't true?

She said: You know, Mom, at the end, when the conductor—who was played by Tom Hanks—says to the little boy: Come on, kid, get on the train. It doesn't matter what direction the train is going, just get on the train. And she looked at me and she said: Mom, it does matter what direction the train is going.

Well, that is what I would say to my colleagues today. It matters what direction the train is going. Are we going to be putting money into the hard-working family farmers in this country or are we going to spend it on real estate developers in Florida who have $5 million to their name or art collectors in San Francisco?

Are we willing to say, change is afoot, and then be agents of change. People in this country want to see change. We heard that in this last election. This is our opportunity; it is our chance to go in the direction of reform. We have done that with so many different parts of this farm bill, and that is why I supported this farm bill in committee, but this is our chance to go in the direction of change. It is a very small incremental step, but it will start us going in the right direction with this farm bill—a direction of reform.

Madam President, I yield the floor, and I ask how much time I have remaining.

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I rise in opposition to the Klobuchar amendment.

Let me say first that I am disheartened that farm program critics continue to try to lead the general public and our elected officials into believing that there is a vast army of farm program participants who are receiving benefits to which they are not entitled. Stories about people living on the east and west coasts and everywhere in-between receiving program benefits continue to make the headlines. They are used as the poster children of those who do, but should not receive farm program benefits because they are wealthy landowners or millionaires, but more often than not there is no explanation or concrete definition of either.

Home prices have spiraled over the last decade and many families have homes, usually their single largest asset, worth hundreds of thousands of dollars. Individuals receiving farm program benefits obviously have an interest in an agricultural holding somewhere in the country. Hopefully, they also have a 401(k) or some other savings plan that will allow them to retire one day.

More often than not, the type of individual I just described is not a wealthy landowner. They have a home, a farm—which by the way, they might have inherited—and hopefully a retirement plan. They also have jobs and use the income to pay their mortgage, purchase a vehicle, raise their family, and save for college and every other imaginable cost associated with living. Most of the people I know in these situations don't consider themselves wealthy. Most of them will tell you that the adjusted gross income at the bottom of page 1 on their IRS form 1040 doesn't reflect what they would consider to be a wealthy landowner.

Another class of individuals that draws a lot of attention is millionaires. It is pretty hard to figure out who

those individuals are unless you are their accountant. More importantly, I would hope that we all know there is a significant difference between having a million dollars in assets and having an annual income in the millions. In the vast majority of cases, most individuals receiving farm program benefits do not have anywhere near a million dollars in assets or income.

But as I will point out momentarily, it is not about wealthy landowners and millionaires receiving program benefits, it is really about farmers in general, regardless of their economic situation, receiving program benefits.

Let me back up for a moment, and provide some historical context to where we find ourselves today. Prior to the 2002 farm bill there had never been an income test with respect to the eligibility of individuals and entities to receive program benefits. Congress acknowledged those concerns and addressed adjusted gross income—AGI—in the 2002 farm bill. Beginning with the 2003 crop year, any individual or legal entity with an AGI of $2.5 million or more for the 3 prior years was not eligible to receive farm program benefits, unless at least 75 percent of their income came from farming, ranching and forestry operations. We believed that was a good first step and recognized that when it came time to write a new farm bill, as with any provision, we would take another look to see if the limits were appropriate.

The ink was hardly dry on the 2002 farm bill when the ''reformists'' started shouting once again that individuals and entities otherwise eligible for farm program benefits shouldn't receive farm program assistance because they were millionaires or wealthy landowners.

The bill passed by the Senate Committee on Agriculture, Nutrition and Forestry took a positive step to address the issues surrounding AGI. The Committee adopted an AGI provision that reduced the limit to $1 million dollars in 2009, and to $750,000 in 2010 and beyond, unless at least two- thirds of a person's income came from farming, ranching and forestry.

The reform minded AGI provisions adopted by the committee directly answered the calls to ensure that payments don't go to millionaires. We didn't go to $750,000 in the first year—not a reflection of resistance to change, but rather, recognition that land lease arrangements have already occurred with respect to the 2008 crop payment year because here we are in December of 2007, with farmers and ranchers all across America already in the final stages of planning for their 2008 crop year. In some instances—for example winter wheat—they have already got seed in the ground for the 2008 crop year.

In the 2002 farm bill we added a provision referred to as ''tracking of benefits''. This provision required the Secretary to attribute all payments to an individual, a partnership, or another legal entity back to a natural person or what some referred to as a ''warm body.'' The intent of this provision was to provide transparency and allow the agricultural community, general public, media and other interested parties to trace benefits paid to entities, partnerships, et cetera, back to a ''warm body''.

During the committee markup, Senator KLOBUCHAR said she wanted to stop millionaires from receiving payments. She mentioned the names of several persons that had received payments with the obvious reference to laws that needed to be revamped. That might be true if you are referring to the 2002 farm bill, but not when compared to the provisions adopted by the committee to keep these individuals from receiving payments.

I am pleased that there is acknowledgment that the tracking of benefits provision worked as it was intended, as it is obvious she and her staff have researched a certain database Web site that is accessible to the general public. I am equally pleased that the adjusted gross income provision that was included in 2002 also worked as intended.

What I am not pleased about is the mischaracterization that people who are no longer eligible for payments because of the provisions contained in the 2002 farm bill are somehow skirting the system and still receiving payments.

One name that frequently comes up is Scottie Pippen, whom we all know to be an outstanding NBA basketball player. When you look through a certain Web site database you will notice that Mr. Pippen received Conservation Reserve Program payments, CRP as it is commonly referred to, for the 2003 through 2005 program years through an entity named Olympic Land Company Incorporated.

USDA tells me that Scottie Pippen owns 100 percent of Olympic Land Company Inc. Olympic Land Company purchased a farm in 2003 that had an existing CRP contract. Because the contract was in existence prior to the 2002 farm bill, the new AGI limits did not apply. The CRP contract expired on September 30, 2005 and Olympic Land Inc. did not enter into a new contract with the 2002 farm bill AGI provisions obviously playing a role in the decision.

Another name used frequently is Ted Turner, who has extensive agricultural holdings in Montana, New Mexico and other States. Mr. Turner bought property in Stanley County, SD, that had several CRP contracts initiated prior to the 2002 farm bill AGI limitations becoming law. Once again because these were multiyear contracts and entered into prior to the 2002 act, AGI provisions did not apply to Mr. Turner until the contracts expired. These contracts expired on September 30, 2007, and Ted Turner did not enter into a new contract with the AGI provisions obviously playing a role in that decision.

I believe these are just two of many examples where the AGI provisions contained in the 2002 farm bill worked as intended, and what we have done in this bill is reduce that limit by an additional 70 percent. There isn't anyone who can stand before this body today and say that a 70-percent reduction in the AGI test is not real reform.

Landowners and producers often jointly share in the risk and production of the crop in a manner that is normal and customary for the area. When the landowner shares in the production risk, by covering costs such as fertilizer or harvesting, the producer benefits from: No. 1, reduced risk in producing the crop, No. 2, reduced capital requirements, and No. 3, a landowner's greater general appreciation of the operation.

I can tell you what is going to happen as we continue to lower the AGI and it is very simple. Landowners intend to capture a return on their assets and unless there are special circumstances, the landowner is going to change from a share lease to a cash lease. Instead of participating in the risk of producing the crop this policy will shift all of the production risk and input costs onto the back of the producer. The landowner will cash lease the land and walk away with a guaranteed lease payment and the producer comes away from the deal with higher production costs and more risk. Do we really want to make it more difficult for the folks who are actually out there getting dirt under their fingernails, driving the tractor and caring for the land?

I want to repeat again what I said earlier, this debate is not about wealthy landowners and millionaires receiving program benefits. It is really about farmers in general, regardless of their economic situation, receiving program benefits. A few short months ago the debate was about making payments to millionaires and now we are at $750,000 and people want to go even further. This amendment is actually an assault on everyday farmers; but is disguised as an assault on wealthy landowners and millionaires.

I am urging my colleagues to vote no on the Klobuchar amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Ms. KLOBUCHAR. I yield 3 minutes to the Senator from Illinois.

Mr. DURBIN. Madam President, why are we here today? We are here today because we are writing a farm bill. We do that every 5 years—1,360 pages. Why are we doing this? We are doing this because in 1932 a President named Franklin Delano Roosevelt looked out at the farmers of America and said: We have a serious problem. These poor people are going bankrupt and losing their farms because of circumstances beyond their control, because of weather, because of terrible prices. He said: We are going to step in as a government and make a difference. We are going to provide a

safety net so that families who are farming do not lose their farms. Thank God he did it, and thank goodness we continue this tradition through this farm bill.

Every time we argue or debate a bill such as this, we debate it in the poetry of family farms and the heart of American values. But when you take a look inside this bill, you will not find poetry; you will find the prose of corporate farming and people who have decided to use this farm bill to make a fortune. That is the reality.

Many of these so-called farmers are more adept at reaping Federal checks than they are reaping and harvesting any crop known to man. Is what they are doing illegal? No. This bill makes it legal, legal for them to use these Federal farm programs, designed to help the struggling farmers, to make a fortune personally.

I listened to Senator CHAMBLISS talk about the struggling farmers with dirt under their fingernails. Listen, many of the people who are making a fortune off of this farm bill end up at the end of the day with the ink from corporate annual reports on their hands and no dirt under their fingernails—trust me. What Senator KLOBUCHAR and myself and Senator BROWN are trying to say is, shouldn't there be a bottom line where you say: Listen, you are doing quite well in life; the Federal Government is no longer going to subsidize you.

Here is the bottom line. If your adjusted gross income is over $750,000 a year, we say: You are on your own. Good luck. We hope life continues to be very good to you. And we go on to say that the income limit for those who earn less than 66 percent of that income from farming would be $250,000. We will give no more than a quarter of a million dollars of hard-earned taxpayers' dollars to those who are doing very well in life.

Is that an unreasonable standard? At a time when we are waging a war at $14 billion a month, that we do not pay for; at a time that we cannot fund our schools under No Child Left Behind; when this President will not increase Federal research to find cures for diseases facing American families, is it unreasonable to say we should have limits to the amount of money we should pay those who call themselves farmers but, in fact, are just investors?

I do not think it is unreasonable. This amendment is the same as the issue I raised this morning. This morning, by one vote, the Senate decided to continue the subsidy to oil companies in America making record-breaking profits.

The question on this amendment is, Will we continue to subsidize the rich who are using the farm program to get richer?

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time does the Senator have remaining?

The PRESIDING OFFICER. There is 7½ minutes.

Mr. HARKIN. Can I ask the Senator to yield me time?

Ms. KLOBUCHAR. Two minutes.

Mr. HARKIN. How about 3.

Madam President, I am very proud of our bill. We worked very hard to craft a bill. But, you know, any bill needs to be improved when it comes to the floor. I think this is one item where we need to fix it. The bill that came out of committee, we did not do our job in this respect. I wish to echo what the Senator from Illinois said. I think of it this way. If you are a bona fide farmer, more than two-thirds of your income, it could be 70 percent of your income comes from farming, you have no limits. There are no limits. You could have an adjusted gross income of $10 million and you will still get Government benefits. There are zero limits.

Now, again, if your income from farming is less than that, less than two-thirds, then you have an income limit of $1 million, then it goes down to $750,000 in 2010.

The Senator from Minnesota is on the right track. There is absolutely no reason why someone whose bottom-line adjusted gross income, bottom line after they have taken all their depreciation, all their expenses and everything else, bottom line of $750,000, they do not need free Government money.

But I can understand why they are fighting this amendment. Who wants to give up free money? This is free money. Well, if you are going to give free money, then how about giving it to people who deserve it? That is what the Klobuchar amendment does. It takes this savings of $355 million and puts it into the Beginning Farmer Development Program, the Individual Development Accounts Pilot Program for beginning farmers, rural broadband grants, organic agriculture research and extension, Grasslands Reserve Program, community food projects, things that go to help rural America and help our legitimate small family farmers.

So that is why I feel this is one amendment I wish to speak out on as chairman of this committee. As I said, I am proud of this bill. We have put a good bill together. But there is one hole in it we need to patch up, and we need to have at least this amount of reform in this bill, or else people will continue to say: Well, there they go again. They are taking care of the richest and the biggest, the richest and the biggest.

Do you know what is happening now with farm programs? It is similar to a black hole. Do you know what black holes are in astronomy? Those are the things in space where there is so much gravity that nothing escapes, not even light. If anything gets near it, it sucks it in and nothing gets out.

Well, this is akin to what is happening in our farm programs now with this kind of a situation. The bigger you are, the more you get. That is what is happening here. The bigger you are, the more you get from the Government.

Now the more you get from the Government, the better able you are to bid up the price of land around you and buy it. Therefore, you get bigger. Now that you are bigger, you get more Government money, and you can buy up more land, and you get more Government money.

That is why it is similar to a black hole. We have to stop this. This is not in the best interests of rural America. What is in the best interest is the Klobuchar amendment. I mean $750,000, quite frankly, personally I think it ought to be lower. I think if you had an adjusted gross income over $500,000 or $300,000, you ought not be able to get Government programs.

But at least $750,000 is a lot better than what is in the bill. Because the bill says there are no limits, none, $10 million, you still get Government payments, if two-thirds of your income is from farming. That is why the Klobuchar amendment ought to be adopted.

Ms. KLOBUCHAR. Madam President, I thank the Senator from Iowa and the Senator from Illinois. I reserve the balance of my time.

Mr. CHAMBLISS. Madam President, I have one comment on the statement the Senator from Illinois made. Let me make sure there is no misunderstanding because he misstated something. This amendment has nothing to do with amount of payments. This has to do with the eligibility of payments.

I assure you, anyone who has an adjusted gross income of $750,000 from a farming operation, which is required under the bill that is before this body, has invested millions and millions of dollars into their trough in order to be able to achieve that goal, and they probably had a pretty good year to do that.

There is nothing in this amendment that says to that farmer, if you lose all those millions of dollars, that we are going to do something for your benefit. That is what our safety net is all about. That is why this is such a bad amendment.

I yield the balance of the time remaining on this side to the Senator from Arkansas, Mrs. LINCOLN.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Thank you, Madam President. I thank my colleagues for the work we have done on this farm bill. I come to the floor today to urge my colleagues to oppose the Klobuchar amendment.

Listening to my colleague from Minnesota, her description about directions being important does matter. That is why it is important for us to look at the direction we are going in this farm bill. This underlying farm bill that we brought together in the Senate Agriculture Committee has the most substantive reform in the history of a farm bill.

It stands for farmers, for family farmers. It stands for a safe food supply which is absolutely critical. It is a bill

that ensures that in future generations we will have a safe food supply. But we can also go too far in the one direction. I think that is important for us to take a look at.

The Senator from Georgia talked about the fact that these individuals have large operations. Well, if you are farming 1,000 acres of cotton, you are going to have to sign an operating loan at the beginning of your crop year to the tune of about $5 million. That is tremendous risk. How important would it be to have a brother or a son who is going to also cosign that note, who is also going to have access to the ability of allowing the Government to provide those two a safety net, of being able to provide that safe and affordable food supply.

If those individuals are farming and they are getting payments, it means they are getting those payments because prices are low. One year it may be good, the next year it may be bad. We do not need to go in the wrong direction.

The millionaire Senator KLOBUCHAR references from Florida, he should not be out there. If he is worth $500 million, he should have been caught by the last farm bill's initiative. He would certainly be caught by the limits that are in the committee bill we bring to the floor.

I might suggest that from the GAO study we have seen, much of what gets underneath what actually exists is because the existing administration is not implementing the current law. The GAO study tells us that. Well, if they are not implementing the current law, why would we go further in that wrong direction? We have gone critically in the right direction. We have lowered by 70 percent the AGI means test. That is what it is, a means test.

As I stated on this floor so many times during the consideration of this legislation, the underlying bill already contains the most significant farm program reform in the history of a farm bill. We have already included the dramatic reform to this adjusted gross income means test that unanimously passed the Senate Ag Committee.

Prior to the 2003 farm bill, there was no means test that existed for farm programs. However, we knew it was important to eliminate loopholes that nonfarmers used to receive program payments. During the 2002 farm bill debate, we instituted a $2.5 million test. Well, I would ask my colleagues from Iowa and Minnesota, the gentleman who was referenced by the Senator from Georgia, he is not going to be caught if he were to reinvest.

We have not extended this means test to anybody else. The conservation programs are not—I hope the chairman will correct me—the conservation payments will not be corrected by this, they will still remain under the current law at $2.5 million. So they will not even be lowered to what we have lowered it in the committee bill, to 750.

So if we are going to do this, if we are genuine about wanting to put this strong means test and go down that severe direction, then why are we not doing it across the board? Why are we not making that difference? If what we want to do is to create all those savings, then why are we not being fair about it and making it across the board?

In the underlying bill, we have gone further and lowered the threshold to 750,000, and that is a 70-percent reduction, a 70-percent reduction in the AGI test. Before we go further, let's see if that does not work. We went to 2.5 in the last bill, we have gone consistently lower now. If the President is not going to implement the law as it exists, what good would even taking it more extremely down that road do?

I hope we will not forget we have also significantly reformed individual program payment limits on top of which we will sharply reduce benefits to producers who remain eligible under the AGI test.

This is already historic reform. There is no need to hit these farmers with a double whammy. It is also vitally important to remember the purpose of the AGI test we included in the committee bill is to keep rich nonfarmers, the ones my good friend from Minnesota and others continually cite, from receiving farm bill benefits.

But, unfortunately, the Klobuchar amendment would not just ratchet down the AGI limits to rich nonfarmers, it would also sharply ratchet down the support to family farmers, families who come together to farm because they want to share the risk, they want to be able to share the ability to sign that operating loan note or to share the cost of what it costs to purchase that equipment, that seed and that fertilizer, the enormous expenses that go into a capital intensive farm. They want to share those risks.

It would sharply ratchet down their ability to do it. That is not the purpose of an AGI test. That is not the purpose of means testing. Ironically, while the amendment before you would do this to farm families, it leaves wide open another loophole that lets rich nonfarmers continue to collect those huge conservation payments to the tune of $2.5 million, which is the existing law. We do not even correct that.

That is right. It is not across the board. The big elephant in the room no one wants to talk about, that while folks hammer away at farm families in this country trying to make ends meet, other wealthy nonfarmers, such as Scottie Pippen, who was mentioned earlier from my State, who often gets cited, will continue to collect conservation checks.

I do not know why we continue to talk about how we want to ratchet down on family farmers, but we do not want to talk about it across the board in other programs where we are seeing large payments going to very wealthy millionaire nonfarmers.

So I urge my colleagues to do the right thing, vote no on this amendment which hurts family farms while letting some of those rich nonfarmers completely off the hook. If the Senator from Minnesota wants to rid the country of all the sensational stories based on half-truths, I would advise her to apply her test in this proposal across the board to all the commodities and not just target Southern growers yet again.

I would advise caution, though, because I do not think we fully understand the ramifications of true means testing to that degree. On one hand, once we have set the precedent of implementing a means test on farmers, who is to say we will not begin tying a means test to other sectors of the economy that receive Government subsidies and tax breaks, perhaps those who deliver health care, maybe those who receive health care, capital investments, the list could go on and on.

If we are going shortly to means testing where the Government is going to investigate, I would suggest we stop for a moment and pay caution and remember these are the hard-working farm families who provide us a safe and abundant supply of food.

Senator DURBIN continues to talk about unsafe foods coming in. What happens 10 years from now if we put farmers out of business and all of a sudden we are dependent on foreign food just as we have become dependent on foreign oil?

Second, we don't know what our neighbors make. I don't want to know what my neighbors make. If we start seeing our rice and cotton outsourced to foreign countries, we will see the full effect of this means test. The consequences of enacting a means test that is too stringent and disqualifies certain farmers' crops is very dangerous to our farm families. It is like playing with dynamite and seeing how close you can stand to the blast without getting hurt. I ask my colleagues to oppose the Klobuchar amendment.

I do know one thing. If we go too far in the wrong direction without being given the opportunity to better understand what we have done and why certain people are not coming under that test, as a country we are going to regret it. We are going to regret that we have put out of business southern growers who provide 85 percent of the rice we consume in this country. The American people are going to hold us accountable when we become dependent on foreign food that comes from countries that have no regulation on how it is grown, on what is used, no regulation on the water source that may be used, how they fertilize, no regulations such as our farmers adhere to, producing the safest, most abundant, and affordable food supply in the world.

One of the things you can definitely say of the underlying bill that passed the Senate Agriculture Committee unanimously is that millionaire nonfarmers need not apply where this bill is concerned. Going too far in the direction that Senator KLOBUCHAR wants

to take us without understanding what we have already done and how it will have unintended consequences could be dangerous for this country and the families of this country who depend on these working farms for the safe and abundant supply of food they so desperately need.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Ms. KLOBUCHAR. Madam President, how much time remains on my side and the other side?

The PRESIDING OFFICER. The proponents have 3½ minutes. The opponents have 2 minutes 40 seconds.

Ms. KLOBUCHAR. Madam President, the average farmer in my State makes $54,000 a year. I think you see family farmers like that all across this country. That is what this amendment is about. There has been debate about Scottie Pippen and all these people. The USDA has looked at this, the Government has looked at this, and this would save about $355 million. Where is that $355 million coming from? It is coming from full-time farmers who are grossing $750,000 or more, into the millions a year, and part-time farm investors who are making over $250,000 a year. That is where this is coming from.

There has been discussion, which I think is smoke and mirrors, about expenses. Let me make clear, farmers can deduct their operating expenses such as seed, fertilizer, fuel, and labor from their adjusted gross income. When it comes to investment in buildings and equipment, these are capital expenses, and they depreciate over time. That depreciation is deductible. When it comes to land, it works like it does a home mortgage. Your interest is deductible, but your land is something you have that you get value from. When it comes to rented land, the rental cost of the land is fully deductible from adjusted gross income.

I didn't come up with these laws. They are in the Tax Code. They are the law. What this is about is making sure we have some real reform. Because if we don't do it in the farm States, it is going to happen to us. I have said this before, and I truly believe it will happen.

There has been some discussion about what our existing bill does. Let me explain again. The House-passed bill sets it at $1 million for full time, $500,000 for part time. My colleagues have been saying: We have a 70-percent reduction for a part-time farmer. That goes to say, if you start high enough at $2.5 million, anything like 70 percent sounds good. But instead, in fact, the actual Senate bill is only at $750,000 for a part-time farmer.

I have visited hard-working farmers all over my State, visited all 87 counties 2 years in a row. I have talked to them and to farm groups across the country. Do they like this? Well, not totally. They get concerned. What does that mean? I think many of them understand—and I know Senator GRASSLEY knows this in Iowa and Senator DORGAN understands this in North Dakota—that at some point the Government has a limited amount of money. We have to make some decisions. What I am saying is, let's make a decision to help the hard-working farmers of this country to move in that new direction, to cellulosic ethanol and energy independence and good conservation and making sure we have a strong safety net that this farm program deserves. Let's go in that direction to the future and not stay here where we increasingly, as our economy has changed, are giving a larger amount of money to the wealthiest investors. Beverly Hills 90210, $1 million in payments.

I believe in this safety net. I support this farm bill. I will support this farm bill, because I believe in a safety net. But I believe it is time to move to some reform. The people of this country are ready for this reform. The people in our rural communities are ready for this reform. Now, my friends, we have a chance to do it.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, as we close this debate, I want to say thanks to so many Senators who have worked hard to come up with particularly what we brought out of the Agriculture Committee which was an enormously well-balanced bill. We eliminated loopholes that people had complained about. We eliminated the three-entity rule, the generic certificates. We put in transparency that people have been clamoring for in the direct attribution. I remind people that these are all things that apply to the basic commodity programs. Here we go again with going farther in something we have already reformed.

Senator KLOBUCHAR wants to go one step farther in lowering that AGI. But you have to ask the question: Why is it we have to cherry-pick lowering that means testing and AGI just for the commodity programs, so it hits the capital-intensive crops that southern growers grow? Why does it not apply to the conservation payments that go out that are in large numbers? Why doesn't it apply to the sugar program or the MILC program or the ethanol tax credit? It simply cherry-picks those individuals whom they can cherry-pick. That is the commodities program.

My argument to my colleagues is, we have lowered the AGI means test from the 2002 farm bill by 70 percent. Some of the people who were used as examples should be caught. I am not sure why they are not. Maybe it is the reason the GAO study tells us this administration doesn't implement the existing law. But we should make sure that what we are doing in this bill is working before we begin to take a further step and suffer the unintended consequences of putting out of business those farmers who use these programs when prices are low, cherry-picking those commodities that are capital intensive and will suffer the most from this, and not extending this across the board so that everybody feels the pain, so everybody understands what it means when you start putting means testing on programs, when you are dealing with circumstances that are beyond our farmers' control, when you are dealing with weather, trade, global competition?

I ask my colleagues to think twice before they support this amendment and remember that we have done 70 percent in terms of lowering the AGI test. I hope they will oppose the Klobuchar amendment.

Mr. CHAMBLISS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Madam President, again, trying to work this through and get our amendments lined up, I have a unanimous consent request, and then we will be on our way to four votes in a row.

Madam President, I ask unanimous consent that the Coburn amendment No. 3530 be modified with the changes at the desk, and that the amendment then be agreed to, and the motion to reconsider be laid upon the table; that upon disposition of the Brown amendment, the Senate then return to the Craig amendment No. 3640, and that there be 2 minutes of debate prior to the vote, with the time divided between Senators CRAIG and LEAHY, and that the Craig amendment be subject to the same 60-vote threshold as is provided for in the previous order.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Madam President, reserving the right to object, I say to the chairman of the committee, I think you alluded to the Craig amendment as 3640. It is 3630.

Mr. HARKIN. It is 3640.

Mr. CHAMBLISS. OK.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3530), as modified, was agreed to, as follows:

At the appropriate place in title XI, insert the following:

SEC. _____. PAYMENTS TO DECEASED INDIVIDUALS AND ESTATES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall not provide to any deceased individual or estate of such an individual any agricultural payment under this Act, or an Act amended by this Act, after the date that is 2 program years (as determined by the Secretary with respect to the applicable payment program) after the date of death of the individual.

(b) REPORT.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and post on the website of the Department of Agriculture, a report that describes, for the period covered by the report—

(1) the number and aggregate amount of agricultural payments described in subsection (a) provided to deceased individuals and estates of deceased individuals; and

(2) for each such payment, the length of time the estate of the deceased individual that received the payment has been open.

Mr. HARKIN. Madam President, here is the situation, for all Senators. We are now going to be having a series of votes. The first vote will occur on the amendment by the Senator from Minnesota, Ms. KLOBUCHAR. That will be a 15-minute vote. The next three votes will be Senator TESTER's amendment, then Senator BROWN's amendment, and then Senator CRAIG's amendment. Those will be 10-minute votes. Each one of these has a 60-vote threshold.

Mr. KYL. Mr. President, I support the Klobuchar amendment because it moves farm policy in the right direction. It would limit commodity program payments for those farmers who earn more than two-thirds of their income from farming, after expenses are deducted, to $750,000.

The amendment, however, has a number of problems. For example, rather than applying the savings achieved by tightening the payment limitations to deficit reduction, it applies most of the savings to other farm programs. It also does not apply the stricter income test to conservation program payments. Nevertheless, the amendment takes a step forward in reining Federal spending on farm subsidies and, therefore, warrants my support.

VOTE ON AMENDMENT NO. 3810

The PRESIDING OFFICER. The question now is on agreeing to the Klobuchar amendment.

Ms. KLOBUCHAR. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 48, nays 47, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—48

Bayh	Brown	Cantwell
Bingaman	Brownback	Cardin
Boxer	Byrd	Casey
Collins	Kohl	Reid
Dorgan	Kyl	Sanders
Durbin	Lautenberg	Schumer
Ensign	Levin	Snowe
Feingold	Lieberman	Specter
Feinstein	Lugar	Stabenow
Grassley	McCaskill	Sununu
Gregg	Menendez	Thune
Harkin	Mikulski	Voinovich
Johnson	Murray	Warner
Kennedy	Nelson (FL)	Webb
Kerry	Nelson (NE)	Whitehouse
Klobuchar	Reed	Wyden

NAYS—47

Akaka	Cornyn	Lincoln
Alexander	Craig	Lott
Allard	Crapo	Martinez
Barrasso	DeMint	McConnell
Baucus	Dole	Murkowski
Bennett	Domenici	Pryor
Bond	Enzi	Roberts
Bunning	Graham	Rockefeller
Burr	Hagel	Salazar
Carper	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Smith
Cochran	Inouye	Stevens
Coleman	Isakson	Tester
Conrad	Landrieu	Vitter
Corker	Leahy	

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The PRESIDING OFFICER. Under the previous order, requiring 60 votes for the adoption of the amendment, the amendment is withdrawn.

AMENDMENT NO. 3666

The PRESIDING OFFICER (Ms. KLOBUCHAR). There will now be 2 minutes of debate, equally divided, prior to the vote on the Tester amendment No. 3666.

The Senator from Georgia is recognized.

Mr. CHAMBLISS. Madam President, this amendment would prevent businesses from using legitimate business justifications as a defense against claims of unlawful practice under the Packers and Stockyards Act. This is clearly a determination that should be left to the discretion of the courts and not summarily decided in advance by Congress. I urge a ''no'' vote.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. TESTER. Madam President, I encourage the body to support the amendment. It addresses manipulation in the meatpacking industry. It would stop the meatpackers from using business justifications to create a monopoly or restrain commerce. That is it.

If you want free markets and to support family farmers and ranchers and cow/calf operations, you need to vote for this amendment. I ask for a ''yes'' vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have previously been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—40

Barrasso	Feinstein	Mikulski
Baucus	Grassley	Murray
Bingaman	Harkin	Reed
Boxer	Johnson	Reid
Brown	Kennedy	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Tester
Conrad	Leahy	Webb
Dorgan	Levin	Whitehouse
Durbin	Lieberman	Wyden
Enzi	McCaskill	
Feingold	Menendez	

NAYS—55

Akaka	DeMint	Murkowski
Alexander	Dole	Nelson (FL)
Allard	Domenici	Nelson (NE)
Bayh	Ensign	Pryor
Bennett	Graham	Roberts
Bond	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith
Burr	Hutchison	Snowe
Casey	Inhofe	Specter
Chambliss	Inouye	Stabenow
Coburn	Isakson	Stevens
Cochran	Klobuchar	Sununu
Coleman	Kyl	Thune
Collins	Lincoln	Vitter
Corker	Lott	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	
Crapo	McConnell	

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

AMENDMENT NO. 3819

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote in relation to amendment No. 3819 offered by the Senator from Ohio, Mr. BROWN.

Who yields time?

Mr. CHAMBLISS. Madam President, the Senator from Kansas, Mr. ROBERTS.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Madam President, this amendment threatens to undermine and kill the Crop Insurance Program so vital to farmers and ranchers. The amendment does not take into account the real world expenses of industry, including the list of the private reinsurers which ensures that the taxpayers do not pick up the risk.

If we endanger this program, many farmers, especially young farmers, will be in danger because their lenders and their landlords demand they sign up for crop insurance.

This is a genuine Kent Conrad chart, the veracity of which is unquestioned. If we look back to 1980, when I first had the privilege of coming to Congress, we had 64 crop insurance companies. We can see what has happened every decade as we further cut investment in crop insurance. We are down to 16. We had a reform with Bob Kerrey in 2000. We expanded it all over the country.

If this amendment is adopted, I am telling my colleagues, it isn't going to be 16, it is going to be 5. Don't support this amendment.

Mr. DURBIN. Mr. President, I rise to speak in support of the bipartisan Brown-Sununu-McCaskill RESCU amendment.

This amendment significantly improves the way we target Federal resources to agriculture—eliminating waste and providing additional investments in important programs. The amendment also redirects hundreds of millions of dollars into deficit reduction that would otherwise subsidize large insurance companies.

As my colleague, Senator BROWN, points out, in the last 7 years crop insurance companies have received 40 cents out of every dollar that Congress has appropriated for the crop insurance program—that is $9 billion out $19 billion for the program. This is billions of dollars meant for farmers that ended up in the pockets of insurance companies. The Brown amendment cuts $2 billion of that spending by lowering the subsidy rate for insurers.

Currently, that subsidy is calculated based on crop prices. As crop prices rise, so does the subsidy—even though the work burden stays the same. Rising commodity prices have driven up premiums so that these subsidies are now over three times what they were 10 years ago, even though the cost of administering the policies has stayed the same.

In other words, it makes no sense.

This amendment reduces the reimbursement rate to the 2004–2006 national per policy average. This level is still higher than any year prior to 2006 and is quite fair to the companies.

A recent GAO report showed that compared to other insurance sectors, crop insurance companies earn profits that are more than double industry averages. I don't have a problem with industry profits, but I don't think those profits should come right out of the pockets of U.S. taxpayers.

This amendment would require that insurers share a portion of their underwriting gains or losses with Federal taxpayers by increasing the Federal share of risk from 5 percent to 15 percent.

The $2 billion in savings would fund over $1 billion in improvements to the Food Stamp Program, $400 million for conservation programs, $200 million for the McGovern-Dole Food for Education Program, and over $600 million for deficit reduction.

Through these changes, we will be able to conserve soil and water quality on millions of acres of farmland, provide real food benefits to a countless number of less fortunate Americans, and make a significant investment in the lives of millions of children from some of the poorest corners of the world.

Farmers will not pay more for crop insurance. This amendment does not reduce premium subsidies to farmers. Premium subsidies are set by law. This amendment does not change them.

I thank my colleagues, Senators BROWN and MCCASKILL, for their hard work assembling this language.

Now, let me just say a few words about the McGovern-Dole Program, which would enjoy increased funding under this amendment.

The amendment would provide enough mandatory money for the McGovern-Dole International School Feeding Program to provide nutritious meals to millions of children each year who would otherwise go hungry.

The McGovern-Dole Program is based on a simple idea that I first read about in an op-ed written by former Senator George McGovern in 2000. The op-ed was titled ''Too Many Children Are Hungry. Time for Lunch,'' and it argued that the fastest way to alleviate poverty in less developed countries is to provide healthy, nutritious meals to children attending school. The principle is simple—by linking school attendance with nutritious meals, you provide an incentive for families to send their children to school to become educated, rather than keeping them at home to work. And as children become more educated and better fed, they grow up smarter, stronger, and better able to earn a living and make positive contributions to their societies.

The statistics are startling. Since it was founded in 2000 by President Clinton as the Global Food for Education Initiative, GFEI, the program has provided healthy meals to more than 26 million boys and girls in 41 countries around the world. Through the program, American-grown wheat, rice, peas, corn, and other crops have been provided to young children in countries as diverse as Afghanistan, Chad, Nicaragua, Nepal, and Senegal. More than 500,000 metric tons of commodities have been distributed since the program's inception.

In communities that have benefited from the McGovern-Dole Program, school attendance rates have increased 14 percent on average and 17 percent for girls compared to similar communities that have not benefited from the program. What is even more amazing than the statistics are the stories about what this program enables in some of the world's poorest communities.

Take my friend Paul Tergat. Paul Tergat is the current world record holder in the marathon. He ran the 26.2 mile race in 2 hours 4 minutes. When Paul was a child living in Kenya, he received free lunches through a World Food Program school feeding program. Without the program, he says he would not have been able to go to school because his parents were too poor. He says it is likely he never would have trained to become an athlete were it not for the generosity of the program.

Like many of my colleagues, I have seen school feeding programs like these in person, and I can tell you they have a transformative effect. I saw the program when I traveled to Kibera in Kenya—it is one of the world's largest slums. Over 1 million people. It is the slum that you see if you have ever watched the film ''The Constant Gardener.'' When you visit, there are people as far as the eye can see, kids playing in the streets, in railway yards, everywhere.

We visited a school in Kibera and saw a feeding program in action. At lunch time, the students were provided with what looked like gruel or porridge—it was a highly nutritious enriched food provided thanks to the productivity of U.S. farmers and the generosity of U.S. taxpayers. The children stood in line patiently, and you could just tell this was going to be their one meal of the day. And they were there in school so they could get that meal. It is these types of stories that make you a believer in the power of school feeding programs. This program is transformative in the lives of vulnerable children around the world. And it promotes U.S. interests around the world. Delivering bags of food labeled as gifts of the people of the United States is a public diplomacy tool that demonstrates the good will and generosity of the American people. It represents the best of our values, and it tells people all over the world who we are and what America stands for. Imagine the possibilities for shaping perceptions of the United States if we significantly increase our investment in the McGovern-Dole Program—the millions more children we could touch at an early, impressionable age and give the most basic gift of a healthy, nutritious childhood.

The McGovern-Dole Program is also good for American farmers and the agriculture industry. In 2005, the program distributed approximately 120,000 metric tons of U.S. commodities. The McGovern-Dole Program is also good for related industries, including processors, millers, packagers, freight forwarders and shippers, as well as U.S. port facilities.

The program serves as one more market for U.S. commodities, which is one reason the program has the support of a wide range of industry groups, including the American Soybean Association, the North American Millers Association, and the National Farmers Union.

This is a strong amendment, and I urge my colleagues to vote yes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, the Brown-Sununu-McCaskill-McCain-Durbin-Schumer amendment will make the Crop Insurance Program work for family farmers and work for taxpayers. In the last 6 years, $10.5 billion in benefits through the Crop Insurance Program have gone to farmers. It took 19 billion taxpayer dollars to deliver that $10 billion in benefits. Farmers get less than half of the crop insurance money. Of the crop insurance dollars, more money goes to insurers than it does to farmers. We want to take a very small

amount of that and move it to deficit reduction and move it to the conservation programs and move it to the McGovern-Dole Program, something I know Senator ROBERTS supports.

This is not going to mean the Crop Insurance Program is in jeopardy. This will make the Crop Insurance Program work better for family farmers and work better for taxpayers.

I ask for my colleagues' support of the Brown-Sununu-McCaskill-McCain-Durbin-Schumer amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BROWN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The yeas and nays resulted—yeas 32, nays 63, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—32

Alexander	Harkin	Nelson (FL)
Bayh	Kennedy	Reed
Bingaman	Kerry	Reid
Boxer	Kohl	Rockefeller
Brown	Lautenberg	Sanders
Cardin	Leahy	Schumer
Casey	Levin	Specter
Durbin	Lieberman	Sununu
Feingold	Lugar	Webb
Feinstein	McCaskill	Whitehouse
Gregg	Menendez	

NAYS—63

Akaka	Crapo	Martinez
Allard	DeMint	McConnell
Barrasso	Dole	Mikulski
Baucus	Domenici	Murkowski
Bennett	Dorgan	Murray
Bond	Ensign	Nelson (NE)
Brownback	Enzi	Pryor
Bunning	Graham	Roberts
Burr	Grassley	Salazar
Byrd	Hagel	Sessions
Cantwell	Hatch	Shelby
Carper	Hutchison	Smith
Chambliss	Inhofe	Snowe
Coburn	Inouye	Stabenow
Cochran	Isakson	Stevens
Coleman	Johnson	Tester
Collins	Klobuchar	Thune
Conrad	Kyl	Vitter
Corker	Landrieu	Voinovich
Cornyn	Lincoln	Warner
Craig	Lott	Wyden

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

AMENDMENT NO. 3640

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to the vote in relation to amendment No. 3640, offered by the Senator from Idaho, Mr. CRAIG.

The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, fellow Senators, this is a fundamental private property rights vote. This is what is happening across America. This is what is happening across America in a post-Kelo decision. Counties and cities are oftentimes reaching out into farm country, condemning land, and holding it as open space when it is already open space, and this amendment speaks to that.

Sandra Day O'Connor, in her dissent against Kelo v. New London, said this:

> The fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more.

The American Farm Bureau, the American National Cattleman's and Beef Growers, and the National Public Lands Council support this amendment. If the Judiciary Committee had responded, and I hoped they would have, we would have a much broader definition as it relates to Kelo and as it relates to the right for eminent domain.

Clearly, the public good is not damaged because entities still have the right for the public good, and that has always been the purpose of eminent domain. But simply to acquire property through condemnation when it is open space, to hold it as open space and to deny the private property owner his or her rights is fundamentally wrong under our Constitution.

I urge support of this amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I strongly disagreed with the very conservative, very activist Supreme Court decision on Kelo, but this is not the place to correct that, on a farm bill. If the Senate, or any Senator, wants to introduce legislation to repeal Kelo, then let's take it to the committee of jurisdiction, the Senate Judiciary Committee, and we will hold hearings on it.

There have been no hearings. This amendment does nothing to prevent the Government from seizing private property in order to hand it over to private developers. Instead, it allows governments to seize farmland for a prison but not eminent domain for conservation purposes or a parkland. It is opposed by all the leading conservation groups—the Defenders of Wildlife, the National Wildlife Federation, the Wilderness Society, and on and on.

Now, my commitment to farming is very strong, but I don't want to say let's grab farmland for a prison because we passed legislation that nobody has reviewed, nobody has done anything on. This is a mistake. It doesn't belong in a farm bill.

If the Senate, or any Senator, wants to overturn the Kelo decision, which after all was done by an activist Republican conservative Supreme Court, then we will hold hearings on it.

Mr. BYRD. Madam President, our Government should not be able to confiscate the land of private citizens in a way that is reckless or that benefits the pecuniary interests of private developers at the expense of the public good. That is why I share the concerns of many Americans about the U.S. Supreme Court's decision in Kelo v. City of New London, where the Court held that eminent domain could be used to transfer private property to other private owners for development purposes. However, today, I joined a majority of the Senate in voting against an amendment that would have unduly limited the power of eminent domain by State and local governments because the reach of the amendment was far too broad and its text had not been the subject of hearings before the Senate Committee on the Judiciary. The proposed legislation would have imposed severe Federal sanctions on State and local governments seeking to exercise eminent domain over land for perfectly legitimate and defensible reasons, including for purposes of historic preservation, conservation, to create parks, or to promote recreation or community service. I share the view of most Americans that the power of eminent domain must be exercised in a fair, prudent, and balanced way. Unfortunately, this amendment would not have accomplished that objective.

The PRESIDING OFFICER. All time has expired.

Mr. CRAIG. Madam President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 3640. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. WHITEHOUSE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 37, nays 58, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—37

Allard	Cornyn	Hutchison
Barrasso	Craig	Inhofe
Baucus	Crapo	Isakson
Bond	DeMint	Kyl
Brownback	Dole	Lott
Bunning	Domenici	Lugar
Burr	Ensign	McConnell
Coburn	Enzi	Murkowski
Cochran	Graham	Roberts
Coleman	Grassley	
Corker	Hatch	

Snowe	Sununu	Thune
Stevens	Tester	Vitter

NAYS—58

Akaka	Hagel	Nelson (NE)
Alexander	Harkin	Pryor
Bayh	Inouye	Reed
Bennett	Johnson	Reid
Bingaman	Kennedy	Rockefeller
Boxer	Kerry	Salazar
Brown	Klobuchar	Sanders
Byrd	Kohl	Schumer
Cantwell	Landrieu	Sessions
Cardin	Lautenberg	Shelby
Carper	Leahy	Smith
Casey	Levin	Specter
Chambliss	Lieberman	Stabenow
Collins	Lincoln	Voinovich
Conrad	Martinez	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murray	
Gregg	Nelson (FL)	

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for adoption of this amendment, the amendment is withdrawn.

ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the message from the House on H.R. 6, the Energy bill; that the pending motion to concur be withdrawn; that the Senate move to concur in the House amendment with the amendment at the desk; that no other amendments or motions be in order; that there be a time limitation of 30 minutes equally divided between the two leaders or their designees for debate only on that motion; that upon the use or yielding back of time, the Senate, without intervening action, vote on the motion to concur; that if the motion is agreed to, the Senate concur in the House amendment to the title and the motions to reconsider be laid on the table; that if the motion to concur is not agreed to, it be withdrawn and the message returned to the desk.

Mr. LOTT. Mr. President, reserving the right to object, if I could ask the distinguished leader to yield, could you amend that to make that 40 minutes instead of 30 minutes because we already have 18 minutes of requests.

Mr. REID. I would add to that, I say to my distinguished friend, that we would have the final 10 minutes prior to the vote, 5 minutes for Senator MCCONNELL and 5 minutes for me, so that will wind up being about 50 minutes.

The PRESIDING OFFICER. Is there objection as amended?

Without objection, it is so ordered.

The Presiding Officer (Mr. WHITEHOUSE) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 6) entitled ''An Act to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, and for other purposes, with amendments.''

The PRESIDING OFFICER. The pending motion to concur with an amendment is withdrawn.

The pending motion is a motion to concur in the House amendment to the Senate amendment to the text of the bill with an amendment which is at the desk.

AMENDMENT NO. 3850

(Purpose: To provide a complete substitute.)

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. There shall be 40 minutes of debate equally divided.

Mr. LOTT. Mr. President, out of the minority time, I ask unanimous consent that these times be reserved for specific Members: Senator DOMENICI, 5 minutes; Senator INHOFE, 5 minutes; Senator STEVENS, 5 minutes; and Senator HUTCHISON, 3 minutes, out of our allocated 20 minutes of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I would ask the Presiding Officer, how much time exists on each side in connection with this pending bill?

The PRESIDING OFFICER. Twenty-five minutes on each side.

Mr. BINGAMAN. As I understand, 20 minutes and then 5 minutes for each of the leaders. So I would just speak for 3 minutes at this point and then yield to my colleague from New Mexico, who I know is planning to speak as well.

Mr. President, let me amend my earlier statement. I will take up to 5 minutes, please, if the Chair would advise me at the end of the 5 minutes.

The Senate has a very good energy bill before it. It would take a number of steps that will be viewed over the long term as very major steps in our energy policy.

This is the first increase in CAFE standards in well over 20 years. It has improved efficiency standards for lightbulbs, for lighting fixtures, which will eventually save more energy than all of our previous energy efficiency standards combined. This bill contains permanent authorization for energy savings performance contracts—the single most useful tool for increasing energy efficiency in the Federal Government. It contains a strengthened program for carbon dioxide capture and geological sequestration and a framework for working through issues associated with geologic storage of carbon dioxide on Federal lands. It also contains strong new protections for consumers against market manipulation in oil markets.

The story of this Energy bill is not only one of what we accomplished but also those items we were not able to accomplish.

In the case of the Energy Policy Act of 2005, the biggest issue on which we did not make progress was energy efficiency, especially increased vehicle fuel economy. We have rectified that, or we will be rectifying that as we go forward and pass this legislation and get it signed into law.

For this bill, there were two big challenges we have proven unequal to here in the Senate. In my view, one is, of course, dealing with the very real problem of how to further incentivize the development of renewable energy. I hope we will have a chance to revisit the renewable electricity standard in the new Congress. I also hope we can revisit this issue of tax incentives. We failed earlier today to maintain in the legislation a package of tax incentives which I think is very important for the energy policy of this country.

We have an extremely capable staff that has worked long and hard on this legislation.

The Senate Energy Committee staff—there are many individuals here: Bob Simon, Sam Fowler, Allyson Anderson, Angela Becker-Dippmann, Patty Beneke, Mia Bennett, Tara Billingsley, Rosemarie Calabro, Michael Carr, Mike Connor, Jonathan Epstein, Deborah Estes, Alicia Jackson, Amanda Kelly, Leon Lowery, David Marks, Scott Miller, Rachel Pasternack, Britni Rillera, Gina Weinstock, and Bill Wicker. All of them have done a great job.

Senator DOMENICI's staff has also done a terrific job. Frank Macchiarola, Judy Pensabene, Kellie Donnelly, Kathryn Clay, Colin Hayes, Frank Gladics, and Kara Gleason, among others on his staff I know have done a good job.

The Senate owes a particular debt of gratitude to Senator INOUYE's and Senator STEVENS' staff, who developed the CAFE provisions in this bill. In particular, David Strickland of the Commerce Committee staff deserves recognition for his leadership, skill, and tenacity in negotiating these historic provisions.

Chris Miller, on Senator REID's staff, deserves our thanks for helping with the overall coordination of the bill in the Senate and with the House of Representatives. His counterparts in Speaker PELOSI's office, Amy Fuerstenau and Lara Levison, also put in countless hours attending meetings and helping to coordinate the activities of about 10 different House committees with interests in this bill.

Special recognition also is due to the hard-working staff of the Office of Senate Legislative Counsel on this bill.

Their team leader, Gary Endicott, worked tirelessly to ensure that the provisions of this bill were expressed in clear and correct legal form.

His partner for the CAFE provisions was Lloyd Ator of the Commerce Committee staff.

Other key contributors in the office of Senate Legislative Counsel included Michelle Johnson-Weider, John Henderson, Matt McGhie, Mark Mathiesen, Mark McGunagle, and Jim Fransen. They enjoyed the cooperation of their colleagues in the House Office of Legislative Counsel, including Tim Brown and Pope Barrow. Without the many hours they invested in drafting, redrafting, and assembling this bill, we would not have a finished text to consider today.

Finally, staff in the Congressional Budget Office, including Kathy Gramp, Megan Carroll, Dave Hull, and Matthew Pickford, helped us ensure that the bill was compliant with the complicated scoring rules that face every major piece of legislation.

All of these staff in Leg Counsel and CBO made themselves available on evenings and weekends to help ensure that we could finish this bill this year.

With that, I will thank my colleagues for their support for this bill.

I urge my colleagues to vote aye on the motion to go ahead with this legislation and send this bill to the President.

I know there are others who wish to speak. How much time remains on the majority side?

The PRESIDING OFFICER. About 20 minutes, including the 5 minutes for the leader.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise today to support this energy legislation but not without reservation.

I will begin by saying that I think there are some very good provisions in this bill. This Congress is taking a major step by increasing the CAFE standards. This increase calls for a 35-mile-per-gallon standard in every car by 2020. This is a huge conservation victory. In fact, it is a 40-percent increase from our current standard. I am also pleased that we have included the measures to increase energy efficiency in Federal buildings. The Federal Government should be a leader in promoting and adopting efficiency. We are addressing new technologies and emerging science in environmental areas such as carbon sequestration. We were able to remove the onerous tax provisions that would have made America only more dependent upon foreign sources of energy and made high prices even higher.

However, I do remain concerned with the renewable fuel standard. The proposal before us will increase the renewable fuel standard from the current requirement of 7.5 billion gallons by 2012 to 36 billion gallons by 2022. This renewable fuel standard is noble in its objective, but it is a reckless way to draft this legislation, and here is why. It does not have a safety valve to address shortfalls in feedstocks which will be required to meet the renewable fuel standards mandate.

I have been working with Texas livestock producers and food processors for months to try to create a safety valve that would have, in conjunction with the waiver provision currently in the bill, a prospective protection from harming these industries. I believe the existing waiver provision and the safety valve could function and coexist without resulting in market uncertainty for the RFS increase.

I believe livestock and poultry producers and food processors are going to face uncertainty under these mandates. For this reason, I have worked with these industries and my colleagues in the Senate to strike a balance to provide some level of prospective analysis and relief if experts conclude that there will be a shortfall that leads to price spikes in items such as corn, cereal, chicken, and beef. Unfortunately, this bill does not contain this safety valve, and I am very concerned that we are going to have problems down the road and millions of Americans are going to pay higher grocery bills because of unanticipated events, such as droughts or floods, which impact crop yields.

I have tried to be reasonable in creating this safety valve, and we must watch this closely if we pass this bill, and I think we will. We must give relief to the livestock producers and the consumers in this country if, in fact, we cannot produce this mandate that is in this bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I want to clarify the time because I think time was allotted and some Senators who should have gotten time were not here. How much time do I have?

The PRESIDING OFFICER. The minority has 21 minutes remaining, including 5 minutes of leader time.

Mr. DOMENICI. I want to ask Senator STEVENS how much time he wants. Senator STEVENS wants 3 minutes, but he wants Senator INOUYE to speak first.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I yield 3 minutes to the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator INOUYE for all of his hard work, Senators STEVENS, BINGAMAN, and DOMENICI. I could go on.

I speak as a Senator from California. I also speak as the chairman of the EPW Committee and say this is a very good moment for the Senate. I see my ranking member here, Senator INHOFE. Four of the provisions in this bill we worked on together in the committee. I think we are both very pleased with them. This has been a long and winding road, as the song says. But here we are with a bill that I believe is very strong. I certainly am disappointed, because I think it should have been much stronger. To think that we could not get the 60 votes to ensure that solar energy, wind energy, and geothermal had tax incentives makes me sad. A simple part of that was also rejected that dealt with the renewable portfolio standard that makes a lot of sense and works in California. I think it would have worked. We are not going to give up on any of that. But we will fight for those another day.

Today we should take a moment to say, good job. Good job to all of us to get to this moment.

I want to talk a minute about the four provisions of the EPW that are in this bill. Green buildings, new Federal buildings will be energy efficient, will be green. As part of that we also passed a separate piece of legislation to retrofit the older buildings. We did it in a very simple way. We say in all of GSA buildings we want an individual responsible for retrofitting those buildings, and we will give grants to local governments to retrofit their government buildings as well.

There is also a part in this bill dedicated to funding a solar wall on the Department of Energy so the Department of Energy becomes a symbol of renewable energy. There is a pilot project for the Capitol powerplant so we can get clean energy there as well.

I thank Erik Olson, Bettina Poirier from the EPW Committee staff, and the minority staff as well, Andrew Wheeler and his team for all of their hard work. I have already thanked Senator INHOFE. Very special thanks to Senators FEINSTEIN, SNOWE, DORGAN, CARPER, CANTWELL, and to our chairman Senator INOUYE, again, for their hard work on CAFE.

I am also pleased that the Federal fleet of cars will now move to fuel efficiency. I don't know how many people are aware, but we buy 60,000 new cars a year for the Federal fleet, and it makes so much sense for us to go out in that marketplace and move toward fuel efficiency and fuel economy.

In this bill, we have renewable fuels, fuel efficiency, green buildings. It is a great start.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 5 minutes to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me thank Senator DOMENICI for all his hard work. It is one of the few times I can recall that I have disagreed with him on a position. I do so on this particular bill. Let me first say while the chairman of the EPW committee is still here, I agree with the comments she made. We have some provisions in here that are an improvement but, in my mind, not enough of an improvement to pass this bill. First let me say I what I think is wrong with this. The renewable fuels standard increase is

going to mandate an increase from 7½ to 15. That is of corn ethanol. Then other bio increases are more than that. But as far as the corn is concerned, in my State of Oklahoma, I have been talking to the livestock people and the poultry people, the meat industry in Oklahoma, the backbone of our economy. They are very distressed because of the increase in the cost of feedstock. This is going to make it that much worse. There are other problems with that, too, with ethanol's effect on food prices: economic sustainability, transportation infrastructure needs, the water usage in this process. It is something I think is a bad provision.

It is going to pass, probably with 80 votes. Maybe I will be the only vote against it. But another thing, I am not as impressed with the CAFE standards. I know everybody is talking about, yes, we have to do this. We have to have these mandates. You have to keep in mind this is still America. We have choices in America. In western Europe they don't. Some other countries they don't. So we are going to be emulating them. If you will listen to the National Safety Council, the Brookings Institute, the Insurance Institute for Highway Safety, the National Academy of Sciences, all of these groups say this provision is going to be a safety threat for Americans.

On the tax provisions, I do appreciate the fact that they were able to bring down some of these. There are still some tax increases but nothing like it was at one time. I think it is important for people to understand this does extend a $1.4 billion tax, the FUTA tax. This was established in 1976 to repay loans from the Federal unemployment trust fund. They were all repaid by 1987. So they keep finding a vehicle to renew a $1.4 billion tax increase on the American people. It is right here in this legislation.

One of the things I guess that bothered me more than anything else was when we did the highway bill, the highway reauthorization bill was a good bill. We spent a lot of time on that. We had provisions in there to give the States more flexibility with their money to meet the needs in their States with the recognition that the States are closer to the people. They know what their needs are more than the Federal Government does. We got those provisions in there. Because some people in the House didn't want the States to have that flexibility, we beat them in conference so they put it in this bill. So now we have two provisions in this bill that are going to make it more difficult for States. In fact, it is going to take away their flexibility. We are taking away States rights with this bill. That is what it does.

I will tell you what it doesn't do. It has no provisions for nuclear power. Everybody understands we have to address that. That was one of the provisions when we first started talking about this. Nothing in there for clean coal technology, for exploration, to promote refinery expansion. We had a bill called the Gas Price Act. No one should have been opposed to it. I begged to have this as a part of this bill. Those who put it together found it wasn't something that could be acceptable. It would increase our refinery capacity and resolve many other problems with some of our closed military bases. That was not a part of this bill and should have been.

This bill will mean a profound increase of the cost of fuel at the pumps. People have to know that. We can talk about how good it is and send out our press releases, but in the final analysis, it is going to increase the price at the pump. It is going to make it more difficult. It is going to exacerbate the problem of what I consider to be an energy crisis.

So it is not an energy bill. It is one that I may be the only one opposing, but I thought I would share with you why I will.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I yield 3 minutes to the Senator from Washington, Ms. CANTWELL.

Ms. CANTWELL. Mr. President, clearly this energy bill points us in a new direction. This is a much greener energy bill than we have seen in the past and certainly is more consumer friendly. It is a greener energy bill because it is nearly a 20-percent reduction in future CO_2 output by the year 2030. It is a greener energy bill because it does make mandates on the Federal Government's use of energy. In fact, it is a 30-percent reduction in energy used by Federal buildings, resulting in a $4 billion annual savings to taxpayers by 2020. I know that may be hard for some people to believe and understand, but it is a lot of savings considering that there are 500,000 Federal buildings and that Government is the largest user of electricity in the country. So mandating these energy reductions is going to make us more efficient and certainly apply the use of those savings to help American taxpayers.

It is also a greener energy bill because it sets up new appliance and lighting standards. Again, I know people underestimate efficiency. Today household appliances, lighting, and electronics use up to two-thirds of the energy in households. By requiring these new standards for manufacture of these products, we will save over 40,000 megawatts of energy. That is the same amount of electricity used in 19 States today. It is certainly a greener energy bill because we are putting at the pump for consumers a renewable fuel competition for fossil fuel. We are doing that by mandating 36 billion gallons of renewable fuel by 2020. That amount is the same amount we import from the Persian Gulf today. So swapping that oil out for a greener energy supply for our future is a tremendous benefit.

This also is a great consumer bill. It is a great consumer bill because of the fuel efficiency standards. The 35 miles per gallon will save American drivers over $200 billion at the gas pump. For my State of Washington, we will give consumers an annual $436 million of savings. It is also a consumer-friendly bill because we are reducing our dependence on foreign oil. This is a 35-percent reduction in our foreign oil consumption, and American consumers view this as one of our Nation's biggest priorities.

And it is a consumer-friendly bill because we have protected consumers by making market manipulation of oil markets a Federal crime. I know we have heard stories. I know there are lots of issues about speculation. But by giving the FTC new authority to issue fines per violation, we are giving consumers more protection.

I yield the floor.

Mr. INOUYE. Mr. President, I yield 3 minutes to Senator CARPER.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. I thank the chairman for yielding. I commend him and the young man sitting next to him, David Strickland, who has done great work, as has a member of my staff, Beth Osborne, seated behind me.

We can talk about what might have been and how this legislation could have been better, more comprehensive. Six months ago I stood here and said, there are three things we need to accomplish with respect to fuel efficiency for cars, trucks, and vans. No. 1, we ought to reduce our dependence on foreign oil. No. 2, we should reduce the emissions of harmful stuff up into the air. No. 3, we should accomplish goals 1 and 2 without undermining the competitiveness of the domestic auto industry.

Tonight as we are on the verge of passing this legislation, we will reduce our dependence on foreign oil, we will reduce harmful emissions, and we will not undermine the competitive advantage of our domestic auto industry. It is not enough for us as a Congress to say to the auto industry, raise fuel efficiency standards, eat your spinach. We have a responsibility to help them. In this legislation we do any number of things to help the industry—major investments in R&D, new battery technology—just as we had invested previously Federal dollars in fuel cell technology for cars, trucks, and vans. Secondly, using the Government's purchasing power to help commercialize the new technology both on the civilian side and on the defense side to make a market for these new products. Three, to use tax incentives for hybrids, for low-emission diesel in order to encourage people to buy these vehicles.

We can lament what might have been. Let me say in graphic terms what this legislation means. Today we import about 2.5 million barrels of oil per day. By 2020, this legislation will save that much oil or more. Today we emit huge amounts of CO_2 into the air. We

warm our globe and imperil our future. This legislation will reduce carbon dioxide emissions by about 20 percent, essentially taking 60 million cars off the road by 2020.

Finally, we are going to say this is based on $3-a-gallon gasoline. But we are going to save consumers close to $100 billion at the pump in the year 2020. Those are huge savings. They are tangible savings. We, as Democrats in the majority, have an obligation to lead. We have led. We have worked with the auto industry, the UAW. We have worked with our Republican brethren.

The American people want us to get things done. They want us to find a way to set aside partisan politics and work together. I think in this instance we have done that. I commend Senator INOUYE and Senator STEVENS, and I commend Senators BOXER, BINGAMAN, and DOMENICI, our staffs who have worked so hard.

I thank the auto industry, the UAW, our friends over in the House, including JOHN DINGELL, Speaker PELOSI, and Majority Leader STENY HOYER.

This a victory not just for the Democratic Party and the Republican Party, and not just for the Congress, this is a victory for America. We can be proud of this, and I am.

The PRESIDING OFFICER. Who yields time?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I yield myself 4 minutes. I rise today in support of the bill before us. After months of constructive negotiations, we have successfully crafted a thoughtful, bipartisan agreement, particularly in title I, otherwise known as the Ten-in-Ten Fuel Economy Act.

Title I would mandate an increase in automobile fuel economy to a nationwide fleet average of 35 miles per gallon by 2020. In addition, the Department of Transportation would adopt fuel economy standards for medium and heavy-duty commercial vehicles for the first time.

Today's agreement marks historic progress: This is the first statutory increase in fuel economy standards since 1975. Reducing our dependence on foreign oil is of vital importance to our national security, economic stability, and consumer welfare. The Ten-in-Ten Fuel Economy Act is a major step toward achieving these goals.

Title I of this bill will save approximately 1.1 million barrels of oil per day in 2020, equal to one-half of what we currently import daily from the Persian Gulf. By the year 2020, this bill will save consumers approximately $22 billion at the pump and prevent approximately 200 million metric tons of greenhouse gases from polluting our environment each year. By dramatically reducing greenhouse gas emissions by 2020, title I would demonstrate to the world that America is a leader in fighting global warming.

Legislation of this magnitude could have only been achieved through the hard work of a coalition of Members. In this case, without Senator FEINSTEIN, Senators STEVENS, SNOWE, KERRY, DORGAN, LOTT, CARPER, BOXER, DURBIN, ALEXANDER, CORKER, and CANTWELL, the agreement would not have been reached.

In particular, I congratulate Senator FEINSTEIN on her efforts in developing this bill. Her dedication over the years has led to a public policy that very few thought possible. I also praise the efforts of my good friend Senator STEVENS, who was instrumental in forging the compromise before us. I also thank Chairman DINGELL and Senators LEVIN and STABENOW for their hard work and willingness to achieve an agreement that aggressively improves fuel economy while protecting domestic manufacturing and U.S. workers. The American auto worker and automaker have no better champions.

Finally, I express my appreciation to all the hard-working members of the staff who worked to make this historic legislation a reality. In particular, I commend David Strickland, Alex Hoehn-Saric, Mia Petrini, and Jared Bomberg of my Commerce Committee staff for a job well done.

The importance of this legislation cannot be underestimated. During the Arab oil embargo in 1973, Americans suffered the first devastating effects of our addiction to oil. Born out of this embargo, Congress put in place a fuel economy program that nearly doubled the gas mileage of cars from 1975 to 1985. Passage of this bill will ensure that our Nation's energy priorities start moving in the right direction again.

Higher fuel economy standards will wean the country of its oil addiction, put billions of dollars of savings back into our domestic economy, and significantly reduce greenhouse gas emissions.

A diverse group of constituencies support the Ten-in-Ten Fuel Economy Act, from environmentalists to automotive workers and automakers. While it sets forth aggressive standards, the act also recognizes the challenges faced by the auto industry and ensures that those concerns will be addressed. Providing flexibility to the automotive industry, the sponsors of these fuel economy provisions have worked together in a bipartisan manner to ensure that automakers have the tools they need to meet the requirements enumerated in the act. The Ten-in-Ten Fuel Economy Act directs the Secretary of Transportation to create two fuel economy curves, one for passenger cars and one for light trucks. This change from the Senate-passed bill provides the certainty that American automakers, auto workers, and car dealers requested, but the act still requires that the combined car and light truck fleet meet a fuel economy standard of at least 35 miles per gallon by 2020.

Our actions today will improve national security, create jobs, help consumers, and protect the environment. At times it is the Government's responsibility to balance conflicting interests. Today, I believe we found that balance.

Mr. President, I wish to provide 30 seconds to Senator CANTWELL.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I too want to add my thanks to my staff—Amit Ronen and Lauren Bazel—for their hard work, as well as the staff of the Finance, Energy, and Commerce Committees.

I commend Senator STEVENS and Senator INOUYE for working so hard to get this landmark legislation, which has been 30 years in the making, to pass here in the Senate. Everybody from these committees has worked very hard. I thank the staff for their diligence and their perseverance in making this happen.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I believe I have 3 minutes yielded to me.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, at the beginning of this Congress I introduced a bill to achieve a 40-mile-a-gallon goal by 2020. As I have indicated before, I became engaged in the CAFE debate because I believe the only way our Nation will achieve energy independence is through a combination of initiatives. Conservation, domestic production, and the development of alternative sources of energy are all parts of the broader solution. Setting fuel economy standards is one avenue toward limiting our Nation's dependence on foreign oil and significantly reducing greenhouse gas emissions.

The Senate passed unanimously a CAFE amendment based upon the attribute concept I authored. The fuel economy provision that has been placed in the bill is a good first step toward addressing our energy crisis. I thank Senator INOUYE and Senator FEINSTEIN for their insistence that the fuel economy provision be a product of bipartisan discussions. Their commitment to instituting strong and achievable policy goals was instrumental during the negotiation process of fuel economy standards.

The compromise we negotiated mandates the fuel economy of cars and trucks to be evaluated separately based upon this attribute system. The mandate ensures reasonable fuel efficiency goals for trucks and cars. In addition, the requirement will guarantee the continued availability of various sized trucks and cars in the market, which is important—very important—to our home State of Alaska.

Our bill requires annual increases to the nationwide average fleet fuel economy standards for cars and light trucks to achieve a fleetwide average standard of 35 miles per gallon by 2020. As Senator INOUYE said, this will be the first statutory fuel economy increase for passenger cars since 1975.

The bipartisan fuel economy provision will help save, as Senator CANTWELL has indicated, a significant amount of fuel over the next decade. I thank the Senate for supporting this bipartisan measure.

Mr. President, I ask unanimous consent that a list of Senate Commerce Committee staff on the Republican side who worked on the fuel economy compromise be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senate Commerce Committee staff on the Republican side who worked on the fuel economy compromise:

Chris Bertram.
Mimi Braniff.
Rebecca Hooks.
Christine Kurth.

The PRESIDING OFFICER (Mr. Nelson of Florida). Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do we have?

The PRESIDING OFFICER. The minority has just under 15 minutes remaining.

Mr. DOMENICI. That is without the leader's time?

The PRESIDING OFFICER. That is including leadership time. There is a little over 9½ minutes without the leadership time.

Mr. DOMENICI. Mr. President, thank you. I will use 3½ minutes.

Mr. President, on behalf of Senator HUTCHISON, I ask unanimous consent that a letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 9, 2007.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUTCHISON: Our members URGE you to OPPOSE any increase in the Renewable Fuel Standard (RFS) for feed grain ethanol above those levels established by the Energy Policy Act of 2005 (EPAct).

On May 2, the Senate Energy and Natural Resources Committee held a markup in which several energy bills, including S. 987, were merged into one large bio and renewable energy bill. Portions of S. 987 will increase the RFS mandate to 36 billion gallons by 2022 and establish policy that beyond 2016 a certain portion of the RFS must be met with biofuels other than feed grain ethanol. Even with this differentiation, a defacto mandate of 15 billion gallons of renewable fuels from feed grains is established by 2015.

If our members can compete on a level playing field with the ethanol industry for each bushel of feed grain, we have no doubt that their businesses can remain profitable. But a rush to increase the RFS for corn ethanol will only serve to undermine their competitiveness.

The EPAct of 2005 established a RFS mandate of at least 7.5 billion gallons of renewable fuel to be blended into motor vehicle fuel sold in the United States by 2012. Doubling the RFS mandate to 15 billion gallons for feed grain based ethanol will require record feed grain production each and every year and assumes the unlikely scenario of no adverse weather events.

One goal of the EPAct was to lower the United States dependency on foreign oil by promoting the usage of renewable energies. This policy was deemed necessary in order to assure investors and encourage the development of basic production technology. However, with feed grain ethanol production capacity projected to exceed 12.5 billion gallons by year's end, the current incentives have accomplished the objective. A rush to increase the RFS or extend the tax credits for feed grain ethanol will only increase artificial demand for feed grain and further decrease the ability of supply and demand to guide the ethanol industry.

We all support our nation's commitment to reduce dependence on foreign energy and develop forms of renewable energy. But, we also believe in the free market, and URGE you to OPPOSE any proposal to increase the RFS for feed grain ethanol. Instead, we respectfully request that you pursue policies which clearly define a transition to a market based approach for the production and usage of feed grain ethanol.

Sincerely,

Independent Cattlemen's Assn.; Texas Association of Dairymen; Texas Cattle Feeders Association; Texas and Southwestern Cattle Raisers Assn.; Texas Pork Producers Assn.; Texas Poultry Federation; and Texas Sheep and Goat Raisers Assn.

Mr. DOMENICI. Mr. President, I thank all of those who participated. Their names have been mentioned, whether they be Senators or staff. I want to say, I include all of those who have already been mentioned.

I want to make a couple statements that will make the record true.

First of all, this bill was not intended to solve all of America's energy problems.

Second, it was not intended to have a huge number of energy proposals in it. It was a bill that had two great big core provisions, and we are very grateful they are both here before the Senate—not exactly the way they passed the Senate, but good enough for the kind of work that goes on between the House and Senate. Because we must—we cannot get perfection—get some kind of compromise, we have a great bill.

Everybody has said all that can be said about this bill. But the Commerce Committee of the Senate, chaired by Senator INOUYE, and with Ranking Member STEVENS—while we, the Energy Committee, were debating one way, and another committee another way—one afternoon decided they were going to alter, amend, and change the fuel standards for American automobiles, and they did it. We have been waiting around for years for it. It was the impulse and impact for us to do the rest of this bill.

We added to it the RFS, which is ethanol 2—and I will acknowledge that as to those speakers who have said it is not as good as the Senate provision, they are right. But there are two bodies, and it was difficult to negotiate everything we wanted. So there will have to be some ardent observations of what is going on in ethanol and its successor to ethanol to see if we need to make some changes. But things are not done in legislation to correct all problems. They are done to do the best you can. If the best you can is good, you adopt it. We have done that.

It certainly has been a rocky road, but I am thrilled that the Senate is finally considering a bill that contains the right priorities and stands an excellent chance of becoming law.

Today is a historic one for the U.S. Senate. The bill before us takes important steps to reduce our dependence on oil and improve our energy efficiency.

For the first time in 32 years, the Senate today will increase fuel economy standards. We will also extend and expand the renewable fuels standard, which will help us diversify our fuel supply. And we will improve the efficiency of our appliances, our lighting, and our buildings.

While I was not happy with the process by which we proceeded on this bill, it nonetheless reflects a compromise for many of us. And, reaching a fair agreement is the way things get done here in the Senate.

This energy bill contains the right priorities. Although it took us two tough cloture votes, we have avoided adding costly provisions that would have placed this bill in jeopardy, like a renewable portfolio standard and tax increases on domestic energy production.

Instead, we have focused on provisions that will help us save oil and save energy, such as CAFE and energy efficiency. The renewable fuels standard that we enacted in the Energy Policy Act of 2005 has already helped farmers and diversified our fuel supply, and that RFS is expanded in this bill.

The House of Representatives should pass this bill, and I believe that the President should sign it into law.

I am pleased to support this bill, and I urge my colleagues to pass it today. We will send the right message and begin the long process of reducing our dependence on foreign oil.

I wish to close by saying, everyone did not agree on what would go in this bill along with the energy provisions. There were very difficult votes that were taken, and actually there was no question that as between the Democrats and Republicans there was truly a big difference of opinion. But when it ended up, we had the major energy provisions left in the bill. We had tax provisions mostly out. We had the provision that has to do with mandating alternative fuels, led by wind, by every State—we had that provision out.

What is left is a very good bill. Senator BINGAMAN described some of the unheard of and unknown quantities that are good. The other Senators have all sung the praises, so I do not need to do it again. It is historic, however, to change the automobile standards after 32 years, and to do it in a way where our automobile makers think they can comply. That is very unique. They never did that. They think they can comply and keep their businesses manufacturing cars. That is No. 2.

No. 3, when you are looking to solve the problem of how much crude oil you import, you look for someplace you can save on that quantity and commodity

you are importing. Now, the best experts in America have testified there is no act the Congress could take that will do more to cut our dependence upon foreign oil than this measure. Get it? The experts of America say you will reduce America's dependence more by the passage of this bill, the Inouye-Stevens bill, than any other single provision you could pass. That is pretty good.

The experts are in the records where we have taken testimony as Senators. The best experts said that about 2 weeks ago. It shocked everybody. They said there is nothing you can do that will save more foreign oil that we import that makes us dependent than if you change CAFE standards as we have changed them.

I think that would have to be hard work. Senators are tired. They voted twice on cloture on this bill in a roundabout way. In both instances, one or two votes was the only difference. That makes sometimes for hard feelings. But I do not think it has here. I think we have come out of this OK, friends, ready to go to work on some more energy bills.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Georgia.

Mr. ISAKSON. Mr. President, I have worked closely with the staff of Senator INOUYE and Senator DOMENICI on an issue with regard to CAFE standards the Senate passed in its version but the House rejected.

I thank Senator INOUYE and the other members of the Commerce Committee for their work on a corporate average fuel economy, CAFE, standard. As you know, the Senate-passed CAFE bill contained a low-volume manufacturer exemption that would have classified low-volume manufacturers as those that have a U.S. market share of less than 0.4 percent and that sell less than about 64,000 cars—at current sales rates. While current law allows large multiline manufacturers to achieve compliance through averaging across various makes and models—offsetting the performance vehicles with economy cars—it denies some small independent limited-line niche manufacturers the same opportunity. Small limited-line companies that manufacture only three models produce vehicles having superior fuel economy yet pay millions in CAFE noncompliance fines. Other automobile manufacturers avoid penalties through mergers and acquisitions and the ability to offset sports cars with economy cars.

The law on automotive fuel economy standards does not require each passenger automobile to meet the standard, but instead allows manufacturers to meet the standard through a fleet average, permitting manufacturers to produce vehicles with varying levels of fuel economy. The law, 49 U.S.C. 32902, includes a provision allowing low-volume manufacturers of passenger automobiles to petition for alternative fuel economy standards. Should a petition be granted under section 32902(d), the low-volume manufacturer is required to meet the maximum feasible fuel economy standard that the Secretary of Transportation finds that the manufacturer can attain. In the case of a high-performance vehicle, this requirement can lead to greater fuel economy savings than results if a similar vehicle is merely averaged into a larger fleet. At the time the law was enacted, the threshold for petitioning for alternative standards was set at annual worldwide production of 10,000 passenger automobiles, which at that time made some 12 companies eligible.

Today the structure of the U.S. market for passenger automobiles is considerably different than it was in 1975. In particular, because of consolidation in the automobile industry, only three independent manufacturers designing for niche markets remain in the United States market. Most, but not all, niche manufacturers have been acquired by major manufacturers and so are able to avail themselves of both the vastly greater resources and flexibility of fleet averaging of those major manufacturers. Thus, the few remaining niche manufacturers are at a distinct disadvantage in meeting fuel economy standards not only in an absolute sense, but compared to other manufacturers of comparable vehicles.

I believe Congress's original intent in enacting the CAFE standards was not to competitively disadvantage small independent manufacturers. However, the fundamental change in the structure of the passenger vehicle marketplace has in fact disadvantaged the remaining low-volume manufacturers without furthering the CAFE goal of increasing fuel economy. I believe that changes in the marketplace have altered what should constitute a low-volume manufacturer, raising serious questions about the reasonableness of the 10,000 threshold for eligibility for alternative fuel economy standards. At the same time, I recognize that the threshold must not be so high as to competitively disadvantage major manufacturers.

In order to preserve the original intent of section 32902 to afford relief to low-volume manufacturers, Senator CHAMBLISS and I proposed and the Senate accepted a provision to set a new threshold for eligibility for alternative fuel economy standards for passenger automobiles by setting the threshold as a percentage of the worldwide market rather than an absolute number. This allows for a threshold that will adapt to changes in the marketplace, unlike the current threshold. This is the same as the language proposed by Senator SMITH in 2002 and included in the Kerry-McCain amendment to the then-pending CAFE bill.

The provision the Senate passed set the threshold for eligibility as a low-volume manufacturer above the current 10,000 but equivalent to less than ½ percent of the world-wide market.

It is my understanding that although the Senate voted on and passed this provision, the House asked that it be removed because they were concerned that a manufacturer who is covered by this new provision would no longer pay fines as a result of it. It is my understanding that under the terms of section 813 as drafted, the Secretary of Transportation—through NHTSA, we presume—conducts an investigation into the capabilities of any petitioner for consideration under this provision and decides whether or not to authorize an alternative standard that differs from the established CAFE standard, and if so, by how much. In the case of any manufacturer who petitions for an alternative standard, NHTSA may decide not to authorize a different standard or they could set an alternative standard that could still be unachievable in that model year. In either scenario above, a company would pay penalties for noncompliance and would not be relieved from paying penalties by anything in section 813. Obviously the hope would be that NHTSA would set a standard that could be achieved based on our maximum feasible technological capabilities.

I also understand the provision was removed because the House was concerned that the alternative standard for low-volume manufacturers is an exemption from meeting CAFE standards. Again, it is my understanding that section 813 is not an exemption because the provision is drafted so that it mirrors current law procedurally in that it authorizes the Secretary of Transportation—again, through NHTSA—to prescribe an alternative fuel economy standard if there is a finding that the petitioning manufacturer's ability to meet the standard prescribed by law is not achievable. Again, there is no provision that allows NHTSA to ''exempt'' a manufacturer. As we read it, the alternative standard must be achieved by the manufacturer in order to achieve compliance and not pay a penalty even if the standard exceeds that which the manufacturer claims it can meet. So in short, there is no exemption from CAFE and the standard established by NHTSA could still result in penalties for noncompliance.

It is also my understanding that the House is not on record as having voted on this provision, and that the House has not passed a CAFE standard this Congress.

Mr. KOHL. Mr. President, I rise today to talk about the Energy bill that passed with my support. The bill requires that 36 billion gallons of biofuels be blended with gasoline by 2022, and it establishes new appliance and lighting efficiency standards in government buildings. The bill also includes Federal grants and loan guarantees to promote research into fuel-efficient vehicles, including hybrids, advanced diesel and battery technologies.

The Energy bill also improves CAFE standards, requiring cars and light

trucks to achieve an average of 35 miles per gallon by 2020. Increasing CAFE standards is a critical step that must be taken to reduce pollution and curb greenhouse gas emissions that cause global warming. Higher CAFE standards will also benefit our families and our communities by reducing the burden of high gas prices freeing up more discretionary income for working families to spend on necessities such as food, health care, and housing.

I was pleased that the final bill included an amendment I offered that would allow small manufacturers to access awards under the advanced technology vehicles manufacturing incentive title. Considering that small manufacturers that employ roughly 75 employees or less contribute 29.5 percent to all value added to automobiles, it made sense that they should have the opportunity to get these awards.

Taken together, this bill allows the United States to become more energy efficient in a cost effective and responsible way.

Mr. LEVIN. Mr. President, I will vote for Senate passage of the Energy Independence and Security Act of 2007. I voted earlier to invoke cloture and to move forward with the bill after receiving assurances that my understanding of congressional intent relative to the fuel economy provisions is correct. I anticipate that the bill will now be accepted by the House of Representatives.

I regret that it was necessary to drop the energy tax provisions. I believe it is particularly unfortunate that the energy tax provisions were dropped since many of these are important to continued development of biofuels and to development and commercialization of many advanced and renewable technologies. Included in these provisions were tax incentives for plug-in hybrids which offer potential for significant reduction in fuel consumption and greenhouse gas emissions. I hope that we will have another chance to enact these very important provisions.

With regard to the renewable electricity mandate, I regret that we were unable to come up with a formula for a renewable electricity mandate that could have garnered widespread support. I believe that a renewable electricity mandate is important to provide incentives for development of renewable resources, which could lead to the creation of numerous high-skill jobs and increase our country's energy security and independence. However, I also believe that a renewable energy mandate must be done in a way that does not have economically detrimental effects.

I also regret that this bill does not include more positive incentives for development of advanced vehicle technologies. There are a number of very important provisions included in the bill—including authorizations for grants, direct loans, and loan guarantees for advanced vehicle technologies and for advanced batteries and battery systems—that will be very helpful but I regret that the bill does not include tax incentives for retooling of manufacturing facilities to produce alternative technology vehicles and components. that would have provided an immediate economic benefit to the auto manufacturers and suppliers who will bear the burden of meeting the regulatory requirements of this legislation.

The fuel economy provisions of H.R. 6 as passed by the House are a significant improvement over what the Senate passed in June 2007 and that I opposed vigorously. The bill the Senate passed in June would have had a detrimental effect on both U.S. manufacturing and U.S. workers by requiring a combined car-truck standard and by not providing adequate flexibility for meeting the standards.

During the course of deliberations between the Senate and House, some concessions were obtained on some of the most important issues, including requiring separate car and truck standards, preserving domestic jobs with an antibacksliding provision, and extending existing fuel credits until 2014 to provide flexibility to our domestic manufacturers to make it more practically possible for them to reach the ambitious level of 35 mpg by 2020. Of great significance, the House of Representatives was able to maintain a key reform that we were able to obtain during Senate consideration of the bill to set fuel economy standards based upon vehicle attributes. By setting standards based on vehicle attributes, such as size or weight, rather than having a fleet-wide average for each company, we will end the many years of discriminatory impacts on domestic manufacturers imposed by the existing CAFE system.

Because it is essential to manufacturers that they are able to plan on the 35 mpg standard in 2020, it was important to remove any ambiguity that could arise in the future if EPA issues new rules to regulate greenhouse gas emissions from vehicles pursuant to its authority under the Clean Air Act. Earlier today, I entered into a colloquy with Senator INOUYE, chairman of the Commerce Committee, the committee of jurisdiction, and Senator FEINSTEIN, the primary sponsor and author of the 35 mpg in 2020 legislation, confirming our mutual understanding and interpretation of what the Congress is doing in this legislation and to make clear our mutual understanding that the standard with which all Federal regulations need to be consistent is the 35 m.p.g. in 2020 standard in this bill. The Supreme Court recently ruled that the Environmental Protection Agency has authority under the Clean Air Act to regulate greenhouse gas emissions from vehicles. It is extremely important that we make clear that it is congressional intent in this bill that any future regulations issued by the Environmental Protection Agency be consistent with the Department of Transportation's new fuel economy regulations that will reach an industry fleet wide level by 35 mpg by 2020.

Logic dictates that we read the law this way—certainly Congress would not knowingly enact new fuel economy standards that could be undercut in the future by other federal agencies adopting conflicting regulations. I was assured this morning by both Senator INOUYE and Senator FEINSTEIN that it is indeed the intent of the law they wrote that EPA regulations be consistent with NHTSA. With that understanding, I am supporting this legislation today.

Mr. HATCH. Mr. President, I would like to take just a moment to talk about the cloture vote on the Energy bill today. I have worked very closely with my good friend, Senator BAUCUS, the chairman of the Senate Finance Committee, to restructure the energy tax provisions in a way that reflects a more balanced energy policy. I have consistently opposed the energy tax package up to this point. I voted against the proposal in the Senate Finance Committee because I believed it did not reflect a balanced energy policy. Rather, it imposed new taxes on our Nation's oil companies, while doing too little to address one of our Nation's most pressing energy needs: our lack of domestic refining capacity.

I also voted against cloture on the energy proposal on the Senate floor in June before it was sent to conference, or what should have been a conference on the proposal. So many of us were not even afforded the courtesy of basic Senate procedure, and that was appalling. Thus, when the bill came back from the House with a House amendment earlier this month, I voted against cloture once again. It was my understanding that when cloture failed, solid commitments had been made to ensure the minority would be included in the formulation of a bill that would really address some of the very real energy problems we have in this country.

Based on this understanding and as a senior Republican on the Senate Finance Committee, I worked with my colleagues on the Finance Committee to improve the tax package. To the credit of Chairman BAUCUS and several members on both sides of the aisle, significant and important modifications were made to the tax portion of the Energy bill.

The new tax provisions included in this bill take some important steps toward balancing this bill in a way that will benefit U.S. consumers. The new severance tax on offshore production in the Gulf of Mexico had been dropped from the revised bill. This move alone restored more than $10 billion toward the effort to increase our domestic production of oil, provision to extend for 3 years a tax incentive that I had originally sponsored to increase refining capacity. Senator BAUCUS also dropped a tax increase on natural gas lines, which restored over $500 million to our natural gas infrastructure. Finally, a

provision that would provide incentives for the conversion of hybrid electric vehicles to plug-in hybrid vehicles was included. This restored an important aspect of my legislation known as the FREEDOM Act, or S. 1617.

To say this bill is perfect would be an enormous stretch. I believe the tax package was improved, but it could still be a whole lot better. However, given the realities of Congress, I believed the more balanced tax bill was worthy of my support.

Also of great concern, this bill would apply new Davis Bacon requirements to energy production activities. Expansion of Davis Bacon is poor public policy and absolutely terrible energy policy. Now that cloture has failed and it is apparent the Energy bill cannot proceed, I encourage my colleagues to remove these provisions prior to any additional votes on an energy bill. I believe these provisions are one of the main reasons this bill is unable to secure enough support to proceed.

Mr. PRYOR. Mr. President, I would like to express my support for measures contained in the Energy bill, H.R. 6, designed to spur the design and construction of high-performance green buildings. After reviewing the bill, I am pleased with the approach title IV takes to green buildings by retaining the balanced provisions from the earlier Senate and House versions of the bill.

I am also pleased that the provision from the House-passed bill that specifically mentioned the Leadership in Energy and Environmental Design, LEED, Rating System was amended. The LEED Rating System does not recognize the energy and environmental benefits of wood building materials in its point structure. Wood products are among the most ''green'' of all building materials.

The Energy bill lays out general criteria that allow green building rating systems in the marketplace to compete for the Government's business. This is a sensible approach that will promote the concept of green building design without referencing one rating system over another.

It is important that the General Services Administration and other agencies ensure that the balanced spirit of this legislation is embraced. There are at least two green building rating systems being used by Federal agencies and the private marketplace now, and the competition among these two systems has resulted in improvements in both. The best approach is to permit the marketplace to decide which rating system is best suited for each project, and this legislation will allow all of rating systems to compete for Government contracts.

Mr. JOHNSON. Mr. President, today the Senate will approve landmark comprehensive energy legislation that over the next decade will lessen our reliance on foreign energy sources and dramatically increase the use of renewable fuels. Today's work is the culmination of a year-long debate on how best to wean Americans from the unhealthy addiction on foreign energy sources and record-high gasoline prices. We are going to accomplish these twin goals by boosting the role of renewable, homegrown fuel and through a long-term plan to make our cars and trucks use gasoline more efficiently. These two laudable goals will cut fuel use, spur investment into rural economies, decrease greenhouse gas emissions, and ultimately make energy more affordable for American families.

This bipartisan bill builds on the success of the Energy Policy Act of 2005, which authorized the first nationwide renewable fuel standard, RFS. I am proud to have played a role in passage of that bill through my work on the Senate Energy and Natural Resources Committee. The positive results of that bill are clear: ethanol and biodiesel production is booming, far outstripping the goals in that bill. Today's legislation builds on that success by realizing the tremendous growth in renewable fuels. We are going to dramatically increase the amount of renewable fuels, such as biodiesel and ethanol blended into the gasoline supply. In 2008, the United States will have the capacity to produce a minimum of 10 billion gallons of renewable fuels. The bill before the Senate today will ensure that we capture the promise of this tremendous growth by requiring the United States blend a minimum of 9 billion gallons of renewable fuels in the gasoline supply. Furthermore, this bill will ramp up the amount of ethanol and cellulosic ethanol produced in this country so that by 2020 the United States will produce a minimum of 36 billion gallons of renewable fuels. That is enough fuel to displace over 15 percent of the gasoline we use to power our trucks and cars.

South Dakota is prepared to do its part in meeting this ambitious goal. The 13 ethanol plants in South Dakota will produce 1 billion gallons of ethanol in 2008 by turning 250 million bushels of corn into the clean-burning fuel. The renewable fuels industry contributes approximately $2 billion in total economic benefits annually to my State while employing hundreds in all parts of South Dakota. South Dakota will now become an energy producer providing the energy and food a growing economy and prosperous nation requires.

Working together and placing partisan differences aside, the Congress is moving our country forward. We are going to produce more fuel from renewable resources and over the long-term decrease the amount of fossil fuels we need to import from unstable regions of the globe. This is a great bill for South Dakota and for our country, and I am glad that we will take this step together today.

Mr. CARDIN. Mr. President, it hasn't been easy, but the Senate is finally poised to pass H.R. 6, the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007. This bill contains important provisions to reduce our reliance on imported oil, bolster our national security, reduce greenhouse gas, GHG, emissions, and protect the environment.

The most important provision in this bill requires an increase in the average fleet fuel economy standards for cars and light trucks from 25 miles per gallon to 35 by 2020. This 40 percent increase is overdue, but most welcome. Maryland drivers will save an estimated $414 million at the gas pump annually by 2020 because of the increased fuel economy standards. The average family with two cars will save up to $1,000 a year. By 2020, the new fuel economy standards are expected to save 1.1 million barrels of oil per day. The standards will remove 192 million metric tons of global warming pollution annually by 2020. That is the equivalent of taking approximately 28 million cars off the road.

H.R. 6 raises the annual requirement for the amount of renewable fuels used in cars and trucks to 36 billion gallons by 2022. H.R. 6 makes a historic commitment to develop cellulosic ethanol by requiring that the United States produce 21 billion gallons of advanced biofuels, like cellulosic ethanol. Homegrown renewable fuels will replace the equivalent of all the oil we import from the Middle East today.

H.R. 6 establishes strong national efficiency standards for lightbulbs. Lightbulbs will be 30 percent more efficient by 2012 to 2014. The near-term savings from the standard are estimated to be $6 billion a year. The first part of the new standard will reduce carbon dioxide emissions by about 13 million metric tons, which is equivalent to approximately 24 new 500-megawatt coal plants. The second set of standards, effective in 2020, could at least double the initial savings of 65 billion kilowatt hours of electricity.

H.R. 6 contains provisions reported by the Senate Committee on Environment and Public Works, EPW, calling for a 30 percent reduction in energy consumption by 2015 in Federal buildings. That reduction would save approximately 60 trillion British thermal units, Btus, of energy, 15 million metric tons of carbon dioxide, and almost $4 billion in taxpayers' money. I worked hard with my colleagues on the EPW Committee to ensure that the strongest possible ''green buildings'' provisions would be included in H.R. 6. These provisions include my amendment that will put the Federal Government in the forefront of storm water management in the Nation. Virtually all Federal building projects will be required to use site planning, design, and construction techniques that will minimize storm water runoff. These storm water minimization methods are often inexpensive and highly effective. In many parts of the country, polluted storm water runoff is the leading cause of water quality problems.

So, Mr. President, H.R. 6 is a strong bill. But it is hard not to regret what

has been negotiated out of the bill. Most important was the provision to require a renewable electricity mandate. I also regret the repeal of ill-advised tax breaks for oil companies that would have paid for tax incentives for renewables, including solar energy. The difficulty Congress and the administration have had reaching an agreement on this bill underscores the need for an amendment I successfully offered to establish an independent, bipartisan commission to monitor our Nation's progress in becoming energy independent and make consensus recommendations on how to achieve that independence. I am disappointed that my amendment did not survive conference committee deliberations.

H.R. 6 could have been a better bill if we had the votes, but it is a good bill. I consider it a solid ''downpayment'' on what we need to do as a Nation to make energy affordable and reliable, use it efficiently, cut GHG emissions, and protect the environment and enhance our competitiveness and national security.

Mr. DURBIN. Mr. President, the Senate is considering one of the most important pieces of legislation that I have worked on in my legislative career—the Energy Independence and Security Act of 2007.

I thank all the Senators who helped to craft this important bill.

This energy legislation will move America in a new direction—it will make us more independent as a Nation, strengthen our economy and protect our environment.

I am proud to support this legislation which will take meaningful steps to use our energy resources more wisely.

Without this legislation we will fail to protect our country, and our children, from the growing threats of global warming, which is a clear and present danger to the national security and the economy of the United States.

The bill we are considering today begins to reduce our dependence on fossil fuels and to reduce our greenhouse gas emissions.

For many years I have advocated for an increase in CAFE standards and have offered amendments to previous energy bills to achieve this important goal. I am pleased that for the first time in over 2 decades we will be voting on legislation that raises the fuel economy of our cars and trucks. After 22 years of allowing vehicles to average 27.5 miles per gallon, cars and trucks will need to average 35 miles per gallon by 2020.

The provision we are considering today is historic in another way, because both the auto industry and the auto workers union, as well as the environmental community, have endorsed this key provision in the bill and understand the importance of making and driving more fuel efficient vehicles here in the U.S.

This increase in the CAFE standards will save 18 billion gallons of gasoline per year in 2020, and it will help us reduce the greenhouse gases that cause global warming. New CAFE standards will help us avoid 206 million metric tons of greenhouse gases annually.

This is the equivalent of removing 30 million cars from the road in the year 2020.

This legislation will significantly lower our oil consumption and will decrease our dependence on foreign oil. This is one of the most effective ways we can reduce national gasoline consumption, extend our oil supply and reduce greenhouse gas emissions.

To help reduce our dependence on imported oil, and on oil consumption, this bill strengthens the renewable fuels standard. It sets clear benchmarks for higher levels of production of biofuels made from corn as well as other feedstocks, including soybean oil, switchgrass, and other sources of energy that will be developed in the future.

With this bill, we will shift some of our energy reliance from the oilfields of the Middle East to the corn fields of the Midwest.

The bill will ratchet up the schedule for the use of renewable fuels in our cars and trucks from the level of 7.5 billion gallons by 2012, as passed in the 2005 Energy Bill, to 15 billion gallons by 2015 and 36 billion gallons by 2022.

That represents a major advance in our commitment to renewable, home grown fuels that reduce emissions, mitigate global warming, and improve farmer income.

This is a strong market signal to ethanol, biodiesel, and other renewable energy investors that the Federal Government supports fuels that are more environmentally friendly and help to reduce our dependence on oil.

Unfortunately, the package we are considering today does not include a renewable electricity standard—RES.

It does, however, include tax incentives to support the development of renewable energy. It is my hope that in future energy legislation, we will be able to pass an RES to ensure that electric utility companies to use more wind, biomass, geothermal and solar to generate electricity.

Another important component of this bill are new standards for energy efficiency.

The bill will dramatically reduce energy consumption in Federal buildings and improve energy efficiency in appliances. Improving efficiency is the best way to use less energy and reduce emissions. And Americans will save billions of dollars on energy bills.

Reducing energy use by the Federal Government is not only good for the environment; it is good for the bottom line—our budget.

I am pleased to support this important and long over-due bill. This bill makes a substantial down payment on our commitment to slow global warming. We will begin to reduce oil consumption and energy use and promote research and development and help to promote America's creative ideas.

We want innovation to be the driver of our economy, not oil. We want more American jobs, a stronger economy and a cleaner environment.

We want a more secure future for America.

The bill that we are considering will go a long way toward achieving this goal.

Ms. SNOWE. Mr. President, I rise today to express my unequivocal support for landmark energy legislation before us today that will revive our long dormant energy policy. I want to especially recognize Senator FEINSTEIN for her resolve in including momentous, benchmark CAFE standards for the first time in three decades—without her tenacity this critical component would not be included in this legislation. Furthermore, I want to thank Senators INOUYE, STEVENS, BINGAMAN, and DOMENICI for crafting this historic legislation. And it has been a pleasure to work with Senator FEINSTEIN for the past 7 years toward this goal and authoring with her the CAFE measure that was the basis for the provision included in this bill, and that is central to our environmental well-being.

As record energy costs continue to saddle Americans and hamper the growth of our economy, this legislation is, quite frankly, long overdue. Since the Senate passed the Renewable Fuels, Consumer Protection and Energy Efficiency Act in June, our failed energy policy has proliferated into a crisis. Currently, in my home State of Maine, trucks remain idle because the prohibitive cost of diesel—an astonishing 43 percent higher than last year—has made trucking simply unprofitable and untenable for many. And as I speak, residents in Washington County in Maine as well as other areas around the State—are contemplating whether to purchase food, medicine or heat.

The reality is, our energy policy has ambled aimlessly for decades—and Mainers and Americans are quite literally paying the price. As a result, this timely energy legislation could not be more critical as it represents the initial step toward the boldness of leadership on this issue that the American people desire and require. Indeed, the bill before the Senate represents a departure—finally—from the regressive policies of the 20th century to a sustained long-term energy policy that both challenges and harnesses the U.S. preeminent attribute of innovation.

And this change comes not a moment too soon. The fact is, while each of us understands the unacceptable cost of gasoline, heating oil, and electricity for our constituents, we must also be cognizant that our energy policy has been a boon to America's adversaries. As Thomas Friedman recently remarked, petro-authoritarianism is sweeping the globe. In 2005, Iran earned $44.6 billion from crude oil exports when oil was $50 a barrel—now it is $90. The reality is, our current energy policy directly shifts America's hard-

earned money to the least democratic countries and most dangerous in the world including Venezuela and indirectly to Iran.

Although this is, in itself, an undeniable reason to change our energy policy, our failed approaches of the past are also manifested in the challenge of global climate change. The release of the Intergovernmental Panel on Climate Change completed in mid-November concluded that climate change is ''unequivocal'' and accelerating. Indeed this summer, the Arctic Ocean exposed 1 million square miles of open water, the most that has been determined since measurements have been taken. Quite frankly, it is beyond dispute that the United States must take immediate action to reduce carbon emissions and stem climate change.

That is why this timely legislation is absolutely essential to our Nation's security and our environment—as well as our pocketbooks and wallets. Indeed this body is on the brink of forging an energy policy that would provide dividends to the American consumer, enhance American security, and reestablish American leadership on environmental issues by confronting climate change. The question now is, Will we?

We can't afford to wait and, on that note, I particularly want to highlight the inclusion of the CAFE provisions that will finally place this country on track to substantially improve our Nation's automobile fleet from 25.2 miles per gallon to 35 miles per gallon by 2020. Because this provision that Senator FEINSTEIN and I authored is the most significant step our Nation can take to address our long-term energy crisis.

As the New York Times stated on November 14th, ''The single most effective way to address the problem of oil imports and consumption is to improve the efficiency of cars and light trucks, which use more than two-thirds of all the oil burned in the United States.'' This legislation will save Americans 1.1 million barrels of oil per day—nearly the same amount imported from Saudi Arabia. And at a time when thousands of families are struggling to provide the basic necessity of heat in their homes, indisputably we must not squander oil through inefficiency.

There is no question this is a measure whose time has long since come, given the last time Congress comprehensively adjusted CAFE standards was over 30 years ago, in 1975, when the price of gasoline was 60 cents per gallon. Yet all we have done in 32 years is raise CAFE by a measly 5 miles per gallon for light trucks and not at all for passenger vehicles. It is like the program that time forgot. That is why this provision is essential for any comprehensive energy legislation.

The legislation significantly before us achieves the goal of 35 miles per gallon by 2020 through an attribute-based system, incorporating the 2001 National Academy of Science's recommendation that ''Consideration should be given to designing and evaluating an approach with fuel economy targets that are dependent on vehicle attributes such as vehicle weight.'' Why is this important? Because this concept maintains a critical component of America's automobile fleet, and that is consumer choice.

This is the innovative approach that Senator FEINSTEIN and I developed that focuses not on defacto mandates on what type of vehicles are built and sold but rather on the end result of overall fuel savings. And I am particularly pleased that the auto companies have recognized the merits in this proposal and support this initiative. This represents a sea change from the previous divisiveness of this central issue, and I want to applaud my colleagues who worked with Senator FEINSTEIN, Senator INOUYE, and I to craft this historic breakthrough that represents a new automotive era, ensuring that we will not return to the wasteful gas-guzzling days of the past.

Furthermore, this legislation provides critical tax incentives for energy efficiency and renewable energy, to wean ourselves off the expensive foreign petroleum that, as I have said, also serves to line the pockets of some of the world's most dangerous tyrants. This country, quite frankly, has abrogated its commitment to a substantial investment in altering our energy policy—a problem encapsulated in a special report in the Economist, which stated that, regrettably ''America's incentives for clean energy'' are ''relatively modest compared to Europe's.'' Furthermore, the article illustrates that, ''what one politician can mandate, another can terminate—and therein lies one of the biggest risks for clean energy. American politicians have periodically allowed a tax break for wind generation to expire, for example. This caused the industry to falter several times, before the credit was renewed again.''

Accordingly, I am extremely disappointed that this legislation fails to extend the vital renewable production tax credit. If we truly want to alter our Nation's energy policy we must make substantial investments and it confounds me why we elected not to make that a national priority.

In addition, I want to voice my strong opposition to the inexplicable removal of the renewable portfolio standard to create a market for sustainable resources. The State of Maine has demonstrated that this provision stimulates the development of hydropower, wind, solar, tidal, and biomass energy with more than 30 percent of our energy flowing from these sources. Enactment of this strong RPS would have promoted fuel diversity and reduced our substantial dependence of natural gas. This reliance on natural gas was unfortunately illustrated in Maine last week when a Canadian supply disruption of imported natural gas forced to shut down two natural gas plants. Frankly, we must promote energy diversity to ensure energy reliance—and this strong Renewable Portfolio Standard that his legislation fails to include would have ensured that Americans would have received 15 percent of their electricity from renewable energy resources and ensured a basic level of diversity while promoting clean energy. I urge my colleagues to address this central issue in the future.

On the more positive side, I am pleased to have worked closely with Senator KERRY, Chairman of the Senate Small Business Committee, and also House Small Business Committee Chair VELÁZQUEZ and Ranking Member CHABOT, to fashion a bipartisan small business title to this Energy Bill. This title includes virtually all of the provisions in the ''Small Business Energy Efficiency Act of 2007'' (S. 1657), which Senator KERRY and I introduced in June.

This year, the Senate Committee on Small Business and Entrepreneurship, of which I am the ranking member, has paid particular attention to the effects of climate change and escalating fuel costs on small businesses, and the role America's entrepreneurs can play in affecting change in these areas. Chairman KERRY and I have already devoted two hearings during the 110th Congress to these subjects as clearly rising gas prices and global warming are having a devastating affect on the health of small business in this country.

As we all recognize, small business is the backbone of our Nation's economy. As the leading Republican on the Small Business Committee and as a longstanding steward of the environment, I firmly believe that small business has a pivotal role to play in finding a solution to global climate change. According to a recent survey conducted by the National Small Business Association, 75 percent of small businesses believe that energy efficiency can make a significant contribution to reducing greenhouse gas emissions. And yet, only 33 percent of those had successfully invested in energy efficiency programs for their businesses.

We must significantly improve energy efficiency investment by small businesses. To that end, the small business title in the Energy bill will make the SBA's Express Loan Program available to small businesses that wish to purchase renewable energy systems or make energy efficiency improvements to their businesses. I firmly believe that the SBA Express Loan will be an attractive option to small business owners looking to make their businesses more energy efficient and environmentally sound because of the program's quick turnaround time and the ability of participating lenders to use their own forms and procedures for fast approval.

Another key provision would encourage small business innovation in energy efficiency, by creating a priority under the Small Business Innovation

Research, SBIR, program for solicitations by small businesses that participate in or conduct energy efficiency or renewable energy system research and development.

The small business title would also create a pilot, competitive grant program that would be administered through the national network of Small Business Development Centers, which would provide ''energy audits'' to small businesses to enhance their energy efficiency practices, as well as offer access to information and resources on energy efficiency practices.

Finally, the small business title will ensure that the SBA completes its requirements under the Energy Policy Act of 2005. Within 6 months of enactment, the SBA, through a final rulemaking, would be mandated to complete all of its requirements under the Energy Policy Act, including setting up a ''Small Business Energy Clearinghouse'' that builds on the Environmental Protection Agency's Energy Star program to assist small business in becoming more energy efficient. Frankly, I am alarmed by the lack of progress that SBA has made on these requirements, which President Bush signed into law nearly 2½ years ago. Unfortunately, this may be one more example of the administration's unwillingness to lead on actions to address global warming. By contrast, the small business title will help to ensure that the SBA finally completes its requirements under the Energy Policy Act and actually play a leading role in combating global climate change.

It is my hope that the small business title in the Energy bill will spur more small firms to make a smaller carbon ''footprint'' and play a leading role in the actions that are essential in combating global warming. Assisting small firms in this regard will not only help the environment but will also significantly lower the energy costs for cash-strapped small businesses.

Given our Nation's energy crisis, we must pursue every opportunity to pursue energy savings, and I therefore must express my strong disappointment that the issue of truck weights was not considered in this legislation. This is a timely issue that has unnecessarily placed the Maine trucking industry and the safety of our residents in jeopardy.

The issue, quite frankly, defies even the most elementary logic. Currently, arbitrary rules create two distinct truck weight limits that capriciously bisect the State at Augusta. Specifically, from the New Hampshire/Maine border to Augusta trucks weighing up to 100,000 pounds are allowed to travel on Interstate 95. However, beyond this point all the way from Augusta to Houlton—a distance of 200 miles—the regulation recedes to 80,000 pounds.

As a result, north of Augusta, heavy trucks are forced onto smaller, secondary roads that pass through our cities, towns, and villages and they fail to use the Federal highway system. This mosaic of Federal regulations unnecessarily costs our Nation energy by requiring additional truck trips to meet the needless 80,000 limitation. Truckers must make additional trips for the transportation of fish, lumber, blueberries, and potatoes, which increases the costs of these goods and regrettably has become a major safety issue on the secondary roads of Maine with these massive trucks speeding through Maine's communities. With diesel prices upwards of $3.70, the problem has burgeoned into a full crisis and this Federal medley of regulations must end and I urge my colleagues to support me in creating a uniform 100,000-limit restriction on Maine's Federal highways.

Overall, I am pleased that this legislation is reflective of the broad ramifications of our energy plan and provides the beginning of a commensurate response to our energy crisis. The manifestations of our current strategy are discernible in some of the greatest issues facing America. The critical issues of climate change, the trade imbalance, and a restricted foreign diplomacy in the Middle East are all directly related to our failed energy strategy. We are realizing, with increasing clarity, the consequences of an oil-based energy policy.

Now, with this Energy bill before us, this is a critical initial step but is only the first. A glaring absence in this bill is the preeminent issue of climate change. It is incumbent on this Congress to build momentum from the recent G8 meeting and pass legislation that reestablishes American leadership on this critical environmental issue. Currently, the entire world is meeting in Bali, Indonesia, waiting for an answer from America. The Environment and Public Work's Committee passage of the first comprehensive climate change legislation, coupled with the action today, resoundingly declares that American leadership is hopefully on its way. As I have worked with Senators MCCAIN and LIEBERMAN for 4 years on the Climate Stewardship Act, as well as Senator KERRY on Global Warming Reduction Act, I remain absolutely committed to passing climate change legislation. The legislation before the Senate does not replace the need for comprehensive climate legislation, and I look forward to bringing this fundamental energy and environmental issue to the floor of the Senate when we return after the New Year.

Again, this bill represents critical progress toward a comprehensive energy policy. I look forward to working with my colleagues on the additional components to finally achieve American energy independence.

I thank the Chair.

The PRESIDING OFFICER. Who seeks time?

Mr. DOMENICI. Mr. President, I believe we are out of time except for leader time.

The PRESIDING OFFICER. The minority has 3 minutes 54 seconds, not including the leader; and the majority has 1 minute 17 seconds, not including the leader.

Mr. DOMENICI. I have no other Senators who want to be heard on my side.

I yield back the remainder of our time, reserving the full leader's time at this point.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I particularly want to say how pleased I am Senator DOMENICI is still on the Senate floor. This is an extraordinary accomplishment for him. I congratulate him on his persistence and tenacity. Senator STEVENS has been deeply involved in this issue from the very beginning and has done an extraordinary job, and I want to congratulate both of these outstanding Senators for what is going to be an accomplishment that all of us can be proud of. I also commend Senator INOUYE and Senator BINGAMAN for their hard work as well. The final product is not perfect, but it is vastly better than the version that was sent to us by the House of Representatives.

We recognized in the Senate that the House bill couldn't pass the Senate and wouldn't be signed into law, so we fixed it, and now it will. The new fuel economy standards and the increase in renewable fuels represent a step forward in our common effort to make America more energy independent. This is something we can all be proud of as we leave to go home for the holiday recess.

This is a good accomplishment. It was achieved—as every good thing in the Senate always is—by cooperation between the parties. What we have done on this bill we have done together. In a year that has seen its fair share of partisan tensions, that is no small accomplishment either.

So, again, I congratulate the managers of the bill. I also thank my good friend, the majority leader, for bringing it back to the floor in a form that guarantees not only that it will pass the Senate but that it will be signed into law.

I am extremely pleased about this bipartisan accomplishment. I am extremely happy that we are about to show the American people we still have it in us to come together as a body and to achieve consensus on an issue that affects all of us.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, a note of information for all of the Senators: We are trying to work out something on the farm bill to complete it, and we are going to complete it this week. Right now, we have one obstacle, and it is an amendment dealing with firefighters. There is bipartisan support for it. I have told those people who like it and don't like it that we can do a number of things. We can have a voice vote on it; we can have side-by-sides. If the opponents of the legislation want a couple of second-degree amendments that relate to that, they can have that. If

that doesn't work, I have no alternative but to file cloture on that amendment. If I do that tonight, there will be a cloture vote on Saturday. I don't want a cloture vote on Saturday—no one does—but we have no alternative. We have to finish what we have to do here.

Now, if I file cloture on it, maybe they would agree to allow us to have the cloture vote tomorrow.

We have some other things we need to do. Everyone should be alerted. With the permission of the—well, I don't need to say the ''permission.'' Whenever we finish the firefighters amendment sometime tomorrow, cloture will be sought on the bill. We still have Republican and Democratic amendments out there floating around. Some people don't come and offer them; some people won't debate their amendments. Once the firefighter issue is out of the way, we are going to see if we can invoke cloture on the bill.

I think there is general consensus that, as with immigration, we have had enough of farm legislation this year. We have all been very patient. It has been a very distressing issue on occasion. We have done a lot of finger-pointing. It is time now that we pass the farm bill. So the issue relating to firefighting is on the bill. It was one of the Republicans' amendments, and now it is a Democratic amendment.

That is where we are. That has nothing to do with some real good news. I just wanted to alert everyone as to what we are doing.

Mr. President, we had a little going away party sponsored by the Republican leader and me yesterday in the Mansfield Room. It was a wonderful occasion. It was the farewell to Senator TRENT LOTT. I said something there that I am saying again here today. Edmund Burke, the famous Irish statesman and philosopher, said:

All government, every virtue and every prudent act, is founded on compromise.

Listen to what this brilliant man said:

All government, every virtue and every prudent act, is founded on compromise.

''Compromise'' is not a dirty word. Consensus building is what we have to do. It can be frustrating. It can be exasperating. It can be maddening. But at the end of the day, compromise leads to progress. That is what we have today. Progress. The last time America raised fuel economy standards was 30 years ago. We didn't have airbags, the Internet was a science fiction fantasy, and the closest thing to GPS was a map. You went to a service station and they gave it to you. Today we have hybrid cars, hydrogen cars, ethanol cars, fully electric cars.

Now, after 30 years, we are going to pass a new fuel economy standard. This is not only important, it is historic. This is a good energy bill. There are so many heroes. One just walked past me: DIANNE FEINSTEIN. There is lots of credit to go around. It will save consumers money. It will begin to reverse our addiction to oil. It will take a small first step in our fight to turn the tide of global warming. Could this bill have been better? Of course it could have been better. Absolutely. But we are not going to talk today about what could have been in it to make it better. We have been through that. What we want to talk about today is this bill will be a win for the American people.

It may be a split decision, as we have in boxing matches, but if you have a split decision in a boxing match, there are still winners, and we have winners in this matter today. Who are the winners? Not me, not the Republican leader, none of the 98 other Senators are winners. It is a partnership. We have worked together. All Senators and all House Members are going to be able to walk out and hold their chests out, hold their heads high, and say: We passed an energy bill. Not only does Congress get credit for this, the White House gets credit for it. It sets new fuel economy standards for the first time in 30 years: 36 billion gallons of renewable fuel will replace oil by 2022. It creates new energy efficiency standards, everything from light bulbs, to refrigerators, to the construction of new buildings. Because of the Energy bill we will pass in just a few minutes, Americans will save money every day.

I say to the Senate, to the House of Representatives, to the President of the United States: Congratulations.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2008

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of H.J. Res. 69, the continuing resolution just received from the House; that the joint resolution be read three times, passed, and the motion to reconsider be laid upon the table, all without intervening action or debate.

I would tell everyone this is for 1 week.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The joint resolution (H.J. Res. 69) was ordered to a third reading, was read the third time, and passed.

ENERGY INDEPENDENCE AND SECURITY ACT OF 2007—Continued

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Nebraska (Mr. HAGEL).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 8, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—86

Akaka	Dorgan	Mikulski
Alexander	Durbin	Murkowski
Allard	Ensign	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Bennett	Graham	Pryor
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Harkin	Roberts
Brown	Hutchison	Rockefeller
Brownback	Inouye	Salazar
Bunning	Isakson	Sanders
Burr	Johnson	Schumer
Byrd	Kennedy	Sessions
Cantwell	Kerry	Shelby
Cardin	Klobuchar	Smith
Carper	Kohl	Snowe
Casey	Landrieu	Specter
Chambliss	Lautenberg	Stevens
Cochran	Leahy	Sununu
Coleman	Levin	Tester
Collins	Lieberman	Thune
Conrad	Lincoln	Vitter
Corker	Lott	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	Webb
Crapo	McCaskill	Whitehouse
Dole	McConnell	Wyden
Domenici	Menendez	

NAYS—8

Barrasso	Enzi	Kyl
Coburn	Hatch	Stabenow
DeMint	Inhofe	

NOT VOTING—6

Biden	Dodd	McCain
Clinton	Hagel	Obama

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate concurs in the House amendment to the Senate amendment to the title of the bill, and the motions to reconsider are laid on the table.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for a couple of minutes on the subject of the bill that passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, many years ago, exactly 6, Senator SNOWE and I began this effort. Prior to that time—and I give credit to Senators Dick Bryan and Slade Gorton, who began this effort back in 1993 with me. We tried to do a sense of the Senate. We didn't succeed. Then Senator SNOWE and I did the SUV loophole closer, and we didn't succeed. Then suddenly the times changed and we had introduced this bill in committee. Both the chairman, Senator INOUYE, the ranking member, Senator STEVENS, and the Commerce Committee allowed us to come before them and ply our troth of this bill. And we did. The Commerce Committee unanimously passed out the bill. That was in itself a stellar moment.

Then there was the House and there was the negotiation with Representative DINGELL and others. A bill finally

emerged—a lot of trial, a lot of tribulation. But I owe a great deal to Senator SNOWE. I want her to know that. I thank her for her solidarity, for her intelligence, for working with me over these past 6 years. It has been a wonderful bipartisan relationship and one I will treasure.

I also thank Senator INOUYE as chairman of the committee and Senator STEVENS, Senators CANTWELL, KERRY, CARPER, DORGAN, and my pal and friend, Senator BOXER.

We had some great staff from my office. I thank them: John Watts, Matt Nelson, my LD, Chris Thompson, who participated in much of the negotiations. But I also give kudos to a member of Senator INOUYE's Commerce Committee staff, and his name is David Strickland. David Strickland knows more about automobiles than most people all put together in this Chamber. There may be a few exceptions, but I have never met anyone who knows more about the automobile. He conducted the negotiations with the House and worked very late hours. I want him to know how much his talent, his technical expertise is appreciated.

I see Senator CARPER. I think I mentioned him. We had many conversations over the recess on the bill. I thank him for his support and for his commitment to this bill.

This is not an easy bill to do because we know we have automobile producers in this country, and we know these companies have problems. Yet we also know time is marching on and the need to move fuel efficiency, which has not happened for 32 years, is important if we are going to solve the problems of climate change. This is a first big step.

Transportation is about a third of our greenhouse gas emissions. By 2025, this bill will reduce these emission from automobiles by about 18 percent from projected levels. It is about, by 2020, a 40-percent increase in mileage of automobiles. So it is important.

Oh, there is so much we do in this Chamber that is minutiae and often unrewarded. Once in a great while, you participate in the making of a bill which can change how things are done in the country. Once in a while, we all together can make a difference, and that happens when it is bipartisan. This bill was bipartisan. For that, I am very grateful.

So for all those who fought the good fight, who talked and walked the march, I say thank you. I think we have achieved something that is major, that is real, and that will greatly improve the situation. It may not be perfect, but the perfect, as they say, should not be the enemy of the good.

I also pay tribute and thank Senator LEVIN and Senator STABENOW. I know this is difficult, and I know how I would feel. I also believe the greater good of the United States is served by this legislation and, after all, that is all of our objectives.

I look forward to working with everyone in the future. It is a very happy evening for me. I thank everyone very much.

The PRESIDING OFFICER. The Senator from Iowa.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007—Continued

Mr. GRASSLEY. Mr. President, I ask for the regular order on amendment No. 3823.

Mr. REID. Mr. President, was there a request?

Mr. GRASSLEY. I am asking for the regular order on amendment No. 3823.

Mr. REID. Mr. President, I am confident this is the right thing to do. The two managers of the bill are not here right now. Until they return, I think we should wait.

Mr. GRASSLEY. I ask for the regular order.

Mr. REID. I suggest the absence of a quorum.

I have no right to suggest the absence of a quorum. The Senator has the floor. I interrupted him.

Mr. GRASSLEY. The managers of the amendments are trying to get amendments brought up. I am ready to go, and they asked if I was ready to go.

Mr. REID. I say to my friend, I had conversations with the two of them. They are in the back coming up with something in writing to proceed through these amendments.

Go ahead. Regular order, Mr. President, fine.

AMENDMENT NO. 3823

The PRESIDING OFFICER. The amendment is now pending. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, amendment No. 3823 deals with agricultural competition and increased consolidation in the agricultural industry. The amendment is cosponsored by me, Senator GRASSLEY, and two Democrats—Senator KOHL and Senator HARKIN.

I wish to make it very clear—and I will get into some detail—there may be some people who feel the amendment I have put before the Senate is exactly the same as a bill Senator KOHL and I had introduced previously. It is very slimmed down from that bill. So any staff who is watching the debate and getting nervous about an amendment coming up that every big industry in the United States may find fault with, we are talking about a very slimmed-down version of it. I will explain all that shortly.

I have been concerned with competition in the agricultural marketplace and increased competition in the agricultural industry for quite some time now. You have heard me speak about it on the floor. We have had hearings on it. I had hearings in the Senate Finance Committee, as well as hearings I participated in under both Republican and Democratic chairmanships of the Judiciary Committee.

Agriculture, as you know, is a fairly risky business. I know that from personal experience because I have lived and worked on a farm all my life. But for some time, working in agriculture has become even more difficult for the little guy. The trend has been for companies in the agricultural sector to consolidate. I am talking about businesses that serve agriculture with input. I am talking about industry that processes agriculture. So there has been consolidation in that industry. I am not talking about the consolidation of farms. There has been that as well. That has been going on since 1790, when 90 percent of the people in this country were farmers. Today, 2 percent of the people in this country are farmers. I am talking about the impact of agriculture agribusiness consolidation and the impact upon the 2 percent of the people in this country who are farmers.

This consolidation has created new business giants impacting competition in the marketplace for the family farmers, for producers, and for consumers. Family farms and independent producers are feeling the pressure of concentration in agriculture. Small and independent producers are seeing fewer choices—who the farmer can buy from and to whom the farmer can sell.

All this consolidation in industry at both the horizontal and vertical levels leads to the very real possibility of fewer product choices and higher prices for consumers.

I don't believe all mergers are, per se, bad, and I don't believe all are wrong and all lead to unfairness. But I think at the same time we need to make sure—we need to make very sure—open and fair access to the marketplace is preserved for everyone. We need to make sure large businesses are not acting in a predatory or anticompetitive manner. We need to make sure family farmers and independent producers can compete on a level playing field. We need to make sure consumers have as many choices as possible.

So I am not talking just about mergers and lack of competition being harmful just to farmers, I am talking about the impact that might have on consumers paying more. The antitrust laws are all about protecting consumers, not about protecting producers. But in the case of family farmers, they are purchasers of input, and so they are consumers. But they also have to make sure that the marketplace is protected for the ultimate end-consumer, the consumer of our agricultural products.

By looking out for these things, you know what we end up doing, Mr. President? We keep our economy strong because of competition. We keep our agricultural community vibrant. We keep it competitive. And hopefully, in the end, we keep our consumers happy, with quality food at a relatively inexpensive price. American consumers don't know that, but they already have that environment from our farmers. We take too much for granted in America, so I am not so sure consumers know that, and I like to remind them from time to time.

So we have this amendment before us. It is an amendment cosponsored, as I said, by Senator KOHL and Senator HARKIN. The language of this amendment draws from a bill that Senator KOHL, Senator THUNE, and I introduced earlier this year—S. 1759. It is called the Agriculture Competition Enhancement Act, ACE for short. We call it the ACE Act. However—and this is the point I started out with—I wish to make clear that this amendment which is being offered to the farm bill is quite different from the ACE Act as originally introduced earlier this year. Amendment No. 3823, which I have called up here under regular order, does not include all the provisions of S. 1759 and either eliminates provisions in that bill or incorporates many changes to address concerns raised by members of the agricultural industry, by the administration, as well as Senators on both sides of the aisle.

I also worked with the chairman and ranking member of the Judiciary Committee because this bill, S. 1759, was referred to the Judiciary Committee. Because we are offering it as an amendment to this bill, I also worked with the ranking member of the Agriculture Committee to address issues that were in that original S. 1759, which I was hoping to offer here, to take care of some opposition to this bill coming up and yet still accomplishing quite a bit about the problems I see with lack of competition. So the amendment I have called up under regular order is the product of these discussions we had with business, with agricultural leaders, with the White House—or I should say with the administration generally, not necessarily the White House—and, of course, with the Judiciary Committee members and the ranking member of the Agriculture Committee.

Now, I want to explain what this bill does after having explained to you, as I just did, that it is not what we had introduced as a bill.

First, the amendment would create an Agriculture Competition Task Force to study problems in agricultural competition, establish ways to coordinate Federal and State activities to address competition problems in agriculture, and make recommendations to Congress. In particular, the task force would establish a smaller working group on buyer power to study the effects of concentration, the effects of monopsony, and the effects of oligopsony in agriculture, and make recommendations to the Department of Justice and to the Federal Trade Commission on and for agricultural guidelines. The task force will help give our antitrust regulators real insight and expertise specific to the farm community that I believe is currently lacking when they address competition issues in agriculture.

Second, the amendment would require the Justice Department and the Federal Trade Commission to issue agricultural guidelines, taking into account the special conditions of the agriculture industry, and require the Department of Justice and the Federal Trade Commission to report to Congress on the guidelines.

Both the Senate Judiciary Committee and the Agriculture Committee heard witnesses in several hearings testify that there is a need for agriculture-specific guidelines when the Department of Justice and the Federal Trade Commission look at agriculture mergers.

Currently, the Department of Justice and the Federal Trade Commission have guidelines for specific industries and issues, such as health care and intellectual property, but not for agriculture. So it makes sense—not just to me but to these many experts in agriculture and antitrust law that we heard in these several hearings before our committees—that our Federal regulators should have agricultural guidelines because of the special circumstances and special characteristics particular to the agriculture industry and particularly because there tends to be, in Washington, DC, outside of the Agriculture Department, little consideration and understanding of the unique industry of agriculture. Some people would say that even within the U.S. Department of Agriculture there is a lack of understanding in Washington, DC, of what the problems of agriculture are all about.

I don't pretend that even with the adoption of this amendment we are necessarily going to bring about the total understanding that there ought to be for the 2 percent of the people in this country who produce food for the other 98 percent, as well as a lot of surplus that is exported beyond. But whatever we can do to help, and particularly when there are policy decisions made dealing with agriculture when it is not fully understood, if we can just get some attention on agriculture in those areas, I think we will be taking a giant step forward.

Those characteristics I am talking about include monopsony, which is a situation where there is a single purchaser of goods, and oligopsony, which is a situation where there are few buyers who, at the same time, have a disproportionate amount of market power.

Third, the amendment would formalize the Department of Agriculture's review of agriculture mergers with the Justice Department and the Federal Trade Commission, requiring the Department of Agriculture to provide comments on larger mergers in the industry—mergers that submitted second requests for information under the Clayton Act. That is already a process that is in law.

Currently, the Justice Department or the Federal Trade Commission informally consults with the Department of Agriculture when they analyze ag mergers. These agencies have what we call a memorandum of understanding to consult with each other. But I believe, following on the advice of experts who have testified on this matter before the Agriculture Committee, that the current process—meaning the current process of the memorandum of understanding—does not sufficiently ensure that farm community concerns are adequately considered.

Far more than the Justice Department and far more than the Federal Trade Commission, the Department of Agriculture has extraordinary knowledge and expertise in agricultural matters. The Department of Agriculture formulates agricultural policy for our great Nation and works closely with the farm community and agricultural industry about various concerns. They have experts and economists who know and work with the data on a daily basis. The Department of Agriculture is the office that can best assess the true impact of ag mergers and other business transactions for farmers, ranchers, and independent producers, as well as the trickle-down effect on the consumer. So that is why it makes sense that the role the Department of Agriculture plays presently in antitrust review of ag mergers be more than just a memorandum of understanding; that, in fact, it be permanent and a formal role, not one that is informal and loosely contained in the memorandums.

Moreover, having such a requirement of formal participation or consultation is not some new novel idea. I wish I could claim a new novel idea. Other agencies, such as the Federal Communication Commission or the Department of Transportation, formally participate in the review of mergers in their industries. They render formal decisions that are then shared with the FTC or the Department of Justice. So along the lines of the precedent set by the FCC and the Department of Transportation, I am asking that we do the same thing with the Department of Agriculture and the FTC and the Department of Justice.

I hope I have described to you what is a very modest approach, much more modest than the ideas Senator KOHL and I had in the bill that I am saying I am offering a stripped-down version of here. I basically put in statute what the Department of Justice and the Federal Trade Commission are allegedly already supposed to be doing with the U.S. Department of Agriculture. The approach we advocate in this amendment will ensure that all of agriculture's concerns and needs are fully discussed when Federal agencies examine proposed ag business mergers. By guaranteeing inclusion and openness, we will go a long way toward alleviating understandable anxiety about an increasingly concentrated industry.

Finally, the amendment would provide for additional resources to the Department of Justice and the U.S. Department of Agriculture's GIPSA division to enhance their ability to look at agricultural transactions and competition issues.

I want my colleagues to know that we worked very closely with several

agricultural and antitrust experts on the language contained in this very amendment, as we did in the original bill. The amendment is supported by a number of farm groups, and I would like to read these to you: the Organization for Competitive Markets, the Campaign for Contract Agriculture Reform, the Center for Rural Affairs, Food and Water Watch, the Institute for Agriculture and Trade Policy, R-CALF USA—and just in case people don't understand that acronym, those are people who are cattle producers but who aren't necessarily affiliated with the National Cattlemen's Association. They could have dual memberships, but they do have some different points of view. Then another organization is the Sustainable Agriculture Coalition, and lastly the Western Organization of Resource Councils.

Mr. President, I ask unanimous consent to have printed in the RECORD a December 10, 2007, letter in support of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 10, 2007.

Re Agricultural Competition Enhancement Act.

Hon. CHARLES GRASSLEY,
Senate Office Building,
Washington, DC.
Hon. HERB KOHL,
Senate Office Building,
Washington, DC.

DEAR SENATORS GRASSLEY AND KOHL: We would like to thank you and express our support for the Agricultural Competition Enhancement Act, Amendments 3717, 3823 and 3631, proposed for inclusion in the Farm Bill. Agricultural producers face buyer power when selling their products—and seller power when buying. This market power scissors effect has devastated the economy of rural America. These Amendments can begin to reverse the process.

Congress created antitrust law in 1890. This body of law did not exist previously, except through a patchwork of common law doctrines and state statutes. The courts weakened the Sherman Act. Congress responded by enacting the Clayton Act. Then the Federal Trade Commission Act was passed. Some updating occurred in the 1970's. However, the last 30 years has seen competition falter in agriculture as antitrust law has been incrementally neutered. Powerful companies have opposed antitrust law for decades, with substantial recent success.

AMENDMENTS 3717 AND 3823

This Amendment will create the Agriculture Competition Task Force. The Task Force is necessary to focus on the agricultural concentration problem and solutions. We can no longer pretend that unfair and deceptive practices do not exist in the U.S. food industry, America's biggest industry.

New guidelines are needed at the Department of Justice specific to agriculture. DOJ admits that antitrust laws apply unaltered across the economy—thereby conceding the problem that must be solved. The current economywide guidelines are of only passing relevance to farmers, ranchers and growers. Those guidelines may apply to an industry dominated by five firms dealing vertically with an industry dominated by three firms. But the guidelines do not tackle the real problems of disparate farmers with no market power doing business with sophisticated, multinational firms.

Better methods must be developed to establish geographic and product markets. Black and white concentration thresholds must be devised to provide certainty and concentration. Neither judges nor Department of Justice officials have sufficiently grasped these issues in the recent past.

Rather they accept pleasing theories of competition that work in textbooks, but not on the ground.

The failures have been astounding. In this year alone, the Department of Justice approved a Southeast U.S. hog packing monopoly by allowing Smithfield Foods to acquire Premium Standard Farms. And DOJ also allowed Monsanto to acquire a near monopoly in the cotton seed market when acquiring Delta & Pine Land Company. Legislation is clearly needed.

AMENDMENT 3631

We also support Amendment 3631. The Post Merger Review provisions are needed to correct the past mistakes of DOJ that have harmed the agricultural economy by extracting wealth from farmers, ranchers and rural communities. We cannot continue protecting those accumulating market power. Studying those past mergers will reveal the worst past mistakes, and enable correction when warranted.

The Special Counsel for Agricultural Competition is also needed at the USDA. The Grain Inspection, Packers & Stockyards Administration has not been up to the task. GIPSA's competition activities should be transferred to more professional, accountable and well-funded staff.

We strongly support the Amendment's clarifications regarding the burden of proof in a merger case. Congress can and should make the policy decision that competition is often harmed by concentration. It is sensible to exempt mergers that are not problematic by allowing a defendant to prove the deal does not substantially lessen competition or create a monopoly.

This Amendment could be improved if it clarified that the benefits of any alleged efficiencies created by an acquisition must be passed on to consumers or producers, not merely maintained by the merged entities. Efficiencies benefiting the merged entities are emblematic of market power, not competition. Those efficiencies should be proved by clear and convincing evidence to dissuade judges from lazily accepting mere theories and arguments rather than factual proof.

DEPARTMENT OF JUSTICE OPPOSITION

We note the surprisingly strident opposition of the Department of Justice in a November 15, 2007 letter to Chairman Leahy. That opposition is ideological and turf-based, not substantive. Indeed, the letter is akin to an industry association press release.

Both DOJ and USDA have repeatedly failed their charge to enforce the law, protect competition, and eliminate ideology from decision making. Congress should not enable further failure.

DOJ makes some fairly large leaps of logic, stating that the Amendments would actually harm competition in agriculture. No sound basis exists for such a claim, and doubt is thus cast on the entire submission. Bureaucratic distaste for legislation does not beget economic harm.

The Constitutional concerns expressed by the Department are consistent with its new Unitary Executive theory that relegates Congress to a minor governmental role. Congress should be assertive in maintaining its authority, including the ability to establish Task Forces that assist the formation of merger review guidelines and enforcement policy.

DOJ also claims a Special Counsel for Competition at USDA ''would harm American agriculture.'' This again is a leap of logic, sprung from ideology and bureaucratic turf protection rather than law or fact. DOJ's defense of USDA's Grain Inspection, Packers & Stockyards Administration fails to acknowledge the repeated GAO and USDA-OIG investigations showing incompetence at best, and falsifying reports to Congress at worst.

Indeed, the protestations prove the point—that change must be imposed from outside the agencies.

We commend you for taking this modest first step in antitrust improvement for production agriculture.

Signatory organizations,
Organization for Competitive Markets; Campaign for Contract Agriculture Reform; Center for Rural Affairs; Food & Water Watch; Institute for Agriculture and Trade Policy; R-CALF USA; Sustainable Agriculture Coalition; Western Organization of Resource Councils.

Mr. GRASSLEY. So my colleagues are clear, once again to repeat, Senator KOHL and I listened very carefully to the concerns expressed by companies and groups that contacted us about S. 1759, the original Agriculture Competition Enhancement Act—we call that ACE for short—and in response to those concerns, we made significant changes and elimination to the language which has been incorporated in this amendment. This amendment does not make any substantive changes in antitrust laws. I am going to address that a little more specifically because that is one of the things we have heard against this amendment. Maybe it would be an applicable criticism of the bill but not of this amendment.

Also, there is no mandatory adoption of the task force recommendations on the guidelines to which I have referred. The constitutional issues raised have been taken care of and more contentious provisions have been eliminated. The bottom line is the concerns that were raised by certain companies, as well as the Justice Department and the FTC, about our previous iterations of the ACE bill have been taken care of in the amendment. The bottom line is, this amendment is very much an attempt to address everyone's concerns and to reach a fair compromise because I think we could have gone a lot further and been even a lot more aggressive in dealing with agricultural competition issues. I had a hard time convincing Senator KOHL we ought to make these changes, but he has agreed as well.

There is a real need for this amendment. We need it to beef up our ability to address competition issues in agriculture and to address concerns with consolidation in the industry. My amendment is an itty-bitty step in the right direction; maybe some would say too small of a step but still a good first step at getting something done.

I urge my colleagues to support the Grassley-Kohl-Harkin amendment.

I do have some other things I want to say, but I do not want to take all the time right now. I do want to speak about some of the differences between what was in our bill and what is in our

amendment. I am willing to yield the floor if other people want to speak on the amendment that I have before us.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I would like to speak on the Grassley amendment. I am certainly willing to yield to the Senator from Iowa, if he wants to have his colleague from Wisconsin speak right with him or if he wants to go afterwards.

Mr. KOHL. Mr. President, I rise today with Senator GRASSLEY in support of amendment No. 3823. Our amendment will significantly enhance the antitrust review given to mergers and acquisitions in the agricultural sector.

Concentration and consolidation in agriculture is a major concern for our hard working farmers. Due to the wave of mergers and acquisitions that have occurred throughout the agricultural sector in recent years, fewer and fewer food processors have captured a greater and greater share of the market for purchasing agricultural goods. Farmers have less choice of where to sell their products, and as a result the prices they receive continue to decline.

Our Nation's farmers—who comprise less than 2 percent of the population—produce the most abundant, wholesome, and by far the cheapest supply of food on the face of the Earth. However, the way in which that food is produced is rapidly changing, creating significant new challenges. We have witnessed a massive reorganization in our food chain due to the increasing numbers of mergers in the dairy, livestock, grain, rail, and biotechnology industries. In fact, the top four beef packers control 71 percent of the market, the top four pork processors control 63 percent of the market and the top four poultry processors control 50 percent of the market. During this period of enormous transformation in the agricultural industry, disparity in market power between family farmers and the large conglomerates all too often leaves the individual farmer with little choice regarding who will buy their products and under what terms.

The effects of this increasing consolidation are felt throughout the agricultural sector. Rather than buying on the open market, processors of farm commodities are relying more and more on contractual arrangements with farmers which bind farmers to sell a specified amount of product, for prices specified by the processors. In many cases, there is no longer a significant open market to which farmers and ranchers can turn. These contractual arrangements damage the independence of family farmers, leaving them little choice regarding what to grow and the terms on which to sell their products.

Agricultural consolidation has also been pronounced in the dairy sector. Mergers among milk processors have greatly concentrated the industry, and resulted in lower prices for dairy farmers. There have been serious allegations of anticompetitive conduct by one large dairy processor in Florida and elsewhere resulting from this highly concentrated market.

Unfortunately, in recent years our antitrust regulators at the Department of Justice have done little to stem the tide of ever increasing agricultural consolidation. This is why we are today offering this amendment to the farm bill.

Our amendment will significantly enhance the scrutiny given to agricultural mergers under the antitrust laws. It will establish an Agricultural Competition Task Force—made up of representatives of antitrust enforcement officials, State and Federal agriculture regulatory officials, State attorneys generals, industry experts, and representatives of small family farmers and ranchers—charged to investigate problems of competition in agriculture and make recommendations to Congress and enforcement agencies on ways to enhance competition.

Our amendment will also direct the Justice Department and Federal Trade Commission to develop, within 2 years, new guidelines for antitrust enforcement in the agricultural sector. These guidelines are to be written to prevent anticompetitive mergers in the agricultural industry. These guidelines will require the antitrust enforcement agencies to challenge any merger or acquisition in the agricultural sector, if the effect of that merger or acquisition may be to substantially lessen competition or to tend to create a monopoly. The development of such strong guidelines should deter anticompetitive mergers from even being attempted in the first place.

Our amendment will also provide a procedure for comments by the Secretary of Agriculture regarding proposed mergers and acquisitions in the agricultural sector. These comments should provide important expertise and enhance the merger review process of the antitrust agencies when reviewing agricultural mergers.

In sum, our amendment is a significant measure to combat the ever rising tide of consolidation in agriculture which threatens to swamp our Nation's hard working family farmers. I urge my colleagues to support amendment No. 3823.

Thank you, Mr. President. I yield the floor.

Mr. BROWNBACK. Mr. President, I want to speak in opposition to the Grassley amendment. I appreciate the heart of the Senator from Iowa, and his intent. He has been consistent. He has been longstanding and heartfelt on this issue. I have been in the meetings he has called with the head of packing and stockyard compensation about concerns of concentration in the agricultural industry. I have seen him press on this issue. I agree with his heart on this amendment and his effort and his desire.

I absolutely disagree with this amendment. I agree with the sentiment, what he is trying to get done. This is not the way. I would like to express to this body what I believe, clearly, will take place in my State were this amendment to pass.

The cattle industry is a major industry in my State. We are third in the number of cattle on ranches and feed yards—6.4 million. There are more than twice as many cattle than people in my State. It is big business. It is a feed yard business where a lot of cattle from all over the country come to be fed out and processed. It is a very big business. It is $6.25 billion in cash receipts a year in my State, my rural State.

This is a business where there are a lot of contractual engagements and obligations back and forth. A man may have cattle from Alabama, and he puts them on a feed yard near Dodge City, KS. The processing plant is near Dodge City and the feed yard may have a contractual arrangement with the processor, saying: I am going to deliver you a thousand head of cattle a day for every working day. That keeps your processing plant orderly and organized. In exchange for that, I am going to get a higher value of cattle that he then passes on to that Alabama cattleman who owns the cattle there.

It is an arrangement that has worked to produce a very highly effective system. Some people do not like the scale of it. In many respects I do not. I would rather it be dispersed to a huge number of family farms across the country the way it used to be, like the farm where I grew up where we had chickens and pigs and cattle. Instead, we have much more integrated operating units. But this would go right at the heart of this industry, as far as changing the burden of proof and changing it on one specific industry. It will not have the intended effect of recreating the family farm system. That is not what is going to be the spill-out of this.

What will end up taking place is the Alabama cattleman is going to end up getting less money for his cattle, and the consumer is going to get less of a directed product they want. I want to develop that for the body, to explain why I like the heart of the people proposing this, but this will not produce the results they want.

The amendment creates an Agricultural Competition Task Force with the stated purpose to examine problems in agricultural competition. The task force has virtually unlimited authority to investigate transactions and business arrangements in the livestock industry—read special counsel for agriculture. It puts in several millions of dollars in that area. The task force is unaccountable to anyone. It is not required to hold public meetings nor abide by the Administrative Procedure Act nor acquire evidence from all parties. Under this amendment, the livestock industry and entire agricultural industry could be subject to limitless reviews of transactions.

I think the biggest piece I have concern about—and I have concerns about

this as a lawyer, and as an agricultural lawyer I have concerns about this. This is the area that I taught in. This is the area I have written in. I have written on the Packers and Stockyards Act. It is an important piece of legislation that this Government passed in the 1920s, when we had a very diffuse agriculture with a very monopolistic packing industry. We said this is not fair, so we are creating the Packers and Stockyards Act to oversee this structure. That is what they have been charged with doing.

In this particular amendment they would shift the burden of proof in the justice system and say this is a guilty transaction, monopolistic in nature, and then you prove your way out of it. To support that, I want to quote from the Department of Justice letter they wrote on the particular provisions. I understand my colleague from Iowa has changed some of the provisions but not this piece of it.

This would change the standards of certain mergers, acquisitions, and actions under the Clayton Act. That is the base bill. In particular, in all agricultural merger cases brought by the Government, Federal and State, and all private cases where the merging parties' combined market share is 20 percent or more—this is the DOJ letter—it puts the burden of proof on the defendant to show the transaction would not substantially impact or lessen competition or tend to create problems in the marketplace.

I am paraphrasing monopoly in the marketplace at the end.

The current setting is, no, we have to prove that against the individual or the group. To date, the Federal antitrust laws apply unaltered to mergers across virtually all industries, with the overriding objective to protect competition to the benefit of consumers because the Department has not been prevented from challenging anticompetitive mergers. They can challenge, and do now, in agriculture under the current legal standards. Shifting the burden of proof is unnecessary. This is a big deal, to shift the burden of proof on one particular industry, and then also to put in industry-specific guidelines.

Let me tell you what is taking place now. I described the situation of an Alabama cattle producer who puts cattle on feed in Kansas, who gets more money for his cattle because they are on feed there and because that feed yard guarantees a certain flow of cattle. If you put this in place, it has lawyers paid for by the Government to go out and examine any contract that is taking place. It can go, pick a feed yard, a Kansas feed yard, and it can go out and say: You have a contractual arrangement with this packer, and we are going to examine that.

Now, you pay for lawyers to say this is not a noncompetitive transaction—and they are going to have to hire lawyers to do that. They are going to end up having a big legal bill on a shifted burden, where the guilt is assumed, not innocence is assumed. It is going to be different from any other industry around. You are going to then have people driving down the price of the commodity. And you have a number of groups that are in these innovative market mechanisms. I described one earlier, a group of people at the Knight Feedyard that have certified hormone-free, antibiotic-free beef. It is a group of producers. They formed an association. They go to a big packer and say: Will you process our cattle and deliver it to the shelves in Connecticut and New York as hormone-free, additive-free, antibiotic-free beef? The packer agrees to do so. That is a contractual arrangement that will be subject to investigation, that will be presumed guilty under this.

My Kansas producers, under this innovative marketing approach that they initiated, get a substantial benefit by being able to market this sort of product that the consumer wants, and they have to go to a major packer to do it because he is the person—that is the group that can process cattle and get it to the shelf in a good quality state.

But my guys are the ones who get the money out of the system. They will be presumed guilty. It will be presumed to violate this. It will be subject to a great deal of legal investigation taking place, and my belief is it will not happen. Then my producers get less money for their cattle, and the consumers do not get the product they want. This is a specialty product that people want. It costs more to produce this type of beef and the consumer is not going to get that product and my cattlemen are going to get less money for their product.

I appreciate the heart of the proposal. What it is going to end up doing is getting less money to cattlemen in particular. I can't speak for other agricultural or livestock industries as well as I can for business that is in my State. The National Cattleman's Beef Association is strongly opposed to this amendment. The Department of Justice is opposed to this amendment for reasons of shifting standards for one industry but not for any others; for having different standards for that industry. The cattlemen believe it is going to hurt them substantially, subject them to a number of legal costs that they do not currently have and that they cannot afford to deal with. It is going to hurt the consumer as well.

While I appreciate the intent, I appreciate the presentation of it—my family farms. My brother is a farmer. This is not going to take us in the right direction. I believe the route to go is what we have been doing in the Packers and Stockyards Administration and having industry standards that are similar across all industries, and that we should support the Packers and Stockyards Administration, support the laws that are there, fund those entities—which I support doing—maintaining those standards but allowing these innovative approaches to take place for a major industry in my State and for my producers and cattle producers across the country.

I know others want to speak on this issue. I may speak on it again in a while.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I listened to the Senator from Kansas. I am a farmer. I am not a lawyer like he is. He is a lawyer and farmer, so he might have some intuition. But I would just like to have him come, and I will deliver it to his desk—he needs to read my amendment. What he has said is an analysis of the bill that Senator KOHL and I introduced, but that is not the amendment. Maybe he missed my opening remarks, but I went to great length in those opening remarks to explain how my amendment differs from the bill. I want to point that out to the Senator from Kansas because I think I have addressed every concern he has presented to the Senate in his very good speech.

I have taken care of his concerns, and I am going to mention those concerns he has brought up, and then I am going to go to some length to tell you how I have taken care of that. But there is no special counsel amendment in this bill, as the Senator from Kansas has said. There are no additional reviews of transactions that have already taken place. That was in the original bill. It is not in this amendment.

He spoke two or three times about changing the burden of proof. That was in the original bill. It is not in this slimmed-down amendment. There is no burden of proof shifting in the amendment.

The task force that we provided for has no review or study provisions in the amendment, as indicated by the Senator from Kansas.

Now I am going to go into some detail, because obviously people are not listening to anything I have said. I want to state in a more elaborate way how this bill differs—this amendment differs from the bill that I said Senator KOHL and I first introduced, and the length we went to take care of concerns that the White House, the administration has raised, concerns that both the ranking member and the chairman of the Judiciary Committee raised, because this bill was referred to Judiciary, and then lastly, working with the ranking member of the Agriculture Committee, to address concerns he had.

There has been a lot of smoke and mirrors—I think you heard some of that—about the provision of the bill, and most of those charges are not factual, as I have indicated.

The fact is, this amendment is very different from the bill Senator KOHL and I introduced earlier this year. This amendment is also different from another amendment I had already filed to this bill. Let me list some of the things

that are not in our amendment that are before us in 3823.

I am hearing that people are concerned about the shifting of the burden of proof in the amendment. The burden-of-proof shifting provision that was in the prior iteration has been eliminated. It is not in this amendment. There are no substantive changes to antitrust laws at all.

I am hearing concerns about reviews that will be done after mergers have been approved. The provisions that allow the task force to do a study of agricultural mergers that were approved within the past 10 years have been eliminated, not in this amendment.

In addition, the provisions requiring the Justice Department and the Federal Trade Commission to review ag mergers 5 years after they have been approved have been eliminated as well.

The provision creating an Assistant Attorney General for Agricultural Antitrust at the Justice Department has been eliminated. In other words, it is not in the amendment pending before the Senate.

The constitutional concerns raised by the administration, not by Senator BROWNBACK, about the agricultural competition task force are gone, the constitutional concerns.

We changed the provisions requiring adoption by the Justice Department of task force working group recommendations on agricultural guidelines. The amendment now has the Justice Department and the Federal Trade Commission consulting with the task force working group on the guidelines.

Any so-called constitutional concerns have been eliminated. We have made other changes to the prior writings of this amendment and/or the bill, all of which were incorporated in amendment 3823. We made these changes to address concerns that we agreed with, and we made changes in order to reach a fair compromise.

The fact is, big business and the agricultural giants do not want anything that might put up any sort of review by people who know something about agriculture, of their expansion and concentration efforts. The fact is, our Federal antitrust regulators refuse to recognize that agriculture is unique and should have industry-specific guidelines to make sure that special circumstances of the agricultural landscape are considered.

This brings about consideration, this does not bring about any change. Any movement to them, no matter how small, to try to address concentration and competition issues in agriculture is going to be decried by the powerful interest groups and their lobbyists. So when something reasonable is suggested, such as the Grassley-Kohl-Harkin amendment No. 3823, we still are going to get the outrageous claims that this is a bad amendment. The reality is the sky is not falling.

I advise my colleagues, particularly the Senator from Kansas, to read the amendment. Forget about the bill he has been referring to. Instead, listen, and stop listening to those sensational cries being made by agribusiness and their allies. We need to pass this amendment.

I yield the floor.

Mrs. BOXER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Iowa.

Mrs. BOXER. I ask my good friend if he would yield 1 minute to me to talk about an amendment that is coming later this evening.

Mr. GRASSLEY. I will probably do that. Let me make an inquiry. Can I do that, Mr. President, without setting aside or yielding my right to continue discussion of this amendment?

The PRESIDING OFFICER. The Senator may address another amendment without prejudice to the pending amendment.

Mr. GRASSLEY. I yield.

AMENDMENT NO. 3771

Mrs. BOXER. I thank my friend very much. I thank the chairman very much as well.

Senator BOND has filed an amendment to the farm bill that I hope the President sitting in the chair will listen to me about, because it would undercut crucial food safety, health, environment, consumer protection, and other laws, most of which come out of the Environment and Public Works Committee.

I am not going to go into it now, because it will be gone into later. But it would stop agencies such as the EPA from adopting or retaining safeguards for the American public.

It is opposed by the following: AFL–CIO, the American Lung Association, the Natural Resources Defense Council, the Consumer Federation, the Sierra Club, the Alliance for Justice, the National Audubon Society, the United Food and Commercial Workers, Humane Society, and many others.

It would require a complex, burdensome, and unnecessary regulatory analysis by Federal agencies. It would impose a maze of ''regulatory flexibility,'' and all kinds of analyses so that it would stop us from moving forward to ensure our laws such as Clean Air, Safe Drinking Water, Clean Water, and Wholesome Meat and the Wholesome Poultry Products Act.

I simply flag this for colleagues who care about food safety, who care about clean water and safe drinking water, and hope we will have a resounding ''no'' vote or perhaps Senator BOND might rethink his amendment.

It gives special treatment to virtually any industry with even tenuous connections to agriculture in rulemakings. It gives special treatment to all ''agricultural entities,'' defined so broadly as to include virtually any industry with any arguable connection to agriculture or forestry, such as the food processing corporations, pesticide companies, railroads, paper mills, shipping companies, and truck and tractor manufacturers.

It gives agribusiness corporations a special private right to privately comment on and seek to weaken Federal protections.

The amendment creates a special process, only applicable to EPA and the Department of the Interior rules in which only agricultural industry representatives get inside information and a private chance to lobby against potential new agency rules before the proposal becomes public. This could allow large corporations to delay or kill vital environmental and health protections against toxic pesticides, water or air pollution, and other important threats.

It creates a new lobbying/litigation shop at USDA to advocate for agribusiness. This new ''Chief Council for Advocacy'' would lobby agencies and even file amicus briefs in litigation challenging agency rules.

It provides special new special judicial review provisions that only ''agricultural entities'' can use, which would delay or undercut Federal safeguards. It gives special standing to ''agricultural entities'' to sue agencies for failing to comply with most of these requirements.

It requires Federal agencies to consider weakening all of its current rules. Every agency must review any rule it has on the books which has, or will have, a ''significant economic impact upon a substantial number of agricultural entities'' to see if ''such rules should be continued without change, or should be amended or rescinded.''

The Bond amendment would keep EPA and other agencies from doing their job to protect the American public. I urge all of my colleagues to vote ''no'' on the Bond amendment, SA 3771. It is bad for America's health and bad for our environment.

Mr. BROWNBACK. Mr. President, I wish to respond to the good Senator from Iowa and a couple of his comments about the amendment. But first I ask unanimous consent to insert in the RECORD after my statement a letter from the Department of Justice opposing the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BROWNBACK. Mr. President, we just received this from the Department of Justice. They state in the first paragraph:

> The Department of Justice strongly opposes the amendment.

To read their summation sentence, which I do not think is fair, given the detail and the work the Senator from Iowa has gone into on this, and substantial changes that he has made—we have been reviewing his amendment. I have the amendment.

But in the DOJ summary sentence, they state this:

> However, DOJ believes certain provisions included in the amendment would not accomplish its stated goal of protecting rural communities and family farms and ranches, but instead would unnecessarily duplicate

existing collaboration efforts, increase costs and uncertainty and may hinder effective antitrust enforcement and harm competition in agriculture and other industries. Therefore DOJ strongly opposes the amendment.

Then they go on further to develop the points they have here. As I said, I appreciate the modifications the Senator from Iowa has made. I can tell you in my State, and in the cattle industry, they view this as hurting the price that they are going to be able to get for cattle is the bottom line issue. They view this as driving up substantially their legal costs, and most farmers do not like to have any legal costs, let alone having a number of legal costs.

They believe this is going to do it, and that is not—that is coming from the National Cattlemen's Beef Association, it is coming from the Kansas Livestock Association, where I was a couple of weeks ago at their annual meeting. This was one of their lead concerns, and the reason it was one of their lead concerns is they are looking at that and saying: Look, we are going into a number of different marketing transactions now, and we feed cattle for a lot of people around the country.

My guess is a fair number of Iowa's cattle are on feed in my State in Kansas, and that that is taking place is a good thing. We invite more farms to come there because of the efficiency, of our feeding operations, because of the weather conditions for those, because of the packers that are located there, and the efficiency of being able to do that, and then of these innovative marketing arrangements so that they can get a premium price for Angus cattle that come out of Iowa or Alabama or California or somewhere else. They are able to get a premium price for those because they do special things. They say we are going to keep these Angus fed separately here, and we are going to track them through the whole system. Then we are going to make sure they are hormone free, if that is what the group wants, or we are going to do something else to have premium beef that is going to be marketed only in certain high-end restaurants.

All of that segments the marketplace, but those segmented marketplaces are through contractual arrangements, and they get a premium to the producer that will be under investigation with this. That is why DOJ opposes it. That is why the Kansas Livestock Association, when I was meeting with them, was very fearful of this.

I appreciate some of the changes that were made and were noted here. The base concerns remain what was stated here by the Department of Justice and by the Kansas livestock producers.

Now, different people look at this different ways. A lot of us are deeply concerned, and have been for some time, about the concentration that has taken place in the agriculture business. How do you go at it differently? I spent 6 years as agriculture secretary in Kansas, and many times was trying to come up with innovative, different market segments, whether we could do it on a small scale, farmers' markets, and getting products closer to consumers, whether we can do different products which are coming out now.

We are a big cotton producer in Kansas, looking at canola oil—some of it got going; some of it did not—or confection of sunflower seeds which are under contract, I might point out as well.

So we went through a period we are not making enough money off of the commodity-based business, and we have got to segment this. But when you segment it, that generally requires some sort of identity being preserved and some sort of contractual relationship. And, yes, you get a benefit for that, you get paid more than someone who just has a commodity product.

Well, now, if you say: You cannot do that, or if you do that, we are going to presume you are guilty and you are going to have to pay a lawyer to fight your way out of it. With all due respect to the people whose intent is pure on this, this is going to hurt producers in my State.

That is why many of them—not all, some—support this approach, but many would be strongly opposed to this, as the Department of Justice is.

I urge my colleagues to vote against it.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, December 13, 2007.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Justice (DOJ) has reviewed Senate Amendment 3823 to H.R. 2419. DOJ works vigorously to ensure that the benefits of competition are maintained in all markets, including agricultural markets, to the benefit of American consumers. However, DOJ believes that certain provisions included in the amendment would not accomplish its stated goal of protecting rural communities and family farms and ranches, but instead would unnecessarily duplicate existing collaboration efforts, increase costs and uncertainty, and may hinder effective antitrust enforcement and harm competition in agriculture and other industries. Therefore, DOJ strongly opposes the Amendment.

Senate Amendment 3823 to H.R. 2419 calls on DOJ and the Federal Trade Commission (FTC) to issue agriculture merger guidelines. To date, the Federal antitrust laws apply unaltered to mergers across virtually all industries, with the overriding objective to protect competition to the benefit of consumers. As such, there is no need for any industry-specific merger guidelines. The Horizontal Merger Guidelines (Guidelines) issued by the DOJ and FTC apply consistently to mergers across the entire economy, and no need has been demonstrated to depart from that generally applicable approach. DOJ has not been prevented from challenging anti competitive mergers in agriculture under the current legal standards. To the extent that there is a suggestion that monopsony is a problem particularly significant to agriculture, the guidelines address monopsony and thus no industry specific guideline is warranted for that concern.

DOJ believes that current merger policy is sufficiently flexible to address market conditions that may be unique to agricultural markets. For example, DOJ and FTC recently issued a Commentary to the Horizontal Merger Guidelines (2006), which provides several examples of how agricultural matters are reviewed. This commentary, DOJ's merger challenges in matters such as General Mills/Pillsbury (2001), Archer-Daniels-Midland/Minnesota Corn Processors (2002), Syngenta/Advanta (2004). and Monsanto/DPt (2007), competitive impact statements issued as part of those challenges, and the closing statements DOJ has issued for certain agricultural matters, demonstrate that merger policy under the Guidelines is effective at protecting consumers and maintaining competition in agriculture industries. Changing the well-established policy is not necessary and could deter efficiency enhancing transactions that would benefit consumers by resulting in lower prices.

Subsection (c) of Senate Amendment 3823 creates an Agriculture Competition Task Force (Task Force), made up of representatives from DOJ, FTC, United States Department of Agriculture (USDA), State governments and attorneys general, small and independent farming interests, and academics or other experts. The Task Force is charged with devoting additional resources focused solely on agriculture industries to study competition issues, coordinate Federal and State activities to address ''unfair and deceptive practices'' and concentration, and work with representatives from rural communities to ''identify abusive practices.'' In addition, the Task Force shall report on the state of family farmers and ranchers. DOJ believes such a task force would at best duplicate existing enforcement activities, and at worst could impede existing coordination between DOJ, USDA, and state governments by creating a bureaucratic structure that would increase the cost to the American taxpayer without any benefit to competition or independent farmers. Furthermore, to the extent the amendment requires consideration of the effects on ''rural communities'' there is no clear explanation regarding how this factor should be considered, and such consideration could be inconsistent with overall antitrust objectives.

Subsection (e) of this amendment requires notification to the USDA of Hart Scott Rodino (HSR) filings with the FTC and DOJ as well as the sharing with the Secretary of Agriculture of any second request materials obtained under such merger reviews. Under this section, USDA may submit and publish comments on whether mergers ''present significant competition and buyer power concerns,'' such that further review by DOJ or the FTC is warranted. Congress provided essential confidentiality for HSR filings and for productions of documents under that process, and no need has been shown to change that important protection. Through the existing Memorandum of Understanding between DOJ, the FTC and USDA, the antitrust agencies seek expertise and information from USDA on agriculture matters, and as part of that cooperative relationship, USDA expresses its views regarding antitrust merger enforcement matters, and thus no need for radical change has been shown. In addition, concurrent jurisdiction likely would increase costs and time delays inherent in duplicative review and has the potential for inconsistent standards and outcomes.

DOJ shares the concern of the amendment's sponsors that agriculture, as a key part of our economy, should maintain its competitive nature so that producers and consumers alike benefit from adequate supply and choice of agricultural products at competitive prices. Moreover, we take seriously concerns expressed in the agriculture community about competitiveness in the agriculture sector. However, because Senate

Amendment 3823 has several provisions that raise concerns for DOJ, both about unintended consequences as well as about competition and public policy, DOJ strongly opposes these provisions.

Thank you for the opportunity to provide our views on this proposed legislation. The Office of Management and Budget has advised us that there is no objection to this letter from the perspective of the Administration's program.

Sincerely,

BRIAN A. BENCZKOWSKI,
Principal Deputy Assistant Attorney General.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I do not have a whole lot more to say about this bill if you want to move on. But I do want to continue to correct a couple of things the Senator from Kansas has spoken about.

First, I was listening as he was quoting from the Department of Justice letter. And he may have a later letter, but those exact words that he was reading from appear in a November 15 letter that Senator LEAHY received as chairman of the Judiciary Committee with objections from the Department of Justice.

But those objections are about the bill S. 1759, the bill that I said we have modified considerably as an amendment here, so that it does not do all of the things that have been attributed to it.

Mr. BROWNBACK. If my colleague will yield, my letter is dated today, December 13. It is a subsequent letter to the letter the Senator is quoting from.

Mr. GRASSLEY. OK.

Mr. BROWNBACK. It is on the amendment.

Mr. GRASSLEY. But in the paragraph you were quoting, it says exactly the same thing in the letter I got of November 15 in which they were commenting on 1759, and they surely can't find the same fault with the amendment that they found with the bill because we met with them and made changes according to what they asked us to do.

My staff corrects me that we didn't actually meet with the Department of Justice, but we were well aware of the changes they were demanding, and those changes are taken into consideration in this legislation.

Then we keep hearing from the Senator from Kansas about investigations and reviews. Get that out of your system. I have spoken twice on that issue—no reviews, no investigation.

Then when you hear all of these faults the bill is going to bring about—you are going to increase the cost of food to the consumer or maybe decrease profitability to the farmer—I don't see that anything like that is a result of a task force that is going to help the Justice Department and the FTC in determining whether mergers are anticompetitive. These are guidelines. They are not making decisions. The Department of Justice and the FTC will be making those decisions. But is there anything wrong with having a little bit of input into agricultural issues before those two agencies from experts in this town in the Department of Agriculture who may have some understanding of agriculture? I don't think the sky is going to fall if you have that sort of input.

I hope we can vote on my amendment and move on. I will only speak to the extent I have to to continue to defend misunderstandings of what the amendment does as opposed to what the original bill did.

Mr. HATCH. Mr. President, today I rise in reluctant opposition to the amendment offered by my friend, the gentleman from Iowa.

Our Nation has been blessed with a judicial system dedicated to the principle of the rule of law. Each one of us no matter how: rich or poor; strong or weak; big or small; receive equal justice under the law.

In part, that is one of the reasons why our national competition policy is framed in general, universal terms. Specifically, the Sherman Act prohibits every ''contract, combination or conspiracy, in restraint of trade;'' and the Clayton Act prohibits all acquisitions whose effect ''may be substantially to lessen competition.''

There are many instances, where we have diverged from these principles, even for good cause. However, in many of these instances we have encountered numerous difficulties and our economy harmed by unexpected consequences.

One need only look at correcting legislation that the chairman of the Antitrust Subcommittee, Senator KOHL, recently offered eliminating railroad antitrust exemptions.

Senator KOHL believes, with a great deal of merit, that many shippers are being charged exorbitant prices to transport their goods by the railroads. In fact, the Antitrust Subcommittee, of which I am ranking Republican member, received a letter, as part of the subcommittee's hearing into railroad antitrust exemptions, from several States' attorneys general that discussed how foreign corporations are very reluctant to invest in new American manufacturing facilities if the proposed location of these facilities is serviced by only one railroad.

Senator KOHL's solution to this problem is to eliminate the special antitrust exemptions granted to railroad mergers.

Indeed, many Senators have argued for the repeal of the McCarran-Ferguson Act. As my colleagues know the McCarran-Ferguson Act exempts the business of insurance from Federal antitrust laws when and to the extent that business is regulated by State law.

These Senators believe that certain insurers took advantage of the McCarran-Ferguson exemption to implement a collective agreement to raise insurance prices on gulf coast residents still recovering from Hurricane Katrina.

Clearly, there is evidence of unattended consequences when special provisions are permitted in antitrust law.

That being said, there is a substantial difference between railroad antitrust exemptions, McCarran-Ferguson exemptions and creating new agriculture antitrust guidelines as called for by the Grassley amendment. I thoroughly recognize that the market relationship between the producer and the food packer desires special attention. However, the underlining concern is well founded: special antitrust rules for specific industries can have profound undesirable consequences and violate one of our national competition policies fundamental tenants: that antitrust law should be framed in general, universal terms. So the question I believe that we should be asking is if the remedy to this situation is additional, special legislation, or greater enforcement? Currently, the Department of Justice has devoted considerable effort to investigate agricultural mergers but the time might be coming where we need to increase those resources for the Department. Perhaps the creation of a new Deputy Assistant Attorney General, whose responsibilities are solely to investigate agriculture mergers, is the correct path.

My trepidations of industry-specific rules, such as those called for by the Grassley amendment, are that they are likely to create legal difficulties. First, industry-specific rules add to the danger of inconsistent enforcement across industries. Second, industry-specific rules introduce additional uncertainty, since it will not always be clear in which industry a particular product should be classified, and thus not clear which legal standard will apply. Finally, has shown that once you enact industry-specific rules other industries and constituency groups will request there own special antitrust rules.

So what should we do? Do we maintain our national competition policy which is framed in general, universal terms, or should we embrace through industry-specific enactments.

Well let's look at the record. During a period of ever increasing complex laws and regulations having general and simple rules makes antitrust law more understandable to both the legal and business community. The general language of current statutes provides courts and enforcement agencies valuable flexibility to incorporate the latest developments in business and economic learning. It should also be noted that, where industry-specific factors are important to reaching a correct decision in a particular case, the agencies and the courts are already fully authorized to consider those factors under current law. In particular, current antitrust principles can address issues of buyer power that have concerned some observers of agricultural mergers.

One should also remember that congressionally created Antitrust Modernization Commission concluded that ''the basic framework for analyzing mergers followed by the U.S. enforcement agencies and courts is sound.''

Therefore, I oppose Senator GRASSLEY's amendment. Senator GRASSLEY has a well-deserved reputation for standing up for and defending the American farmer. I agree that we must be vigilant in ensuring that the Department of Justice and Federal Trade Commission are diligent in enforcing antitrust laws—but those laws should be for all American economic endeavors, not fragmented as all too many of our laws have become.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Iowa for offering this amendment. I am a cosponsor and a proud supporter.

I have been listening to the debate taking place, and quite frankly I do not understand the opposition by the Senator from Kansas. After all, as Senator GRASSLEY pointed out, this is not the original bill. It was modified quite a bit.

All this amendment really does is create an Agriculture Competition Task Force to study problems in agricultural competition, establish ways to coordinate Federal and State activities, address unfair and deceptive practices in concentration, create a working group on buyer power to study effects of concentration in agriculture, and make recommendations to assist the Department of Justice and the Federal Trade Commission in drafting agricultural guidelines. I don't know that anything could be more advisory than that. All we are doing is saying, use the expertise they have at the Department of Agriculture to look at these issues and advise and inform DOJ. It doesn't say that DOJ has to do what they say. It doesn't say they have to follow everything they say. It is advisory. I don't see why there would be such an objection to this kind of advice which would be given to DOJ and the Federal Trade Commission. There are some other things in there, but that is sort of basically the essence.

Again, as many times as we have seen decisions come down from the Department of Justice and the Federal Trade Commission, you wonder if they have anybody over there who understands anything at all about rural America. You wonder how many of these lawyers over there at the Department of Justice—I don't want to pick on any schools; we always say Harvard-trained lawyers and Yale-trained lawyers—have had any dirt under their fingernails from a farm or how many of them know anything about livestock issues.

This is a good amendment. Quite frankly, I am surprised there is this kind of opposition.

Having said that, I wonder if the Senator from Iowa—if we could ask to set the amendment aside temporarily so we can move on to a couple other amendments.

Mr. GRASSLEY. Before I consent to that, and I probably will, as the manager of the amendment, is there any determination you can give me when we can vote on this or are we going to stack votes and vote all at once?

Mr. HARKIN. We are working out a unanimous consent agreement now. It is bouncing back and forth. Hopefully within a few minutes or so, we will have that. I have a feeling these votes might be stacked. I can't say right now. I have a feeling they will probably be stacked.

Mr. GRASSLEY. I will not object.

Mr. BROWNBACK. Mr. President, may I inquire of the Senator from Iowa, if this is voted on, will this require a 60-vote threshold?

Mr. HARKIN. I asked my ranking member about that. He would insist on 60 votes. I am not insisting on 60 votes. He informed me that it would require 60 votes.

AMENDMENT NO. 3851 TO AMENDMENT NO. 3500

(Purpose: To promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, and for other purposes)

Mr. HARKIN. I ask unanimous consent that the pending amendment be set aside. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. CHAMBLISS, Mrs. FEINSTEIN, Mr. LEVIN, Ms. SNOWE, Mr. CRAPO, Mr. CONRAD, and Ms. CANTWELL, proposes an amendment numbered 3851 to amendment No. 3500.

Mr. HARKIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I apologize for interrupting. We have been waiting for a lull in the debate. I will send a cloture motion to the desk.

I ask for the regular order with respect to amendment No. 3830.

While the staff is looking for the amendment, let me just say this is a motion I will file for cloture in regard to the firefighters amendment. We have tried almost all day to work out something. I thought we could work out something—side by sides, a couple of second-degree amendments. We have been unable to do so. We had a suggestion from the Republicans that we would have a voice vote. That didn't work out. We had a suggestion that maybe what we should do is try to do a freestanding bill at some later time. We were unable to get agreement to do that.

What we are going to have to do now, which is really too bad, is we are going to send this cloture motion to the desk. That will ripen 1 hour after we come in on Saturday. If Senators are willing to advance the vote, we can do it tomorrow, of course. That not being the case, we have no choice but to do it on Saturday. We have so many important things to do. We can't be stepping on ourselves with 30 hours postcloture.

I have told everyone, as soon as we finish this vote on this firefighting thing, we will have cloture on the bill. It doesn't matter what is pending, what is going on; we are going to have cloture on the bill. Then, when that is over, we have to have a vote on the motion to invoke cloture on the FISA legislation that has been reported by the Intelligence Committee and the Judiciary Committee. We have to finish that. The law expires on February 4 or 5. Senator FEINGOLD and Senator DODD have indicated to me on more than one occasion that they will not let us go to the bill without a 60-vote margin. So that is where we are. We need to get to that sometime early Monday to get through all the other things we have to do.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, would the Chair please state what the amendment is before the Senate right now?

The PRESIDING OFFICER. Amendment No. 3851.

Mr. HARKIN. Mr. President, that is the amendment I had sent to the desk prior to the quorum call being established?

The PRESIDING OFFICER. The Senator from Iowa is correct.

Mr. HARKIN. I thank the Chair.

This is basically an extension of the Commodity Exchange Act of 2013. I wish to state for the record we would not ordinarily include the Commodity Exchange Act in the farm bill, but for various reasons we were unable to reauthorize the CEA in the last Congress.

This amendment further regulates energy transactions that perform a significant price discovery function. This is an issue Senators FEINSTEIN and LEVIN have been working hard on.

The amendment also addresses fraud and retail transactions in foreign exchange markets. It gives the CFTC broader authority to prosecute fraud in other commodities such as heating oil. I am very pleased we are able to work through the reauthorization issues with the ranking member, Senator CRAPO, and numerous cosponsors of this amendment.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I wish to thank the chairman for this and thank Senator FEINSTEIN, Senator CRAPO, and Senator LEVIN. All of us have been working on this issue for literally 3 years now. This is the culmination of an awful lot of sweat on the part of not only those individuals but the industry as a whole. This is a huge day for the futures industry. I thank the chairman.

Mr. HARKIN. I thank Senator CHAMBLISS. It is a great effort, a great product.

I see one of the main architects of the provisions of this bill, and I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I would like to indicate my full support for this. This effort actually began 6 years ago. Some of us were here then, including Senator CANTWELL who is here tonight, Senator HARKIN, Senator LEVIN, Senator SNOWE, Senator CONRAD, when we began this effort. It looks like opportunity and timing are once again coming together.

We have a bill that today has the general support of the Commodities Futures Trading Commission, the electronic exchange known as ICE, the New York Mercantile Exchange known as NYMEX, the Chicago Mercantile, and the President's Working Group. This legislation, supported by myself, Senator LEVIN, Senator SNOWE, as well as Senator CANTWELL—I have a list here—Senator CONRAD, obviously Senator CHAMBLISS, and Senator CRAPO would accomplish that. I would like to point out that under Senator LEVIN's leadership and his Permanent Subcommittee on Investigations, which did an investigation into the absence of oversight and transparency on some of these markets, became a guide for this push and effort.

I would like to very briefly say what this legislation does. It increases transparency in energy markets to deter traders from manipulating the price of oil and natural gas futures traded on electronic markets. Here is what it would do. First, it requires energy traders to keep records for a minimum of 5 years so there is transparency and an audit trail. Second, it requires electronic energy traders to report trading in significant price discovery contracts to the Commodities Futures Trading Commission so they would have the information to effectively oversee the energy futures market. Manipulators could then be identified and punished by the CFTC, and in the past there have been plenty of those. It cost the State of Washington—wounded them deeply—and it cost my State $40 billion in fraud and manipulation.

Third, the amendment gives the Commodities Futures Trading Commission new authority to punish manipulation, fraud, and price distortion.

Fourth, it requires electronic trading platforms to actively monitor their markets to prevent manipulation and price distortion of contracts that are significant in determining the price of the market.

These are the factors CFTC will consider in making that determination. The trading volume, whether significant volumes of a commodity are traded on a daily basis. Price referencing, if the contract is used by traders to help determine the price of subsequent contracts. Price linkage, if the contract is equivalent to a NYMEX contract and used the same way by traders.

For example, when Amaranth was directed to reduce their positions in regulated natural gas contracts, they simply moved their positions to the unregulated electronic natural gas contracts. The bottom line: This requirement would essentially say similar contracts on ICE and NYMEX will be regulated the same way.

In October, the four CFTC Commissioners released a report underscoring the critical need for increased oversight in U.S. energy markets. This bill includes what they asked for. We are very pleased. I am delighted the CFTC reauthorization is included in this package. Once again, this is a bipartisan bill. I wish to thank my main cosponsors: Senator LEVIN, Senator SNOWE, Senator CANTWELL, Senator CONRAD, and others who have been very helpful in this area. I believe we can pass this legislation, hopefully unanimously, tonight.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, the distinguished Senator from Maine wishes to speak for 3 minutes on this matter, and then I ask unanimous consent that I be recognized following her statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I wish to express my appreciation to the Senator from California for spearheading this initiative that is so essential and so critical, particularly at this time as we have seen exorbitant increases and historical in energy prices. I also wish to thank Chairman HARKIN for his support and his leadership, as well as Senator CHAMBLISS and Senator CRAPO for their work on this essential issue and for their cooperation in working to help adopt this component as part of the pending farm bill.

Americans have lost confidence in our energy markets—particularly in the futures market. I have heard from numerous constituents who have long been skeptical about the price of gasoline and heating oil prices. Particularly in recent months, we have seen historical increases. Our trucking industry has held numerous meetings across the State because of the rising price of diesel fuel to $3.73 a gallon. These savvy consumers strongly suspect these prices are being manipulated. Frankly, their analysis is supported by a Senate subcommittee report, leading economists, the GAO and most recently the CFTC.

How can a market fundamentally change to such a degree that prices are skyrocketing by 43 percent in less than a year? That question is omnipresent in American society today. It is being asked by Mainers who are struggling with heating bills, the industrial sector struggling with electricity prices, and the transportation industry, which is concerned about how long they can sustain these prices.

The answer is certainly complex, but it is becoming patently clear that speculation in the unregulated exempt commodities market is exacerbating energy prices. Providing transparency to these dark markets is, bluntly, long overdue, and I ask my colleagues to support this legislation which, as Senator FEINSTEIN indicated, will provide transparency and accountability to these exempt security markets.

On October 25, a coalition of more than 80 national, regional, and State organizations came together to form the Energy Market Oversight Coalition and wrote each Member of the Senate asking them to finally close the Enron loophole. As the coalition stated in their letter to the Senate: To restore public confidence, all energy markets must be fair, orderly, and transparent so the prices paid by consumers reflect the true supply and demand.

In 2005, I requested a report from the Government Accountability Office on the issue of futures market manipulation. That report released on October 24 outlined three fundamental components to a functional futures market. One is access to current information; secondly, a large number of participants in the market; and third, transparency. It is this last piece that is sorely lacking in our markets today.

The current system with respect to exempt commercial markets lacks transparency and fails to provide an essential tenet to any futures market. Traders are able to avoid revelations of their identity within these exempt commercial markets. In fact, based on one of the investigations that took place by a Senate subcommittee, they discovered the Amaranth hedge fund had excessively traded natural gas contracts to such a degree that in 2006, it controlled 40 percent of all natural gas contracts in the New York Mercantile. One hedge fund controlled 40 percent of all the natural gas deliveries in the United States. The positions were so substantial the company could unilaterally alter the prices for natural gas. The New York Mercantile, which is subject to the CFTC regulation, required Amaranth in August of 2006 to reduce their holdings of natural gas contracts. Their response, the hedge fund's response, was simply to move its dealings to the exempt commodity market, thereby defeating the entire purpose of the CFTC regulation and cloaking its potentially manipulative market power for further regulation.

This is an unacceptable gap in the law, and that is why the legislation we are presenting tonight will address that, because it is long overdue. Even the CFTC reversed their decision and unanimously supported including this oversight as part of their jurisdiction and responsibility.

So I yield the floor.

Mr. BINGAMAN. Mr. President, I want to congratulate the primary sponsors of this amendment on achieving a hard-won compromise on an issue

that has been intensely debated by Members of this body for a number of years. As I understand the purpose of the amendment, it would essentially close what is come to be known as the ''Enron Loophole'' in the Commodity Exchange Act, CEA.

This loophole in the law, included in the Commodity Futures Modernization Act, CFMA, of 2000, has allowed large volumes of energy derivatives contracts to be traded over-the-counter, OTC, and on electronic platforms, without the federal oversight necessary to protect both the integrity of the market and our nation's energy consumers.

Mr. President, my Committee—the Senate Committee on Energy and Natural Resources—first heard testimony on this issue on January 29, 2002. At that hearing, Mr. James Newsome, then the chairman of the Commodity Futures Trading Commission, described the impacts of the CFMA thusly:

With respect to the energy markets, the CFMA exempts two types of markets from much of the CFTC's oversight. Such markets are described in Section 2(h) of the CEA, as amended by the CFMA. The Act defines exempt commodities as, roughly speaking, all commodities except agricultural and financial products. This category, which for the most part represents futures contracts based on metals and energy products may be traded on the two types of markets covered by Section 2(h). The first is bilateral, principal-to-principal trading between two eligible contract participants . . . The second is electronic multilateral trading among eligible commercial entities, which include, among others, eligible contract participants that can also demonstrate an ability to either make or take delivery of the underlying commodity and dealers that regularly provide hedging services to those with such ability.

It is my understanding that the amendment before us would address the current lack of regulatory authority governing the second category of trading that Mr. Newsome described back in 2002. It would grant the CFTC new authority to impose important requirements on electronic, OTC transactions that rely on the current exemption contained in Section 2(h)(3) of the CEA, but serve a significant price discovery function. These requirements include the implementation of market monitoring, the establishment of position limitations or accountability levels, the daily publication of trading information, and a number of other standards key to restoring transparency to this important corner of our energy markets.

Ensuring that proper oversight exists in these markets is of critical importance to our nation's energy consumers, and to the efficient operation of the physical, or cash, energy markets that fall under the purview of the Federal Energy Regulatory Commission—FERC—and my committee's jurisdiction. To illustrate why, I would like to once again go back to the testimony we heard at our January 2002 hearing. As described by Mr. Vincent Viola, the then-chairman of the NYMEX:

[In] the energy marketplace, there is a very substantial interaction between NYMEX and the unregulated, physical and over-the-counter energy markets. The interaction was clearly apparent in the case of Enron.

Indeed, subsequent to that hearing, FERC, CFTC and the Department of Justice conducted investigations of the various aspects of what became perhaps one of the largest scandals in American corporate history. In its March 2003 ''Final Report on Price Manipulation in Western Markets,'' the FERC staff reported the following:

FERC Staff obtained information indicating that Enron traders potentially manipulated the price of natural gas at the Henry Hub in Louisiana to profit from positions taken in the over-the-counter—OTC—financial derivatives markets—OTC markets. It is staff's opinion that Enron traders, through transactions falling within the commission's jurisdiction and authorized through a blanket certificate, successfully manipulated the physical natural gas markets. The manipulation yielded profits in the financial OTC markets.

It was findings like these that motivated a number of Members of my Committee to work together to ensure FERC had the proper tools at its disposal, to stamp out the kind of manipulation that occurred during the Western energy crisis of 2000–2001. During consideration of the Energy Policy Act of 2005, EPACT 2005, Public Law 109–58, I was pleased to work with Senators CANTWELL, FEINSTEIN and WYDEN on these provisions, along with Senator DOMENICI, who then chaired the Energy Committee, and Senators CRAIG and SMITH.

Indeed, sections 315 and 1283 of EPACT 2005 added anti-manipulation provisions to both the Natural Gas Act and the Federal Power Act, respectively. Both make it unlawful for anyone to use ''any manipulative or deceptive device or contrivance . . . in contravention of'' the rules of the Federal Energy Regulatory Commission. Both closely track the language used in section 10(b) of the Securities and Exchange Act and define ''any manipulative or deceptive device or contrivance'' by reference to section 10(b). The Federal Energy Regulatory Commission issued a final rule implementing the two anti-manipulation provisions in January 2006.

The Energy Policy Act of 2005 provided FERC these much-needed, new authorities in response to the Western energy crisis. However, it is also clear that further regulatory authority is needed, to ensure the CFTC has the tools at its disposal to ensure the integrity of financial energy markets. The present circumstance is one in which the CFTC has essentially been blind to a large portion of these markets for a number of years. This is of critical concern to me, and to my committee, because—as Mr. Viola observed in 2002, and as Enron demonstrated—all of these markets are linked.

In fact, there is also significant reason to believe that these markets have become more fully intertwined since that hearing 5 years ago. In its 2006 State of the Markets Report, FERC devoted an entire section, section 7, to the ''Growing Influence of Futures and Financial Energy Markets'' on physical energy prices. The report notes that this impact is particularly acute as it relates to natural gas prices—but effects electricity prices as well, to the extent that a growing percentage of our nation's electric generating capacity is gas-fired. The FERC report details the link between prices set in the financial derivatives market, and the physical natural gas contracts that ultimately dictate the prices paid by American consumers.

Overall, I believe the current situation was most recently and accurately described by FERC Chairman Joseph Kelliher in December 12, 2007, testimony before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce:

[It] is important to understand that price formation in sophisticated energy markets has become increasingly complex. Regulators must understand and consider the interplay between financial and futures energy markets, on the one hand, and physical energy markets, on the other hand. While FERC has jurisdiction over physical wholesale gas sales, and the Commodity Futures Trading Commission (CFTC) has jurisdiction over futures, the link between futures and physical markets cannot be overstated. In a sense, these markets have effectively converged. Manipulation does not recognize jurisdictional boundaries and we must be vigilant in monitoring the interplay of these markets if we are to adequately protect consumers.

For these reasons, I support the amendment being offered today. It would enhance the CFTC's authority to protect the integrity of financial energy markets, which in turn play an increasingly important price discovery role in physical energy markets. And it would do so in a manner that also preserves FERC's important role in guarding against market manipulation and protecting American natural gas and electricity consumers. For that, I congratulate the sponsors. In addition, I will enter into a colloquy with the distinguished Chairman of the Senate Agriculture Committee, Senator HARKIN, along with Senators FEINSTEIN and LEVIN, regarding the intent of this amendment with respect to its jurisdictional implications for FERC and the CFTC.

Mr. LEVIN. Mr. President, for the past five years, I have been working with my colleagues to close the Enron loophole that, since 2000, has exempted electronic energy markets for large traders from government oversight. This loophole opened the door to price manipulation and excessive speculation, and American consumers have been paying the price ever since with sky-high prices for crude oil, natural gas, gasoline, diesel fuel, home heating oil, propane, and other energy commodities vital to a functioning U.S.

economy. That is why I am pleased to stand before the Senate today in support of bipartisan legislation, sponsored by Senator FEINSTEIN, myself, Senator SNOWE and others, that will close the Enron loophole and put the cop back on the beat in all U.S. energy markets in an effort to stop price manipulation and excessive speculation.

I would like to thank a number of my colleagues for not only making this bipartisan legislation possible, but also agreeing to include it in the farm bill today. Senator Harkin, chairman of the Committee on Agriculture, played a key role in getting us together and encouraging us to resolve our differences. Senator CHAMBLISS, the committee's ranking republican, agreed to address the problems we identified and helped work through our differences. Senator FEINSTEIN of California provided unending determination needed to get this problem solved. There are many more who played a critical role in this legislation as well, including Senator BINGAMAN, Senator SNOWE, Senator DORGAN who cosponsored our original bill, S. 2058, the Close the Enron Loophole Act, and Senator CRAPO who helped us produce a bipartisan product.

I thank not only the Senators, but also their staffs who put in many hours on this legislation, provided invaluable expertise, and repeatedly came up with creative solutions to tough problems. I would like to thank in particular Dan Berkovitz of my subcommittee staff who has lived with this issue for the last 5 years and devoted so much time, work, and expertise to it.

A stable and affordable supply of energy is, of course, vital to the national and economic security of the United States. We need energy to heat and cool our homes and offices, to generate electricity for lighting, manufacturing, and vital services, and to power our transportation sector—automobiles, trucks, boats, and airplanes.

Over 80 percent of our energy comes from fossil fuels—oil, natural gas, and coal. About 50 percent is from oil and natural gas. The U.S. consumes around 20 million barrels of crude oil each day, over half of which is imported. About 90 percent of this oil is refined into products such as gasoline, home heating oil, jet fuel, and diesel fuel.

The crude oil market is the largest commodity market in the world, and hundreds of millions of barrels are traded daily in the various crude oil futures, over-the-counter, and spot markets. The world's leading exchanges for crude oil futures contracts are the New York Mercantile Exchange—NYMEX—and the Intercontinental Exchange, known as ICE Futures in London.

Natural gas heats the majority of American homes, is used to harvest crops, powers 20 percent of our electrical plants, and plays a critical role in many industries, including manufacturers of fertilizers, paints, medicines, and chemicals. It is one of the cleanest fuels we have, and we produce most of it ourselves with only 15 percent being imported, primarily from Canada. In 2005 alone, U.S. consumers and businesses spent about $200 billion on natural gas.

Today, only part of the natural gas futures market is regulated. Natural gas produced in the United States is traded on NYMEX and on an unregulated ICE electronic trading platform headquartered in Atlanta, GA. The price of natural gas in both the futures market and in the spot or physical market depends on the prices on both of these U.S. exchanges.

The ''Enron loophole'' is a provision that was inserted at the last minute, without opportunity for debate, into commodity legislation that was attached to an omnibus appropriations bill and passed by Congress in late December 2000, in the waning hours of the 106th Congress. This loophole exempted from U.S. government oversight the electronic trading of energy commodities by large traders. The loophole has helped foster the explosive growth of trading on unregulated electronic energy exchanges. It has also rendered U.S. energy markets more vulnerable to price manipulation and excessive speculation, with resulting price distortions.

Since 2001, the Permanent Subcommittee on Investigations, which I chair, has been examining the vulnerability of U.S. energy commodity markets to price manipulation and excessive speculation. Beginning in 2002, we have held 6 days of hearings and issued 4 reports on issues related to inflated energy prices.

The subcommittee first documented some of the weaknesses in U.S. crude oil markets in a 2003 staff report I released which found that crude oil prices were

> Affected by trading not only on regulated exchanges like the NYMEX, but also on unregulated ''over-the-counter'' (OTC) markets which have become major trading centers for energy contracts and derivatives. The lack of information on prices and large positions in these OTC markets makes it difficult in many instances, if not impossible in practice, to determine whether traders have manipulated crude oil prices.

In June 2006, the subcommittee issued a staff report entitled, ''The Role of Market Speculation in Rising Oil and Gas Prices: A Need to Put the Cop Back on the Beat.'' This bipartisan staff report analyzed the extent to which the increasing amount of financial speculation in energy markets had contributed to the steep rise in energy prices over the past few years. The report concluded that: ''[s]peculation has contributed to rising U.S. energy prices,'' and endorsed the estimate of various analysts that the influx of speculative investments into crude oil futures accounted for approximately $20 of the then-prevailing crude oil price of approximately $70 per barrel.

The 2006 report recommended that the CFTC be provided with the same authority to regulate and monitor electronic energy exchanges, such as ICE, as it has with respect to the fully regulated futures markets, such as NYMEX, to ensure that excessive speculation in the energy markets did not adversely effect the availability and affordability of vital energy commodities through unwarranted price increases.

In June 2007, the subcommittee released another bipartisan report—''Excessive Speculation in the Natural Gas Market.'' Our report found that a single hedge fund named Amaranth had dominated the U.S. natural gas market during the spring and summer of 2006, and Amaranth's large-scale trading significantly distorted natural gas prices from their fundamental values based on supply and demand.

The report concluded that the current regulatory system was unable to prevent these distortions because much of Amaranth's trading took place on an unregulated electronic market and recommended that Congress close the ''Enron loophole'' that exempted such markets from regulation.

The report describes in detail how Amaranth used the major unregulated electronic market, ICE, to amass huge positions in natural gas contracts, outside regulatory scrutiny, and beyond any regulatory authority. During the spring and summer of 2006, Amaranth held by far the largest positions of any trader in the natural gas market. According to traders interviewed by the subcommittee, during this period natural gas prices for the following winter were ''clearly out of whack,'' at ''ridiculous levels,'' and unrelated to supply and demand. At the subcommittee's hearing in June of this year, natural gas purchasers, such as the American Public Gas Association and the Industrial Energy Consumers of America, explained how these price distortions increased the cost of hedging for natural gas consumers, which ultimately led to increased costs for American industries and households. The Municipal Gas Authority of Georgia calculated that Amaranth's excesses increased the cost of their winter gas purchases by $18 million. Also at the hearing the New England Fuel Institute and the Petroleum Marketers Association of America made clear how rampant speculation in energy trading harms the smaller businesses that trade in energy commodities.

Finally, when Amaranth's positions on the regulated futures market, NYMEX, became so large that NYMEX directed Amaranth to reduce the size of its positions on NYMEX, Amaranth simply switched those positions to ICE, an unregulated market that is beyond the reach of the CFTC. In other words, in response to NYMEX's order, Amaranth did not reduce its size; it merely moved it from a regulated market to an unregulated market.

This regulatory system makes no sense. It is as if a cop on the beat tells a liquor store owner that he must obey the law and stop selling liquor to minors, yet the store owner is allowed to move his store across the street and

sell to whomever he wants because the cop has no jurisdiction on the other side of the street and none of the same laws apply. The Amaranth case history shows it is clearly time to put the cop on the beat in all of our energy exchanges.

At the subcommittee's 2007 hearings, both of the major energy exchanges, NYMEX and ICE, testified that they would support a change in the law to eliminate the current exemption from regulation for electronic energy markets, in order to reduce the potential for manipulation and excessive speculation. Consumers and users of natural gas and other energy commodities—the American Public Gas Association, the New England Fuel Institute, the Petroleum Marketers Association of America, and the Industrial Energy Consumers of America—also testified in favor of closing the Enron loophole. That testimony helped galvanize the current effort to produce legislation in this area.

Just last week, my subcommittee teamed up with Senator DORGAN's Subcommittee on Energy to hold still another hearing examining how excessive speculation is continuing to add to crude oil prices, harming consumers and the American economy as a whole. During that hearing, Senators from both sides of the aisle expressed the need to develop new tools to address this problem.

The legislation being added to the farm bill today will do just that. It will help fix a number of the problems identified in the subcommittee's hearings and reports. Most importantly, it will put an end to the Enron-inspired exemption from government oversight now provided to electronic energy trading markets set up for large traders. By ending that exemption, this legislation will restore the ability of the Commodity Futures Trading Commission—CFTC—to police all U.S. energy exchanges to prevent price manipulation and excessive speculation.

The legislation would do more than require CFTC oversight; it would also require electronic exchanges, for the first time, to begin policing their own trading operations and become self-regulatory organizations in the same manner as futures exchanges like NYMEX. Specifically, the legislation would establish 5 ''core principles'' to which electronic exchanges must adhere, each of which parallels core principles already applicable to other CFTC-regulated exchanges and clearing facilities. Implementing these core principles would require an electronic exchange to monitor the trading of contracts which the CFTC has determined affect energy prices, ensure these contracts are not susceptible to manipulation, require traders to supply information about these contracts when necessary, supply large trader reports to the CFTC related to these contracts, and publish daily trading data on the price, trading volume, opening and closing ranges, and open interest for these contracts.

In addition, the electronic exchanges would have to establish position limits and accountability levels for individual traders buying or selling these contracts in order to prevent price manipulation and excessive speculation. Electronic exchanges are intended to implement these position limits and accountability levels in the same way as futures exchanges like NYMEX. Moreover, it is intended that the CFTC will take steps to ensure that the position limits and accountability levels on all exchanges are comparable to prevent traders from playing one exchange off another.

In implementing these core principles, electronic exchanges are given the same flexibility accorded to other CFTC regulated entities, subject to CFTC approval. In addition, the legislation states explicitly that, when implementing the requirements for position limits, accountability levels, and emergency authority to require reductions of positions, the electronic exchanges are allowed to take into account differences between trades which are cleared and not cleared, and the CFTC would police implementation of those core principles in an appropriate manner recognizing those differences.

Although the legislation provides an electronic trading facility with flexibility to implement the core principles, in the same manner as futures exchanges have with respect to the core principles applicable to them, and the flexibility to take into account the differences between cleared and uncleared trades in certain circumstances, in all instances the CFTC has the ultimate responsibility and authority to interpret the core principles, establish rules or guidance as to how they should be applied, and determine whether a facility or exchange is complying with the core principles.

The legislation would also require electronic exchanges to establish procedures to prevent conflicts of interest and anti-trust violations in their operations. These provisions parallel core principles already applicable to other CFTC-regulated exchanges and clearing facilities and are intended to function in a similar manner. These provisions are not restricted to trades involving contracts that affect energy prices, but apply to the entire exchange to ensure it operates in a fair manner.

In addition to requiring electronic exchanges to become self-regulatory organizations, the legislation would require the CFTC to oversee these exchanges in the same general way that it currently oversees futures exchanges like NYMEX. The legislation also, however, assigns the CFTC a unique responsibility not present in its oversight of other types of exchanges and clearing facilities. The legislation would require the CFTC to review the contracts on each electronic exchange to identify those which ''perform a significant price discovery function'' or, in other words, have a significant effect on energy prices. The CFTC would make this determination by looking at such factors as whether the electronic exchange's contract is explicitly linked to a contract used on a futures exchange; whether the electronic exchange's contract price is used by traders to set prices in other contracts; whether traders take positions in the contract and use those positions to arbitrage prices in other energy markets; and whether the contract is traded in sufficient volume to affect market prices. The CFTC can also look at other factors to determine if a contract is affecting energy prices. Contracts designated by the CFTC as performing a significant price discovery function are those that would be policed by both the exchange and the CFTC.

The legislation directs the CFTC to conduct a rulemaking to implement this requirement. The legislation also states clearly that a CFTC determination that a contract performs a significant price discovery function is a determination that is within the Commission's discretion; this determination is not intended to be subject to formal challenge through administrative proceedings. The legislation would also require the CFTC to review the contracts at an electronic exchange on at least an annual basis to determine which perform significant price discovery functions. This review is not intended to require the CFTC to conduct an exhaustive examination of every contract traded on an electronic exchange, but instead to concentrate on those contracts that are most likely to meet the criteria for performing a significant price discovery function. The legislation also directs the electronic exchange to bring to the CFTC's attention any contract which it believes is affecting energy prices.

To enable the CFTC to conduct oversight of its operations, in particular to prevent price manipulation and excessive speculation, electronic exchanges are required to file large trader reports with the CFTC for trades involving contracts that perform a significant price discovery function. These are the same large trader reports already filed by other CFTC-regulated exchanges and clearing facilities. In addition, electronic exchanges found to be trading contracts that perform a significant price discovery function are treated as a ''registered entity'' under the Commodity Exchange Act. This designation ensures that the CFTC has the same enforcement authority over electronic exchanges as it has with respect to other exchanges and clearing facilities to ensure compliance with its regulatory and statutory requirements.

One last issue. Another provision in the legislation states that its provisions are not intended to limit or affect the jurisdiction of the CFTC or any other agency involved with protecting our markets from price manipulation and excessive speculation. A legal battle is going on in the courts right now over enforcement actions by the CFTC

and the Federal Energy Regulatory Commission accusing Amaranth of manipulating or attempting to manipulate natural gas prices. This legislation is not intended to affect that court battle in any way. We are all waiting to see how it plays out and how the courts will interpret the law. This legislation is intended to play an absolutely neutral role in those enforcement actions, and should not be interpreted as changing the status quo in any way.

The provisions I have just discussed are the product of lengthy negotiations and compromises over the best way to close the Enron loophole. They seek to provide stronger government oversight of U.S. energy markets, while preserving the legitimate trading operations of electronic exchanges like ICE. Senator FEINSTEIN and I have introduced a number of bills over the years to tackle this problem, each of which took a somewhat different approach to strike the right balance. My latest effort, introduced a few months ago with Senator DORGAN and others, was S. 2058, the Close the Enron Loophole Act. While that bill is more comprehensive than the legislation being added to the farm bill today, the combined legislation before us now preserves our bill's intent and ensures that both the exchanges and the CFTC can enforce prohibitions against price manipulation and excessive speculation. That, to me, is the most important aspect of the legislation and why I support it today.

The legislation reflects input from the CFTC, industry, consumer groups, and a wide range of Senators. Some compromises were made, but again, those compromises did not weaken the ability of the CFTC to police out energy markets—in fact, if this legislation is enacted into law, the CFTC will be in a stronger position since 2000 to protect our markets from trading abuses.

The House is working on similar legislation, so I am hopeful that we can get something enacted into law as part of the farm bill early next year. I will be working to ensure that the enforcement provisions we have worked so hard to include in this legislation are preserved.

In addition to these provisions closing the Enron loophole, the farm bill will include a host of other provisions to reauthorize and strengthen the Commodity Exchange Act. Those provisions include stronger civil and criminal penalties for manipulation, better enforcement authority for currency exchange trading abuses, among others, all of which I support. I thank my colleagues for including them in the farm bill as well.

Preventing price manipulation and excessive speculation in U.S. energy markets is not an easy undertaking. I thank my colleagues, industry, consumers and others for their good-faith suggestions to improve the legislation that is now before the Senate. Recent cases have shown that market abuses and failures did not stop with the fall of Enron. They are still with us. We cannot afford to let the current situation continue, allowing energy traders to use unregulated markets to avoid regulated markets. It is time to put the cop back on the beat in all U.S. energy markets. The stakes for our energy security and for competition in the market place are too high to do otherwise.

INTENT OF THE COMMODITY EXCHANGE ACT

Mr. BINGAMAN. Mr. President, I believe the primary sponsors of this amendment, as well as the distinguished chairman of the Senate Agriculture Committee, Senator HARKIN, share my desire for the Federal Energy Regulatory Commission, FERC, and Commodity Futures Trading Commission, CFTC, to coordinate seamlessly in their efforts to oversee the increasingly interdependent energy markets under their respective jurisdictions. Moreover, it is important to clarify that nothing included in this amendment would interfere or prejudice the respective Commissions' ongoing, enforcement-related proceedings and litigation.

I would like to inquire of the chairman of the Agriculture Committee, Senator HARKIN, do you concur in my assessment that nothing in this amendment would prejudice or interfere with ongoing, energy market enforcement-related litigation or administrative proceedings currently involving FERC and the CFTC?

Mr. HARKIN. Yes, I agree with the assessment of the chairman of the Energy and Natural Resources Committee.

Mr. BINGAMAN. Likewise, I believe we have taken pains in this amendment to ensure that the current jurisdictional boundaries between the two Commissions are maintained, with respect to the authorities of FERC under the Federal Power and Natural Gas Acts, and the CFTC under the Commodity Exchange Act. How do you view this matter?

Mr. HARKIN. Again, I concur with the Senator from New Mexico. Nothing in this amendment would erode either Commission's authorities under the statutes that you have cited.

Mr. BINGAMAN. Finally, I ask if, in your view, anything contained in this amendment would limit FERC's existing ability to gain information from market participants?

Mr. HARKIN. No, this amendment would not infringe on FERC's current ability to gain information from market participants.

Mr. BINGMAN. Thank you. I would like to now ask a few questions of the senior senator from California, Senator FEINSTEIN, one of the primary authors of this amendment, as well as one of the coauthors of sections 315 and 1283 in the Energy Policy Act of 2005 (P.L. 109–58), which gave FERC additional antimanipulation authorities under the Federal Power and Natural Gas Acts. In your view, does anything contained in this amendment undermine or alter those authorities?

Mrs. FEINSTEIN. No. In my view, nothing contained in this amendment would or is intended to undermine or alter those important, new authorities. We have sought to make this clear, with the inclusion in section 13203 of paragraph (c)(2), which preserves FERC's existing authorities.

Mr. BINGAMAN. I would also like to make an inquiry of the senior Senator from Michigan, Senator LEVIN, another primary author of the amendment now before the Senate. As I understand this amendment, it expands the CFTC's authorities with respect to the requirements it may impose on transactions it deems ''significant price discovery contracts.'' This ''significant price discovery contract'' determination may be applied to contracts, agreements, and transactions that are conducted in reliance on the exemption included in section 2(h)(3) of the Commodity Exchange Act. As a conforming matter, paragraph (c)(1) of section 13203 extends the CFTC's exclusive jurisdiction over these ''significant price discovery contracts.''

As the Senator from Michigan knows, the meaning and expanse of CFTC's exclusive jurisdiction over the regulation of futures markets is currently the subject of litigation. As we have heard from the chairman of the Agriculture Committee and Senator FEINSTEIN, another one of the amendment's authors, this amendment was written to ensure it would not interfere with any such ongoing litigation; and further, to maintain the current jurisdictional division between FERC and the CFTC. I am satisfied with those assurances.

But in addition, as a forward-looking matter, it is important to clarify the intent of the amendment with respect to this new class of ''significant price discovery contracts.'' I am aware of the fact that certain electronic trading facilities that currently operate under the exemption included in section 2(h)(3) of the Commodity Exchange Act for purposes of trading energy swaps also trade physical—or cash—contracts in electricity and natural gas. For oversight and enforcement purposes, it is crucial that FERC retain its jurisdiction over these physical energy transactions. In your view, how would the amendment impact FERC's jurisdiction over these transactions?

Mr. LEVIN. The Senator from New Mexico raises an interesting and important question, on which I have conferred with the CFTC. In addition to the savings clause in section 13203(c)(2) that preserves FERC's jurisdiction under its statutes as a threshold matter, I believe that FERC's jurisdiction over these transactions would, in any event, be preserved. It is my view that the kinds of cash transactions that you cite would not be captured within the amendment's ''significant price discovery contract'' test. The test is reserved for those transactions conducted ''in reliance'' on the exemption

in paragraph 2(h)(3) of the Commodity Exchange Act. Because the CEA does not apply to cash transactions for purposes of regulation, these transactions cannot, by definition, be conducted ''in reliance'' on this exemption. As such, FERC's authority in this area is preserved on all accounts.

Mr. BINGAMAN. I have a similar question as it relates to the status and functions of regional transmission organizations, RTOs, under this language. RTOs often deal in the auction of financial transmission rights and ancillary services associated with the orderly operation of electricity markets. Do you believe this ''significant price discovery contract'' provision would impact FERC's authority in this area?

Mr. LEVIN. For many of the same reasons I have cited in relation to natural gas markets, I believe—and it is certainly my intention, as one of the amendment's authors—that FERC's authority over RTOs would be unaffected. To my knowledge, no RTO operates pursuant to the exemption in paragraph 2(h)(3) of the Commodity Exchange Act. Moreover, the savings clause in section 13203(c)(2) makes abundantly clear that FERC's existing authorities are preserved.

Mr. BINGAMAN. I thank the Senators for their assurances in this regard, and congratulate them on their amendment.

ROLLING SPOT CONTRACTS

Mr. HARKIN. This bill includes reauthorization of the Commodity Exchange Act. One of the issues addressed in the reauthorization is the problem of so-called ''rolling spot'' contracts, a type of contract that unscrupulous criminals use to defraud retail customers while avoiding the jurisdiction of the Commission. Because of several adverse court decisions addressing rolling spot contracts used in retail foreign exchange fraud, the Commission has been severely hampered in its efforts to protect consumers.

This reauthorization clarifies the jurisdiction of the Commission over these ''rolling spot'' contracts. In addition, because these ''rolling spot'' contracts have begun to be used in other commodities such as metals, this reauthorization clarifies the Commission's authority to address ''rolling spot'' contracts should they spread to other agricultural or exempt commodities.

Mr. CHAMBLISS. Will the gentleman yield for a question?

Mr. HARKIN. Yes.

Mr. CHAMBLISS. Is it the intent of the provision to imply or provide that agricultural or exempt futures contracts that are not currently legal futures contracts, are somehow legal because of these new provisions?

Mr. HARKIN. No. The provisions explicitly say that they have no effect on whether contracts are considered legal futures contracts or not.

Mr. CHAMBLISS. I thank the Senator.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, it is with some consternation that I rise this evening. We have an amendment that is very important to working men and women in this country. Basically, what it allows is firefighters and police to organize collectively. It is very important that they have that opportunity. That is the legislation before this body, the amendment dealing with firefighters.

The pleasant thing about this amendment is that it is bipartisan. We have 64 Senators who would have voted for this amendment. We have tried very hard. Everybody knows that I have four Democratic Senators running for President. They are all wonderful, good legislators, and wonderful human beings. One of them is going to be President of the United States, more than likely, next year. But we have tried all day to get a vote. As I indicated a little while ago, we will take a 60-vote margin, a side-by-side or a second-degree amendment, a freestanding bill or whatever other variation I can think of.

My friends are very good—the opponents of this legislation. There are not a lot of them, but there are a few. They know the rules, and they know how difficult it is when we are less than 3 weeks before the first primary, the caucus in Iowa, to get these four Senators here. They were here this morning. There were two important bills, one on energy and one on a farm issue. They were scheduled to come back here. One of them is on a plane coming back here for a morning vote. The word got out that we needed them here. So there has been this stalling. We have no alternative but to come back and fight another day. I say to all Senators that this is a bipartisan bill.

I see my friend on the floor, Judd Gregg. We would not be where we are tonight but for him. It is true. I mean, it is not often that on a labor issue you have someone of his stature on the other side of the aisle supporting this legislation. But I respect those few Senators who object to this. They have the legal rights and procedural rights that they do, and getting my Presidentials back here on Saturday would be hard. We know it is a difficult time for everybody on a Saturday.

AMENDMENT NO. 3830, WITHDRAWN

Without belaboring the issue, I ask unanimous consent to now withdraw amendment No. 3830.

Mr. KENNEDY. Mr. President, reserving the right to object, I will not object, but I want to, first of all, thank our majority leader for his comments. Just before the request is agreed to, I want to remind the Members of the Senate that private workers have the opportunity under the labor laws to get the kinds of protections and rights we are talking about; public workers do not. The public workers, who have been on the front lines of so many of the challenges we are facing in our society, deserve these rights.

Public safety workers put their lives on the line every day they go to work. They are on the frontlines of our effort to keep America safe.

We ask much from them. When the California wildfires threatened lives and property, we asked that they battle those blazes. When natural disasters strike, we expect them to be the first on the scene. And on September 11th, they were the heroes that restored our hope.

These heroic men and women have earned our thanks and respect. All they asked of this body was the right to enjoy the same basic rights that private sector workers enjoy. The right to have a voice at the table when decisions are made that are critical to their safety and their livelihood.

The bipartisan amendment that we offered would have guaranteed every first responder the right to collective bargaining. Many of our first responders already have this fundamental right. This amendment would have provided these basic rights for those who don't and it would have done so in a reasonable manner. For States that currently accord public safety officers these rights, the amendment would have no affect. For States that don't currently provide these rights, the amendment would not trample on their rights. They would have ample opportunity to establish their own collective bargaining systems, or ask the Federal Labor Relations Authority for help. The choice would belong to the state.

The public safety officers came to us with a modest request. Tonight, a minority of the Senate said no to their request. Despite the broad bipartisan support we had for this amendment, we could not get past the obstructions of those who were determined to deny our Nation's first responders their basic rights.

This fight is not over. I pledge to our Nation's brave firefighters, police officers, and emergency medical technicians, that we will bring this legislation back to the Senate again and again until the Senate says ''yes'' to them. Each day they face hazards that put their lives at risk, and as we enjoy the security that their sacrifice provides, they should know that they have allies in the Senate that will keep fighting for them.

While we may not have succeeded today, we will bring this legislation back to the floor of the U.S. Senate soon and we will pass it.

Our public safety officers deserve no less.

I thank the leader for all of his strong support for this legislation, and I indicate that I, for one—and there are many others—will come back and revisit this issue at an early time. So I don't object to the request, but I do want to state that this issue is going to

be front and center before the Senate in the near future.

The PRESIDING OFFICER (Mr. CASEY). Without objection, the amendment is withdrawn.

AMENDMENT NO. 3851

Mr. REID. Mr. President, it is my understanding that the Feinstein amendment is ready to be adopted.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the Feinstein amendment.

The amendment (No. 3851) was agreed to.

Mr. HARKIN. Mr. President, I ask unanimous consent to add onto that amendment Senators DORGAN, DURBIN, and CONRAD as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask the Chair, under the order now before the Senate—

Mr. SANDERS. I object.

Mr. REID. I haven't said anything yet. Mr. President, I ask that the Chair inform the Senator from Nevada if I am right, that under a previously entered order I have a right, after consultation with the Republican leader, to ask that there be cloture right now or whatever time I choose?

The PRESIDING OFFICER. Under the substitute amendment to the bill, that is correct.

Mr. REID. So, Mr. President, under the order that is before the Senate, we are going to have a cloture vote on the farm bill after weeks and weeks. Now, I understand there are people who are disappointed. We still have a significant number of amendments. After adding up those that have been objected to, there are 15 by one Senator. So we have 15 plus 11—a lot of amendments.

The time has come that we stop this. We need the farm bill. We need to get a conference. I believe, after conversations I have had with the Republican leader, that this is a bill we can go to conference on. So the time is here. We don't have time for 26 more amendments.

We had a briefing in S–407 today. I don't know how people are going to vote on domestic surveillance and other types of surveillance, but it is an important issue that we have an obligation as Senators to resolve. We had the head of the national intelligence agency there, Judge Mukasey. We have to do that. I am going to move to that bill tomorrow.

As I have stated on the floor, Senator FEINGOLD and Senator DODD are not going to let us move to that. I have filed cloture on that bill. I know people are disappointed, but we have no alternative. I guess there is an alternative, but I don't think people want to be around here in the middle of next week to finish the farm bill. We will have cloture on it tonight and, as far as I am concerned, we can have final passage as soon as we finish the cloture vote.

For all Senators, the cloture vote will take place at 9 o'clock tonight on the farm bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I ask unanimous consent that I be recognized to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I wish to say a few words about an event that happened earlier this evening, and that is the passage of the Energy bill with a great bipartisan vote in the Senate.

In my view, this is the signature agenda of the 21st century. I am very proud of the work that went into fashioning that bill by the Energy Committee, the Commerce Committee, as well as a package we attempted to get in there by the Finance Committee.

At the end of the day, this package which moves on to the House and then to the President for his signature will do some historic things for the clean energy economy for America.

The first thing it will do is make sure CAFE standards are up to where they should have been a long time ago, with much more highly efficient vehicles in our country as our national fleet will be in a position to have the kind of oil savings that will lead us to energy independence and help get rid of the addiction on foreign oil that currently compromises the foreign policy of the United States.

Second, we will start addressing the issue of global warming by making sure we look at a national carbon assessment, the sequestration program that will help us capture and store carbon as part of the remedy to deal with the problem of global warming.

Finally, moving forward with renewable fuels, many of us recognize it is rural America that is going to help us grow our way to energy independence, and the 25–25 resolution that is included in the energy legislation sets out a national vision for us to get to 25 percent of our energy coming from renewable energy resources.

I know there were many people who worked on this legislation. I thank and commend all of those who were involved in putting it together. On my staff, in particular: Steve Black, who had been very involved in the crafting of the 2005 Energy Policy Act; Suzanne Wells, who has been a fellow in my office and worked on this issue for almost as long as Steve Black; Ben Brown, a new fellow in my office; Tracy Ross, a young employee in my office who was part of this energy team, along with Brendan McGuire, Grant Leslie—a whole host of others—Jeff Lane in my office also was involved.

I also thank the staff of the committees because I know the staff members of both the Energy and Commerce Committees worked day and night to get us a good energy package.

I would be remiss if I did not say something about Russ Sullivan and the great staff of the Finance Committee, headed by our chair, MAX BAUCUS. The Finance Committee functions completely on every cylinder and is a stellar committee, a group of staff members that makes us very proud and serves as a role model for the rest of the committees in the Senate.

It is a historic night for us with the passage of the energy legislation.

As we move closer toward the passage of the 2007 farm bill, I also commend all of my colleagues who have worked so hard in trying to get us to a procedural way forward to get us to the completion of this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. GREGG. Mr. President, I wish to speak briefly on the practical implications of what we are about to do. I appreciate the positions the leaders of the bill are in. They worked hard to get this bill through.

Obviously, I don't support the bill, but I feel they have every right to finish it. They have the votes to pass it, and there is no reason there should be dilatory delays. But there are three major events that are going to be impacted by this exercise.

The first is an amendment which I had pending which would have given people relief when their homes are foreclosed on so they would not get hit with a tax bill. It appears that amendment, on which there was general consensus, will not be brought up and voted on. That is unfortunate. I hope we can come to this from another angle.

I spoke with the chairman of the Finance Committee. He and the Finance Committee members are trying to find some way to accomplish that. I think it is wrong, when people have their home foreclosed, that they have the IRS follow them to wherever they are going, the apartment they have to move to, to hit them with a tax bill for that foreclosure.

The second issue is a proposal I had—the Senator in the chair also had a proposal on this issue—which was to get some funds in LIHEAP. All of us who live in the colder regions of this country have seen our oil bills go up dramatically. There is a lot of pressure on low-income people, and the LIHEAP

funds, which help low-income people deal with that pressure, are simply not going to be adequate. They are just not going to be adequate.

The Senator from Vermont had an amendment in this area. I had an amendment in this area. Unfortunately, they both will fall.

The third issue is the firefighters, fully explained by Senator REID, the majority leader. I appreciate his kind words relative to my efforts in this area. I am sorry we will not be able to accomplish this effort at this time. This is an important issue. I do hope we will come back to it. I know it is high on the list of the majority leader and also high on my list.

I regret the procedure that has to take place. Obviously, it is the prerogative of the leadership to do this. I can understand why they are doing it. They have been on the bill a number of weeks. The first couple of weeks we could not offer amendments. That was not our fault. As a practical matter, this session is coming to a close, and they want to wrap up the bill. And as a practical matter, the bill should be wrapped up.

I regret some of these amendments that I think are very important to Americans, especially those in cold climates having to deal with heating bills and those who have had homes foreclosed, and Americans who protect us through fighting fires, those amendments will not be considered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to thank the leadership for taking this bull by the horns and dealing with a circumstance that changed rather dramatically in the last several hours.

I know there are colleagues who are disappointed that they are not going to be able to offer amendments that are unrelated to the farm bill to this legislation. But if you put yourself in the position of the leadership, they were faced with an impossible situation, a situation that was made more difficult by the way events unfolded.

We had 20 amendments on a side that were in order, 40 amendments in total. That could include amendments that were related to the farm bill as well as those unrelated. Amendments were filed. Not all 40 had been filed. There were still, I believe, at least eight slots. So when the leadership looked at the time—and the fact is, here we are, almost 9 o'clock on Thursday night—and they looked at the other business that has to be done, it didn't fit together.

We could be in a circumstance in which things that must be done for us to conclude business for the year could not be concluded because it would take unanimous consent to go off the farm bill now that we are on it. Anybody could object. So they had to find a way to reach conclusion. The rules of the Senate required this circumstance. I know there is disappointment, but our leaders face a very difficult set of choices, and if they wanted to get the business of the Congress done this year by next Friday, they had no alternative but to do what the leaders collectively decided to do tonight.

I know there is disappointment, but there was no choice, if the business of the Senate was to get concluded.

I salute the leadership. I thank Senator REID for his strong leadership. I thank Senator MCCONNELL. I especially thank the bill managers, Senator HARKIN and Senator CHAMBLISS, who have worked tirelessly to get this bill done and under extremely difficult circumstances where they have had the bill interrupted every few hours to handle other legislation, and we have Presidential candidates on both sides who are not here. So these managers are told: You can't vote now, you can't vote then, you have an event here, you have an event there. They were put in an absolutely unbelievably difficult situation, and they have handled it with grace. We should thank them for how well they have done to clear amendments. But they had no choice if this work was to get done.

So thanks to the leaders. I know there are people who are upset, but I say thanks to the leaders.

Mr. HARKIN. Mr. President, will the Senator yield?

Mr. CONRAD. I will be happy to yield.

Mr. HARKIN. Mr. President, I thank the Senator for his comments, and I thank him for all his help throughout a long year in the Agriculture Committee, helping us with our budget problems and getting us to this point.

I appreciated the fact that the Senator said the managers had handled this bill with grace. The Senator doesn't see what I do when I go home. I act out my frustrations later.

I say to the Senator, it has been frustrating, but that is the process of the Senate. The Senator is absolutely right, our leader is correct in calling for cloture. I am not disappointed. I am managing the bill under the rules we had, which was to try to accommodate as many amendments as possible, to move them as rapidly as possible, to get votes on them. Let's face it, we have had enough, and we have had enough amendments and we debated them.

This is a good bill. Some of the amendments that were not adopted maybe I wish were, and some that were adopted maybe I wish were not. That is the process. It is a good bill with which to go to conference. It is a bill that does a lot, as the Senator knows, in energy, it does a lot in conservation, and it provides a great safety net for our farmers, and what we do for specialty crops that we have never done before in any farm bill, and what we do for nutrition. We answer the call of church groups and people around the country who said we had to do more to take care of low-income people in the Nation and to meet our obligations to the poorest among our society. We have done that in this bill. We have done great work in the food stamp and nutrition programs.

It is a good bill. All of us worked very hard on it. We will go to cloture this evening. Quite frankly, I am not disappointed. I am happy we are bringing this to a close so we can get to conference. I hope we can get the conference concluded by the time we get back in January so we can have a conference report sometime toward the end of January.

I thank the Senator from North Dakota for his many kindnesses, for all of the hard work he has done, and his staff through this long process in getting us here. I thank him very much.

Mr. CONRAD. Mr. President, I thank the chairman for his vision and his leadership. This is a bill of which we can all be proud. This is a bill that strengthens the safety net. This is a bill that increases resources for conservation by $4 billion. This increases the resources over the so-called base line for nutrition by $5 billion. This increases the resources for speciality crops by $2.5 billion, an unprecedented commitment of resources for that purpose. This is a bill that has permanent disaster assistance. This is a bill that is paid for and paid for honestly. This is a bill that does not add a dime to the deficit or the debt. It deserves our vote for cloture tonight.

All of those who are concerned about farm and ranch families, this is their opportunity to demonstrate that support and that concern by supporting cloture on this bill.

I especially thank the chairman of the committee, Senator HARKIN, the ranking member, Senator CHAMBLISS, and again the strong leadership of the majority leader, Senator REID, for bringing cloture before the body tonight. This bill needed to end for the Senate to conclude its business for the year.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it is time for the vote to take place in a minute or two. I inform all Members that we will have this cloture vote tonight, and then we are under the rules that there will be 30 hours following completion of that vote. It is my intention, and I think everyone's intention here, to finish this bill and not have it spill into Saturday. We are going to deal with germane amendments pursuant to the rules of the Senate. The managers will work on those during the evening and hopefully early tomorrow we can finish this bill.

Remember, tomorrow we have to finish FHA modernization, and we have to finish the Defense authorization bill. We have a limited time agreement on both of those, an hour each at this time. There may be other issues we are going to try to do. At least that is what we need to do.

Also, as I indicated, before we close business tomorrow, we are going to file cloture on the FISA legislation.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I, too, wish to urge my colleagues to vote for cloture this evening on the farm bill. This is bringing a long debate to its finality and to a close that is good for American agriculture.

Actually, the American people today are going to get an energy bill to promote renewable energy, and they are going to get a farm bill that strengthens the safety net and makes a strong commitment to conservation. Many of the programs funded in this bill do an awful lot to support conservation across this country. In many respects, the conservation title of the farm bill, I would argue, is probably one of the best environmental stewardship policies we have put in place in the Congress.

It also adds an energy policy that will complement what was done today in the Energy bill—the renewable fuels standard—which will increase the amount of renewable energy that will be used in this country. In order to reach that standard, we are going to have to use more and more cellulosic ethanol, which is the next generation of biofuels in this country, and the farm bill has in its energy title some incentives for energy-dedicated crops that can be used in the production of cellulosic ethanol.

I think this energy policy and the energy title, the conservation title, the commodity title of this bill, and many of the other provisions are good for American agriculture. It has been a long battle, and we still have a long ways ahead of us. We have to go to conference with the House and get a bill the President will sign, but this will help move this process forward, and it is high time we got an opportunity to push to a final vote and final passage.

So I urge my colleagues to vote for cloture this evening.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Harkin substitute amendment No. 3500 to H.R. 2419, the farm bill.

Tom Harkin, Russell D. Feingold, Jon Tester, Dick Durbin, Benjamin L. Cardin, Frank R. Lautenberg, John Kerry, Ted Kennedy, Byron L. Dorgan, Barack Obama, Ben Nelson, Amy Klobuchar, Sherrod Brown, S. Whitehouse, Tim Johnson, Jim Webb, Hillary Rodham Clinton.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3500, offered by the Senator from Iowa, Mr. HARKIN, to H.R. 2419, farm bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from Nebraska (Mr. HAGEL), the Senator from Mississippi (Mr. LOTT), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER (Mr. CASEY). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 78, nays 12, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—78

Akaka	Domenici	McConnell
Alexander	Dorgan	Mikulski
Allard	Durbin	Murkowski
Barrasso	Enzi	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Bennett	Graham	Pryor
Bingaman	Harkin	Reed
Brown	Hatch	Reid
Brownback	Hutchison	Roberts
Bunning	Inhofe	Rockefeller
Byrd	Inouye	Salazar
Cantwell	Isakson	Schumer
Cardin	Johnson	Sessions
Carper	Kennedy	Shelby
Casey	Kerry	Smith
Chambliss	Klobuchar	Snowe
Coburn	Kohl	Stabenow
Cochran	Landrieu	Tester
Coleman	Leahy	Thune
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Craig	Lugar	Webb
Crapo	Martinez	Whitehouse
Dole	McCaskill	Wyden

NAYS—12

Bond	Grassley	Menendez
Collins	Gregg	Sanders
DeMint	Kyl	Specter
Ensign	Lautenberg	Sununu

NOT VOTING—10

Biden	Dodd	Obama
Boxer	Hagel	Stevens
Burr	Lott	
Clinton	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 78, the nays are 12. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. HARKIN. Mr. President, we are now operating postcloture on the farm bill. As we know, there are 30 hours. And germane amendments are obviously acceptable postcloture.

Right now I am working with Senator CHAMBLISS to try to come up with a roadmap on how we proceed on this yet this evening and tomorrow. We had basically a kind of a finite list. Since there were only 20 amendments allowed on either side, we kind of know what that universe is.

Prior to the cloture vote, we were down to about 11—if the Chair will indulge me, 11 votes that could be held. Now some of those, it is just my own observation, without being the Parliamentarian, are nongermane.

For example, one of my own amendments I can truthfully say is not germane. The others I do not know, and those will have to be decided by the Parliamentarian. I would say, however, if there is anyone here who has a germane amendment—and I do believe perhaps the Feingold-Menendez amendment appears to be fully germane.

Now, again, there may be an objection raised to that, and the Parliamentarian will have to decide it, but that seems to me—that seems to be one in front of us now that is germane. I would say if the authors of that amendment, either Mr. FEINGOLD or Mr. MENENDEZ, were willing to debate that amendment this evening, under some reasonable time limit, we would like to do that.

So I hope that is at least one we might get to tonight that looks to be thoroughly germane to the bill. There is the Grassley-Kohl amendment. I am not certain about that one. That one is maybe a little bit more uncertain. But, again, that is up to the Parliamentarian to decide. But at least that decision could be made, and we might be able to move ahead.

So with the concurrence of my ranking member——

Mr. CHAMBLISS. I believe the Coburn amendment is also germane.

Mr. HARKIN. Right. The Coburn amendment is probably germane.

Mr. CHAMBLISS. If the Chair would agree, I think we probably ought to maybe go into a quorum call and let the Parliamentarian decide what is germane and what is not. If we find one that is germane, let's go ahead with that one while they are making a decision on the rest of them.

Mr. HARKIN. I agree. The only reason I was saying this is, keep in mind there is a limited amount of time. So I am saying, anyone who believes they have a germane amendment in this list, they ought to probably want to debate it tonight.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3736 WITHDRAWN

Mr. HARKIN. I ask unanimous consent that the Wyden amendment No. 3736 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALIFORNIA'S SUGAR ALLOCATION

Mrs. BOXER. Mr. President, I thank Senator HARKIN for joining me to discuss the important issue of California's sugar allocation. I appreciate his leadership in bringing a farm bill forward for the Senate's consideration.

Mr. HARKIN. I thank the Senator. It is my understanding that she would like to speak about an issue facing the sugar beet industry in California.

Mrs. BOXER. That is correct. The sugar marketing allocation formula in the 2002 farm bill took 2.5 percent of the total national allocation away from California because of the closure of sugar refineries in Woodland, CA, and Tracy, CA, between 1998 and 2000.

Since that time, there have been numerous other closures, including Bayrd, NE; Greeley, CO; Moses Lake, WA; Carrollton, MI; Nyssa, OR; and Hereford, TX. However, under the current farm bill structure, only California was penalized by downward allocation adjustments due to refinery closures. Refinery closures in California fell within an arbitrary base period in the 2002 farm bill that penalized States that had refinery closures by reducing their allocation. The six other States that have seen refineries close since the arbitrary period ended have not had any allocation taken away.

Mr. HARKIN. I ask the Senator, how has this decrease in California's portion of the national allocation impacted growers and other sugar beet refineries in your State?

Mrs. BOXER. Sugar beets are an important crop for many growers throughout California's San Joaquin and Imperial Valleys. Growers in California want to keep producing sugar beets, but processing refineries in California are in danger of closing if they do not recover the marketing allocation they lost in the last farm bill.

If the allocation formula is not corrected to provide California with its fair share, the entire sugar beet industry in my State, with the hundreds of jobs it supports, will be in serious jeopardy.

California's sugar beet industry is an important contributor to the economies of the rural communities where they are located. The city of Mendota, located in western Fresno County, has one of the highest unemployment rates in the State, a problem that will certainly be exacerbated by the possible closure of the refinery. The Mendota facility employs 300 full-time workers and as many as 500 to 600 workers when running at full capacity.

The importance of the refinery to the local economy becomes clearer when you consider that according to the city's estimate there are 1,767 jobs available in Mendota. At full capacity the refinery accounts for more than one-third of the city's employment base.

The farm gate value of sugar beets in California is approximately $66.7 million, and when sugar and the value of its byproducts are included, sugar beets in California contribute $130.8 million annually to the California economy.

Mr. HARKIN. How much more in allocation would California need to keep the facility in Mendota open?

Mrs. BOXER. My growers have assured me that if the allocation is there, they will be able to grow the sugar beets necessary to meet the need. They have told me that under the 2002 farm bill, they lost 133,750 tons raw value in allocation and would need near that amount to keep the Mendota refinery open.

Senator HARKIN, as much as 74,900 tons raw value in allocation is being reassigned this year from sugar cane growers, and another 6,800 tons raw value in allocation is being reassigned from growers in Puerto Rico.

Mr. HARKIN. I appreciate the Senator providing that information. Can she suggest a possible solution that would allow the Mendota refinery to remain open?

Mrs. BOXER. My growers tell me that they would be willing to purchase the plant from the Southern Minnesota Company. Southern Minnesota would include 64,200 tons raw value of sugar allotment in selling the plant to California sugar beet growers. With a guarantee that Congress would provide 53,500 tons raw value in additional sugar allotment for California equaling a total allocation of approximately 117,000 tons raw value, the purchase of the Mendota refinery by California's sugar beet growers would be economically viable.

Since it will take approximately 53,500 tons raw value in additional sugar allotment in California to keep the Mendota refinery in operation, and 81,700 tons raw value is being reassigned from sugarcane growers this year, perhaps it would be possible to assign the necessary amount of excess sugarcane allocation to California in order to keep the Mendota refinery operating.

Mr. HARKIN. I will raise this issue when the Senate and House meet to finalize a farm bill conference report.

Mrs. BOXER. I thank the Senator.

Mr. WYDEN. Mr. President, I rise to discuss the amendment that Senator HARKIN and I offered to make some modifications to the bioenergy crop transition program in the committee bill. First, however, I want to thank the Republican manager of the bill, Senator CHAMBLISS, and his staff for working with me and my staff, and with Senator HARKIN and his staff to address this issue.

As I said the other evening, we are importing $1 billion worth of oil a day from other countries. Bioenergy crops provide a real opportunity to spend that money here at home and help our farmers and rural communities in the process.

The bill that was reported by the Agriculture Committee proposed a program to help make this a reality by making payments to farmers to transition to these new energy crops. This was a good idea, but Senator HARKIN and I were concerned that the program would lead to unintended consequences. We have now reached agreement on a managers' amendment that goes a very long way toward addressing our concerns.

The agreement that we have reached improves the program in ways that will protect the environment and make it a more cost-effective program.

The program will now include eligibility criteria for bioenergy crops to ensure that crops that are invasive species or could become invasive species are not eligible for the program.

The program will now ensure that only lands that have already been farmed are eligible and that we are not promoting the conversion of native grasslands or forests to production of bioenergy crops.

The program will now have a formal application and selection process so that we can be sure that the limited amount of funds available is spent in the most productive way.

In deciding how these transition assistance payments are made, the Secretary of Agriculture will now have to consider the likelihood that the proposed establishment of the crop will, in fact, be viable in the proposed location.

The Secretary will also need to consider the impact that the proposed bioenergy crop, and the process of turning it into fuel or energy, will have on wildlife, air, soil, and water quality and availability.

And the Secretary will have to consider the potential for economic benefits to farmers and ranchers and impacts on their communities.

We have also added planning grants to help farmers and ranchers make the decision to grow these new bioenergy crops and to assemble enough acreage that can support the development of bioenergy facilities to use them.

Finally, we have added an additional requirement that participants in the program agree to implement a plan to protect land, water, soil and wildlife.

I think these are real improvements in the bill. I again want to thank Senator CHAMBLISS and his staff for working with us to make this program that truly will help move us toward a new energy future that will benefit our farmers, our rural communities, and the environment.

Mr. SPECTER. Mr. President, I have sought recognition to comment on an amendment to the farm bill that I have cosponsored which will provide needed tax relief to homeowners facing foreclosure as a result of the sub-prime mortgage crisis.

The Gregg amendment No. 3674, will allow foreclosed homeowners to avoid the additional hardship of being taxed on cancelled debt income. Under current law, if a homeowner has an obligation to a bank of $150,000 and the home is foreclosed on and sold for $100,000, the $50,000 difference is treated as personal income and the IRS sends that individual a tax bill. With the rate of foreclosures and mortgage defaults rising to new levels, now is not the time for the Federal Government to be kicking homeowners when they are down. In addition, as some lenders are renegotiating loans with borrowers to keep them in their home, the exclusion

of cancelled mortgage debt income is a necessary step to ensure that homeowner retention efforts are not thwarted by tax policy.

This amendment provides a targeted exclusion from taxation for canceled mortgage debt for those individuals most in need of assistance. It covers discharges of indebtedness between January 1, 2007, and January 1, 2010. In addition, the amendment would only apply if the home facing foreclosure is the taxpayer's principal residence and the exclusion is only available on mortgage indebtedness of up to $1 million.

On a related note, I have introduced S. 2133, the Home Owners ''Mortgage and Equity Savings Act,'' to help distressed homeowners who file for bankruptcy. The amount of a debt forgiven or discharged in bankruptcy is not deemed income. This amendment is important companion legislation in that it would help those who are able to renegotiate their mortgages, or who face foreclosure, but do not go into bankruptcy.

I urge my colleagues to support the Gregg amendment.

Mr. CRAPO. Mr. President, over the past years Congress has wrestled with the question of what was the appropriate level of regulation of futures exchanges and derivative markets. I have been very concerned about the potential efforts to change the manner in which we regulate derivatives or to impact the manner in which derivatives operate in the economy. It is critical that we strike the appropriate balance between protecting consumers and markets from trading abuse while ensuring continued growth and innovation in the U.S. markets.

The President's Working Group on Financial Markets, PWG, has played an important role in this debate by explaining why proposals that we have faced in the last few years for additional regulation of energy derivatives were not warranted, and has urged Congress to be aware of the potential for unintended consequences that would harm America's financial markets.

I have been repeatedly warned by our federal financial regulators that the importance of derivative markets in the U.S. economy should not be taken lightly, as businesses, financial institutions, and investors throughout the economy rely on these risk management tools. Derivatives markets have contributed significantly to our economy's ability to withstand and respond to various market stresses and imbalances.

In September of 2007, the Commodity Futures Trading Commission, CFTC, held a hearing to examine the oversight of trading on regulated futures exchanges or exempt commercial markets. Based on this hearing, the CFTC reported that the current risk-based, tiered regulatory structure has successfully encouraged financial innovation, competition, and modernization. However, the CFTC also found that additional oversight was warranted for certain contracts traded on an ECM that serve a significant price discovery function in order to detect and prevent manipulation. The CFTC proposed four legislative recommendations that were endorsed by the PWG.

In September of 2007, the Commodity Futures Trading Commission held a hearing to examine the oversight of trading on regulated futures exchanges and exempt commercial markets. Based on this hearing, the CFTC reported that the current risk-based, tiered regulatory structure has successfully encouraged financial innovation, competition, and modernization. However, the CFTC also found that additional oversight was warranted for certain contracts traded on an ECM that serves a significant price discovery function in order to detect and prevent manipulation. The CFTC proposed four legislative recommendations that were endorsed by the PWG.

It is for this reason that I decided to work with a bipartisan group of Senators who also wanted to address the appropriate level of regulation of futures exchanges and over-the-counter derivative transactions. I want to thank Senate Agriculture Committee Chairman HARKIN, Senate Agriculture Committee Ranking Member CHAMBLISS, Senator FEINSTEIN, Senator SNOWE, Senator LEVIN, and Senator COLEMAN for all their work.

I appreciate their willingness to work off the framework that was endorsed by the PWG and believe this allowed all of us to reach a deal. This was a significant concession to some Senators who have supported an alternative approach, and I would like to thank them for doing so.

In addition, this amendment extends the reauthorization of the CFTC, clarifies the CFTC authority over off-exchange retail foreign currency transactions, clarifies the antifraud authority over principal-to-principal transactions, increases civil and criminal penalties, and makes technical and conforming amendments. These provisions were also largely based off the framework that was endorsed by the PWG letter of November of 2007.

Earlier this week the House Agriculture Committee approved by voice vote a similar measure to reauthorize the Commodity Futures Trading Commission. It is my hope that in a conference the House and Senate will reconcile their differences over the reauthorization period and Zelener related issues.

I strongly believe that Congress needs to reauthorize the CFTC and frankly, so that we can give this agency all the tools it needs to protect investors and promote the futures industry and preserve the integrity of our markets. Moreover, the Senate must act to confirm Walt Lukken as Chairman of the CFTC. He has demonstrated throughout this reauthorization process the strong leadership that is essential to managing an agency. I want to commend him, his fellow commissioners, and staff for all their tremendous work.

MORNING BUSINESS

Mr. HARKIN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIA DESTRUCTION OF INTERROGATION RECORDINGS

Mr. DURBIN. Mr. President, it seems that every week there is a new revelation about how this administration has engaged in activity that is not consistent with American laws or values when it comes to the issue of torture. Last week, CIA Director Michael Hayden acknowledged that Central Intelligence Agency officials destroyed videotapes of detainees being subjected to so-called ''enhanced interrogation techniques.'' These techniques reportedly include forms of torture like waterboarding. The New York Times reported, ''The tapes were destroyed in part because officers were concerned that video showing harsh interrogation methods could expose agency officials to legal risks.''

The CIA apparently withheld information about the existence of interrogation videotapes from official proceedings, including the 9/11 Commission and the Federal court hearing the case of Zacarias Moussaoui. General Hayden asserts that the videotapes were destroyed ''in line with the law,'' but it is the Justice Department's role to determine whether the law was broken.

Last week I asked Attorney General Mukasey to investigate whether CIA officials who covered up the existence of these videotapes violated the law. To his credit, the Attorney General has begun a preliminary inquiry.

This week there is a new revelation. The CIA has already acknowledged videotaping interrogations of detainees in CIA custody. Now it appears that there may be videotapes of detainees who the CIA transferred or rendered to other countries to be interrogated.

According to the Chicago Tribune, in February 2003, the CIA detained a man named Abu Omar in Italy. The CIA then took Abu Omar to Egypt and turned him over to the Egyptian government. Abu Omar claims he was tortured and that his Egyptian interrogators recorded, ''the sounds of my torture and my cries.''

In response to this story, CIA spokesman Paul Gimigliano said he could not ''speak to the taping practices of other intelligence services.'' Notice what he did not say. He did not say whether the CIA is aware of foreign countries recording interrogations of detainees who were transferred to them by the CIA. In fact, if the CIA sends a detainee

to a foreign country for the purpose of interrogation, it seems reasonable to expect that we would monitor the interrogation by video or audio recording or by some other means.

Why are we sending detainees to other countries to be interrogated in the first place? Under the Bush administration, the CIA has reportedly transferred detainees to countries that routinely engage in torture so that these detainees can be interrogated using torture techniques that would not be permissible under U.S. law. The administration calls this practice rendition. Others call it by a different name outsourcing torture.

The Torture Convention, which the United States has ratified, makes it illegal to transfer individuals to countries where they are likely to be tortured. The administration has said that it stands by this legal prohibition.

However, the administration has said that it will transfer a detainee to a country that routinely engages in torture if the State Department receives so-called ''diplomatic assurances'' that the detainee will not be tortured. Based on diplomatic assurances, the administration has reportedly sent detainees to countries that systematically engage in torture, including Egypt, Saudi Arabia, and Syria. Some of these detainees, like Abu Omar, say that they were then tortured in these countries. Now there may be video or audio taped evidence of that.

Even with diplomatic assurances, should we be sending people to countries like Egypt to be interrogated? Every year, our State Department issues Country Reports on the human rights practices of countries around the world. Here is what the most recent Country Report on Egypt says:

Principal methods of torture . . . included stripping and blindfolding victims; suspending victims from a ceiling or doorframe with feet just touching the floor; beating victims with fists, whips, metal rods, or other objects; using electrical shocks; and dousing victims with cold water.

The State Department claims that it monitors compliance with diplomatic assurances. Experts point out that it is very difficult to monitor whether a country has kept its promise not to torture someone. Now it appears that there may be recordings to help the State Department make this determination.

This week's news raises many questions:

Have recordings been made of interrogations of detainees who were rendered by the CIA to foreign countries?

Were these recordings made at the request of the CIA?

Are these recordings in the possession of the CIA?

Have these recordings been destroyed by or at the request of the CIA?

Do these recordings contain evidence that detainees were tortured?

Has the State Department reviewed these recordings to determine whether foreign countries have complied with their ''diplomatic assurances'' not to torture detainees who we transfer to them?

Yesterday, I sent a letter to CIA Director Michael Hayden to ask him about the CIA's involvement in these recordings. I also sent a letter to Secretary of State Condoleezza Rice asking her whether the State Department has reviewed these recordings to determine whether detainees we have transferred to foreign countries were tortured. And, finally, I sent a letter to Attorney General Mukasey asking him to expand the Justice Department's inquiry into the CIA torture tapes to cover recordings of detainees who the CIA sent to foreign countries for the purposes of interrogation.

I am glad that Attorney General has opened a preliminary inquiry into this issue. Now comes the difficult part getting to ground truth. Unfortunately, there certainly will be more revelations to come. It will be a long time before we get to the bottom of this torture scandal. I fear it will be even longer before we undo the damage done to America's image and our values.

FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 307 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation, including one or more bills and amendments, that reauthorizes the 2002 farm bill or similar or related programs, provides for revenue changes, or any combination thereof. Section 307 authorizes the revisions provided that certain conditions are met, including that amounts provided in the legislation for the above purposes not exceed $20 billion over the period of fiscal years 2007 through 2012 and that the legislation not worsen the deficit over the period of the total of fiscal years 2007 through 2012 or the period of the total of fiscal years 2007 through 2017.

I find that Senate amendment No. 3819 offered by Senator BROWN to Senate amendment No. 3500, an amendment in the nature of a substitute to H.R. 2419, satisfies the conditions of the deficit-neutral reserve fund for the farm bill. Therefore, pursuant to section 307, I am adjusting the aggregates in the 2008 budget resolution, as well as the allocation provided to the Senate Agriculture, Nutrition, and Forestry Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Further Revisions to the Conference Agreement Pursuant to Section 307 Deficit-Neutral Reserve Fund for the Farm Bill

[In billions of dollars]

Section 101 (1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,024.835
FY 2009	2,121.607
FY 2010	2,176.229
FY 2011	2,357.094
FY 2012	2,498.971
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−25.961
FY 2009	14.681
FY 2010	12.508
FY 2011	−37.456
FY 2012	−98.125
(2) New Budget Authority:	
FY 2007	2,371.470
FY 2008	2,508.879
FY 2009	2,526.003
FY 2010	2,581.239
FY 2011	2,696.657
FY 2012	2,737.412
(3) Budget Outlays:	
FY 2007	2,294.862
FY 2008	2,471.563
FY 2009	2,573.042
FY 2010	2,609.763
FY 2011	2,702.677
FY 2012	2,716.475

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Further Revisions to the Conference Agreement Pursuant to Section 307 Deficit-Neutral Reserve Fund for the Farm Bill—Continued

[In billions of dollars]

Current Allocation to Senate Agriculture, Nutrition, and Forestry Committee:	
FY 2007 Budget Authority	14,284
FY 2007 Outlays	14,056
FY 2008 Budget Authority	17,088
FY 2008 Outlays	14,629
FY 2008–2012 Budget Authority	76,881
FY 2008–2012 Outlays	71,049
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	46
FY 2008 Outlays	15
FY 2008–2012 Budget Authority	−510
FY 2008–2012 Outlays	−136
Revised Allocation to Senate Agriculture, Nutrition, and Forestry Committee:	
FY 2007 Budget Authority	14,284
FY 2007 Outlays	14,056
FY 2008 Budget Authority	17,134
FY 2008 Outlays	14,644
FY 2008–2012 Budget Authority	76,371
FY 2008–2012 Outlays	70,913

FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, earlier today, pursuant to section 307 of S. Con. Res. 21, I filed revisions to S. Con. Res. 21, the 2008 budget resolution. Those revisions were made for Senate amendment No. 3819, an amendment offered to Senate amendment No. 3500, an amendment in the nature of a substitute to H.R. 2419.

The Senate did not adopt Senate amendment No. 3819. As a consequence, I am further revising the 2008 budget resolution and reversing the adjustments made pursuant to section 307 to the aggregates and the allocation provided to the Senate Agriculture, Nutrition, and Forestry Committee for Senate amendment No. 3819.

I ask unanimous consent to have the following revisions to S. Con. Res. 21 printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Further Revisions to the Conference Agreement Pursuant to Section 307 Deficit-Neutral Reserve Fund for the Farm Bill

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,024.835
FY 2009	2,121.607
FY 2010	2,176.229
FY 2011	2,357.094
FY 2012	2,498.971
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−25.961
FY 2009	14.681
FY 2010	12.508
FY 2011	−37.456
FY 2012	−98.125
(2) New Budge Authority:	
FY 2007	2,371.470
FY 2008	2,508.833
FY 2009	2,526.124
FY 2010	2,581.369
FY 2011	2,696.797
FY 2012	2,737.578
(3) Budget Outlays:	
FY 2007	2,294.862
FY 2008	2,471.548
FY 2009	2,573.005
FY 2010	2,609.873
FY 2011	2,702.839
FY 2012	2,716.392

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Further Revisions to the Conference Agreement Pursuant to Section 307 Deficit-Neutral Reserve Fund for the Farm Bill

[In millions of dollars]

Current Allocation to Senate Agriculture, Nutrition, and Forestry Committee:	
FY 2007 Budget Authority	14,284
FY 2007 Outlays	14,056
FY 2008 Budget Authority	17,134
FY 2008 Outlays	14,644
FY 2008–2012 Budget Authority	76,371
FY 2008–2012 Outlays	70,913
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	−46
FY 2008 Outlays	−15
FY 2008–2012 Budget Authority	510
FY 2008–2012 Outlays	136
Revised Allocation to Senate Agriculture, Nutrition, and Forestry Committee:	
FY 2007 Budget Authority	14,284
FY 2007 Outlays	14,056
FY 2008 Budget Authority	17,088
FY 2008 Outlays	14,629
FY 2008–2012 Budget Authority	76,881
FY 2008–2012 Outlays	71,049

CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 308(a) of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels and limits in the resolution for energy legislation that meets certain conditions, including that such legislation not worsen the deficit over the period of the total of fiscal years 2007 through 2012 or the period of the total of fiscal years 2007 through 2017.

I find that H.R. 6, the Energy Independence and Security Act of 2007, satisfies the conditions of the deficit-neutral reserve fund for energy legislation. Therefore, pursuant to section 308(a), I am adjusting the aggregates in the 2008 budget resolution, as well as the allocation provided to the Senate Energy and Natural Resources Committee.

I ask unanimous consent to have the following revisions to S. Con. Res. 21 printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Revisions to the Conference Agreement Pursuant to Section 308(a) Deficit-Neutral Reserve Fund for Energy Legislation

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,025.851
FY 2009	2,121.871
FY 2010	2,175.887
FY 2011	2,357.053
FY 2012	2,499.050
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−24.945
FY 2009	14.945
FY 2010	12.166
FY 2011	−37.497
FY 2012	−98.046
(2) New Budget Authority:	
FY 2007	2,371.470
FY 2008	2,508.899
FY 2009	2,526.205
FY 2010	2,581.535
FY 2011	2,696.951
FY 2012	2,737.742
(3) Budget Outlays:	
FY 2007	2,294.862
FY 2008	2,471.612
FY 2009	2,573.079
FY 2010	2,610.024
FY 2011	2,702.968
FY 2012	2,716.556

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Revisions to the Conference Agreement Pursuant to Section 308(a) Deficit-Neutral Reserve Fund for Energy Legislation

[In millions of dollars]

Current Allocation to Senate Energy and Natural Resources Committee:	
FY 2007 Budget Authority	5,016
FY 2007 Outlays	5,484
FY 2008 Budget Authority	5,071
FY 2008 Outlays	4,757
FY 2008–2012 Budget Authority	25,838
FY 2008–2012 Outlays	24,730
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	66
FY 2008 Outlays	64
FY 2008–2012 Budget Authority	631
FY 2008–2012 Outlays	582
Revised Allocation to Senate Energy and Natural Resources Committee:	
FY 2007 Budget Authority	5,016

Concurrent Resolution on the Budget for Fiscal Year 2008—S. Con. Res. 21; Revisions to the Conference Agreement Pursuant to Section 308(a) Deficit-Neutral Reserve Fund for Energy Legislation—Continued

FY 2007 Outlays	5,484
FY 2008 Budget Authority	5,137
FY 2008 Outlays	4,821
FY 2008–2012 Budget Authority	26,469
FY 2008–2012 Outlays	25,312

HONORING OUR ARMED FORCES

SERGEANT FIRST CLASS JAMES DOSTER

Mrs. LINCOLN. Mr. President, I rise today to remember a great Arkansan, SFC James D. Doster, of White Hall, AR, who was killed on September 29, 2007, in Baghdad, Iraq. A soldier in the B Company, 2nd Battalion, 16th Infantry Regiment, 1st Infantry Division based in Fort Riley, KS, Sergeant First Class Doster died from injuries sustained when an improvised explosive device, IED, detonated near his vehicle. He was 38 years old at the time of his death.

Sergeant First Class Doster graduated from White Hall High School and attended Hendrix College in Conway for 1 year before joining the Army. He served for nearly 17 years, including a tour during Operation Desert Storm in Iraq. When that conflict ended, he continued to serve, mostly as a recruiter.

A devoted husband and father, Sergeant First Class Doster is survived by his wife Amanda and two young girls, Kathryn and Grace. He is also survived by his mother, Billie K. Doster of White Hall, and brother, Robert Doster of Albuquerque, NM. His father, the late Charles C. Doster, Jr., passed away last year.

Mr. President, it is truly a sad day that our Nation has lost another great patriot. Sergeant First Class Doster served our Nation proudly for so many years, and his loss will be felt throughout the Jefferson County community. My thoughts and prayers are with his family during their time of grief.

SPECIALIST TODD A. MOTLEY

Mr. President, it is with great sadness that I rise today to pay tribute to a citizen with family roots in Arkansas who served his country with honor, Specialist Todd A. Motley of Clare, MI. In support of Operation Iraqi Freedom, Specialist Motley was one of four soldiers who lost their lives during combat operations outside Baghdad on September 14, 2007. Specialist Motley, along with SSG Terry Wagoner of Piedmont, SC, SPC Jonathan Rivandeneira of Jackson Heights, NY, and PVT Christopher McCloud of Malakoff, TX, suffered mortal wounds upon the detonation of an improvised explosive device near their vehicle. Each of the men was assigned to B Troop, 6th Squadron, 9th Cavalry Regiment, 1st Cavalry Division, Fort Hood, TX.

Motley joined the Army in March 2005 after graduating Clare Pioneer High School in 2003. ''Todd was one of your 'once-in-a-lifetime' kids,'' says Pioneer principal Lori Enos. Enos described Motley as creative, loyal and ''outgoing but not obnoxious.''

As a testament to Motley's character, hundreds of residents and schoolchildren in and around the community of Harrison, MI, lined the streets and waved small American flags as the funeral procession drove past.

''He came in to talk about serving in the military, and about his experiences. He was promoting finishing school, hanging in there, and not giving up. If you have a goal, keep pushing to reach that goal,'' says Principal Enos about Motley's speech he gave at the Alternative High School in the Clare Public School District only 1 year earlier. ''He emphasized that.''

SPC Todd Motley is survived in Arkansas by his wife Karen, of Clare, his two daughters Hannah and Kaylee, also of Clare, his brothers Ian and Nickolas, his maternal grandmother Marcia Dolin, and his mother Renee, all of Hoxie, AR.

SPECIALIST TYLER R. SEIDEMAN

Mr. President, the town of Lincoln, AR, in the northwest part of my State, lost its first casualty to the war in Iraq on August 22, 2007, when SPC Tyler R. Seideman was killed in a helicopter crash. He was only 20 years old.

Specialist Seideman joined the Army after his best friend, Logan Biswell, enlisted a few years ago. Although they were assigned to different units, both were sent to Iraq, and Specialist Seideman served with the 2nd Battalion, 35th Infantry Regiment, 25th Infantry Division based in Schofield Barracks, HI.

Specialist Seideman was one of 14 other Americans killed aboard a Blackhawk helicopter that suffered mechanical problems and crashed in northern Iraq. There were no survivors.

Tyler was always a popular young man in his town of Lincoln. He was considered a good athlete and played both football and baseball for his hometown team, the Lincoln High School Wolves. His former coach remembered him as a leader known for his fighting spirit. In an interview with the Arkansas Democrat Gazette, former Lincoln High coach Mike Guthrie said that he ''was a hard worker and a good kid. He stuck with it during lean times when we weren't very good, but he was a good athlete who played both ways and gave it everything he had.''

At his funeral, friends remembered him as the kind of guy who ''would give you the shirt off his back if you needed it.'' Others mentioned that he would always joke around or would be quick with a smile. Another high school friend called him ''a gentleman and a great role model.''

Specialist Seideman was given a full military funeral and was buried at the National Cemetery in Fayetteville. He is survived by his parents William and Lee Ann Seideman of Lincoln and his sisters Kiera and Kristen. Our thoughts and prayers will continue to be with the Seidemans and the community of Lincoln during this difficult time.

PRIVATE NATHAN Z. THACKER

Mr. President, Arkansas lost another young man last week when 18-year-old Army PVT Nathan Thacker from Greenbrier was killed on October 13 by a roadside bomb in Kirkuk, Iraq. Three other soldiers were injured, one seriously.

He had been in Iraq less than 2 weeks and was assigned to the 2nd Battalion, 22nd Infantry Regiment, 10th Mountain Division out of Fort Drum, NY.

Private Thacker's parents, Stephen and Darlene, remembered him as a son who felt obligated to serve his country. ''He believed in doing his duty,'' his father said in an interview with the Arkansas Democrat Gazette. Although he was nervous about going to Iraq, his father noted that Nathan told him '' 'It's my job now, and I need to do it.' He was very duty conscious, a good boy.''

Private Thacker attended Guy-Perkins High School in Guy, AR. Although he left school early, he received his general education development diploma last year. His former principal, David Westenhover, recalled that he was one of the first students he met when he became principal. ''He was just one you could count on to be in class and do his work. He was not disruptive. Citizenship was definitely a plus for him.''

One of his teachers, Stacy Ralls, taught Nate, as they called him, in science classes. She told a local TV station that Private Thacker ''liked to have fun, he always had a smile for you.'' She said that he was great at building friendships with a wide variety of other students. ''It's not every kid you encounter, seems to have these qualities, he had those qualities.'' She felt that he died a hero and will miss him greatly.

His father has said that he will receive a full military-honor funeral in Greenbrier. Private Thacker was the third youngest of seven children.

SPECIALIST DAVID L. WATSON

Mr. President, Arkansas lost another great patriot when SPC David L. Watson of Newport, AR, died on September 22, 2007, in Baqubah, Iraq, from a noncombat accident in support of Operation Iraqi Freedom. Specialist Watson was a combat medic assigned to Headquarters and Headquarters Company, 2nd Battalion, 23rd Infantry Regiment, 2nd Infantry Division, based out of Fort Lewis, WA. His brigade deployed to Iraq in April 2007.

''He was an excellent student. He never complained, and he was easy to get along with,'' recalls Ruth Jones, a retired Tuckerman High School teacher of Specialist Watson's past.

Cathy Platt, a friend of Watson's, said, ''Some go to Iraq because they have to, David went because he wanted to. [Watson's death] is a shock to the whole community.''

These quotes give us great insight about a man held in the highest standards by all those who knew him. ''He went to Iraq not to take lives, but to save them,'' said his wife Lisa. Pictures of Watson and his family reflect his shining light of care, love, and devotion not only to his family but to everyone he met. His wife Lisa recalls, ''David never met a stranger.''

SPC David Watson is survived in Arkansas by his mother Linda Watson, of Newport; his wife Lisa Watson and two children, Dayton, 4, and Caelan, 8, also of Newport; two brothers, Bryant and Derek, of Tuckerman and Newport; two sisters, Christal Hill and Nikki Moore, of Conway and Little Rock; grandmother Ernestine Watson, of Tuckerman; grandparents O.C. and Velma Bobo, of Tuckerman; and father- and mother-in-law Johnny and Brenda Powell, both of Newport.

SPECIALIST DONOVAN D. WITHAM

Mr. President, I rise today to honor the life of SPC Donovan D. Witham of Malvern, AR. Specialist Witham was killed by an improvised explosive device that detonated near his vehicle outside Baghdad, Iraq. The blast killed a second soldier, SSG Sandy R. Britt of Apopka, FL. Both men were assigned to the 1st Squadron, 73rd Cavalry Regiment, 82nd Airborne Division based in Fort Bragg, NC.

Specialist Witham graduated from Glen Rose High School in Malvern where he excelled in football and track. He was also active in other activities such as student council, choir, and the Drama Club.

When Specialist Witham joined the Army in November 2005, he became a military police officer and was assigned to the 82nd Airborne in that role. However, he soon took on the additional role of a paratrooper. His troop commander, MAJ Mark Lastoria, described Specialist Witham as a soldier who ''represented everything good about our paratroopers. He was a volunteer amongst volunteers by not only becoming a military police officer, but also a paratrooper. He always strived to be the best at everything he did. He will be deeply missed and always remembered by those of us who had the honor to serve with him.''

He was a decorated solider who received the Bronze Star Medal, the Purple Heart, the National Defense Medal, the Iraq Campaign Medal, the Global War on Terrorism Service Medal, the Army Service Ribbon, the Combat Action Badge, and the Parachutist's Medal.

At this time of mourning, our thoughts and prayers are with his family and friends. He is survived by his mother and stepfather, Martha and Richard Lanius of Malvern, and three sisters, Amber Sharp and husband Steve of Magnolia; Jamie Witham of Benton; and Virginia Bennett of Magnolia. He is also survived by Julie DeBoer of Michigan, to whom his mother said he planned to propose marriage in December. The loss of this young man will be felt by us all.

SERGEANT MICHAEL YARBROUGH

Mr. President, I rise to honor a selfless soldier who gave his life in Iraq last month, Sgt Michael J. Yarbrough

of Malvern. On September 6, Sergeant Yarbrough was killed by a roadside bomb in Iraq's Anbar Province. Also killed in the blast were SSgt John Stock, Cpl Bryan Scripsick, and Cpl Christopher Poole. The death of these four young men brought the total number of Marine deaths in Afghanistan and Iraq over 1,000. All four men were assigned to the 3rd Assault Amphibious Battalion, 1st Marine Division, I Marine Expeditionary Force based at Camp Pendleton, CA.

Sergeant Yarbrough was also the second graduate of Glen Rose High School in Malvern killed in action within a month's time. Spc Donovan Witham, also of Malvern, died on August 21 from a roadside bomb near Baghdad. In an interview with the Arkansas Democrat Gazette, Glen Rose Middle School principal Tim Holicer somberly noted, ''We are still grieving the loss of one, and here we have another one of our young men to be killed in Iraq. That's as hard on everybody around here as anything.''

According to Sergeant Yarbrough's mother, Rhonda Fain-Yarbrough, her son wasn't scheduled to be in Iraq. He volunteered to return for a third tour after he heard that another soldier's wife was expecting a baby. ''Michael didn't want to see him go, so he took his place.'' He told her that ''as long as my men are there, I'm going to be there with them.''

As the Yarbrough family and Malvern community grieve, we grieve with them. He will be remembered by those who loved him as a young man who was destined to be a soldier. ''Ever since he was a little boy, he would march around with a stick on his shoulder, saying 'I'm going to be in the Army, Mom, I'm going to be in the Army,''' Mrs. Fain-Yarbrough told the Arkansas Democrat Gazette. True to his word, he enlisted after September 11, 2001.

For his efforts, Sergeant Yarbrough was awarded a Purple Heart, Combat Action Ribbon, The National Defense Service Medal, and the Iraqi Campaign Medal, among others. He is survived by his wife Mary Ann Yarbrough; his mother Rhonda Fain-Yarbrough of Benton; and father Jerry Yarbrough of Gurdon. In addition, his grandmother Dolline Fain, and two sisters, Christy Smith of Arkadelphia and Misty Hutcheson of Traskwood, as well as their families will most certainly miss him. A grateful nation's thoughts and prayers go out to you at this difficult time.

FEDERAL ENERGY REGULATORY COMMISSION

Mrs. FEINSTEIN. Mr. President, the Federal Energy Regulatory Commission, FERC, is currently considering the renewal of the California Department of Water Resources, DWR, license for the Oroville Facilities hydroelectric project in Butte County, CA.

DWR is exempt from paying State, local, or a Federal tax associated with the Oroville Project and has not compensated Butte County for the services it provides for the project and its visitors. Butte County believes the relicensing is an opportunity to mitigate the county's revenue losses, which are estimated at nearly $6.9 million per year.

FERC's Final Environmental Impact Statement also acknowledges that the Oroville Project has a negative fiscal impact on Butte County.

I have sent a letter to FERC asking that they consider efforts to mitigate Butte County's revenue loss and treat all parties equitably during the Oroville Project relicensing proceedings, and I ask unanimous consent to have text of this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 13, 2007.

Chairman JOSEPH T. KELLIHER,
Commissioner SUEDEEN G. KELLY,
Commissioner PHILIP MOELLER,
Commissioner MARC SPITZER,
Commissioner JOHN WELLINGHOFF,
Federal Energy Regulatory Commission, Washington, DC.

DEAR CHAIRMAN KELLIHER AND COMMISSIONERS: I am writing in regards to the relicensing proceedings for the Oroville Facilities hydroelectric project (Project P–2100) currently before the Commission. As you know, Butte County is required to provide services associated with the Oroville Facilities Project and its visitors, including law enforcement, fire and rescue, and road maintenance services.

The Commission's Final Environmental Impact Statement acknowledges the negative net fiscal impact the Oroville Facilities Project may impose on Butte County. As you prepare your final decision regarding the relicensing, I encourage you to consider efforts to mitigate the County's revenue loss. I am hopeful that all parties involved with the relicensing of the Oroville Facilities will be regarded equitably. Thank you for your attention to this matter.

Sincerely,

DIANNE FEINSTEIN,
U.S. Senator.

THE MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Mr. President, I wish to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Steven Domer, an Oklahoma City, OK, resident, went missing on October 26, 2007. The following day, police found his torched car and his body was found in a nearby ravine days later. On November 7, 2007, Darrell Madden was arrested for the shooting death of his friend Bradley Qualls. Both men were seen with the 62-year-old Domer the day of his disappearance and are believed to have been involved in his murder. Madden has been charged with murder for allegedly strangling Domer to death. Investigations have uncovered that Madden was a sergeant in a White supremacist group and targeted Domer because he was gay. Domer's murder was allegedly a rite of passage for Qualls to rise to the next level within the organization. The district attorney prosecuting the case will present evidence to prove that Domer was targeted because he was gay. Oklahoma is one of seventeen States whose hate crime laws do not cover those targeted based on sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Matthew Shepard Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LAUNCH OF USASPENDING.GOV

Mr. OBAMA. Mr. President, I am very pleased to celebrate today's launch of USAspending.gov. This is an important day, an important milestone on the path to greater openness and transparency in the Federal Government. This site helps us to achieve a very simple and powerful vision: a vision that, in a democracy, the people ought to know what their Government is doing: how the Government is raising and spending money, how it is making and enforcing law, how it is supporting projects, how decisions are being made, and how results are being evaluated.

It is not a Democratic vision or a Republican vision. It is a commonsense vision of Government transparency and accessibility. It is a vision that rejects the idea that Government actions and decisions should be kept secret or classified. It is a vision that believes that information is at the heart of democracy and that we all must resist the dangerous trend of withholding or classifying or burying information that the American people have a right to know and need to know if they are to hold their leaders accountable.

I have been very troubled by the extent to which America has become a nation of government secrets. More and more information is kept secret or made intolerably complicated and inaccessible. More and more decisions are made behind closed doors with access limited to insiders and lobbyists.

USAspending.gov along with watchdog groups will give us all tools to help buck that trend. It will help by opening Government processes up to public view. It will provide a window into the Federal budget so all Americans can see how their tax dollars are being spent—how their Nation's resources are being used and obligated, where money is going as well as where it is not going. We will be able to see which grantees and contractors are receiving

money and the congressional district where the contract's services are performed. We will see which agencies are purchasing what, from whom, and where. Technology makes it possible for every American to know what is happening and to hold elected officials accountable.

If Government spending can't withstand public scrutiny, then the money shouldn't be spent. If a Government agency isn't willing to be held accountable for the grants or contracts it awards, then that agency shouldn't have control over Federal resources. Whether you believe the Government ought to spend more money or spend less, you should certainly be able to agree that the Government ought to spend every penny efficiently and transparently. Democrats and Republicans can all agree that wasteful spending is unacceptable, whether it is by FEMA, HUD, DOD, or any other Federal agency.

Transparency by itself is not enough, but transparency is the first step to holding Government accountable for its actions. Transparency is a prerequisite to oversight and financial control. We can't reduce waste, fraud, and abuse without knowing how, where, and why Federal money is flowing out the door.

USAspending.gov is a very good beginning. The Web site does not yet deliver everything that it is required to under the law, but its limitations and shortcomings are transparent, and it will get better and more complete week after week. I am also confident that people will use the site and will provide feedback directly on the site's community ''Wiki'' function for collecting and sharing public comments. This will raise the expectations of all Americans for greater transparency, access, and accountability. Now it will be up to us elected officials to meet those expectations.

It is important to point out that this site would not have been possible without the grassroots efforts of watchdog groups across the political spectrum who lobbied for passage of the Federal Funding Accountability and Transparency Act, which Senator COBURN and I like to call the Transparency Act. The story behind the Transparency Act embodies the best of our democratic traditions—a bipartisan effort fueled by ordinary people who refused to accept that the Government couldn't make public information freely and simply available. Throughout this process, it has been an honor to work with Senator COBURN and to witness the dedicated work of the staff at OMB.

ADDITIONAL STATEMENTS

TRIBUTE TO COACH SONNY LUBICK

● Mr. ALLARD. Mr. President, I wish to pay tribute to a legend in the Colorado State University and Fort Collins, CO, community: Coach Sonny Lubick. For 15 seasons, he led the CSU Rams to a record of 108–74, six conference titles, and nine bowl games.

Originally from Butte, MT, Coach Lubick graduated from the University of Montana-Western in 1960 and began his coaching career 10 years later at Montana State University. After eight seasons as an assistant coach, he was promoted to head coach. His hard work and early success served as the foundation for what would become a remarkable coaching career.

After serving as an assistant coach for various other programs, Coach Lubick accepted the head coaching position at Colorado State University prior to the 1993 season. He began by implementing an aggressive effort to recruit players and expand the program beyond anything previously achieved. With new recruits and under new leadership, the CSU Rams reached new heights during Coach Lubick's second year with CSU. During that remarkable season, the Rams finished with a 10–2 record, clinching the university's first ever WAC Championship and a trip to the Holiday Bowl. The 1994 season was the beginning of a new era in Colorado State football, earning Sonny Lubick National Coach of the Year honors from Sports Illustrated magazine. Lubick also joined an elite list of coaches in 2005, as active Division IA coaches with 100 or more career wins with their current institution. This group includes only nine members.

The success Coach Lubick's program achieved led to the construction of the McGraw Athletic Center in 1999, and recently the university has announced its intention to build indoor practice facilities and an academic and training center, both of which are attributed to Sonny Lubick's leadership and efforts. Coach Lubick's personal philosophy of responsibility, character, respect, and perspective has been the driving force behind the success of both the football team and the surrounding community.

Sonny Lubick's family-oriented approach to coaching and life has earned a multitude of accolades. In 2003 he was recognized as ''Father of the Year'' by the American Diabetes Association—Colorado Chapter. That same year he was also named one of the four national finalists for the Eddie Robinson Coach of Distinction Award for his community service. Coach Lubick regularly gives his time to St. Jude's Children's Hospital and several other local charities. In 2005 the Fort Collins Board of Realtors named Coach Lubick ''Citizen of the Year,'' and most recently the Fort Collins Chamber of Commerce awarded him the Collins Award, given to local figures that exemplify leadership and service to the community.

Coach Sonny Lubick's charisma and good nature have made him an icon among students, fans, friends, and Coloradans. This popularity was cemented when a large donation was made to renovate CSU's stadium under the condition that the field would be named for Coach Lubick. Today, the Colorado State Rams meet their opponents in Hughes Stadium, rushing out on to Sonny Lubick Field.

As an alumnus of Colorado State University, I want to thank Coach Lubick for his dedicated service and leadership to the football team, the university, and the community.●

REMEMBERING LODICE GRANT

● Mr. CRAPO. Mr. President, on October 9, 2007, a beloved Idahoan passed away. Lodice Grant was raised in Nampa and, after moving out of State for a number of years, moved back to Nampa for the remainder of her life. She was small in stature but strong in her direction and devotion. She was a friend of mine and, together with her husband of 51 years, Fred Kelly Grant, worked closely with me in recent years on the Owyhee Initiative. Before her children were born, Lodice worked as the assistant sales manager for the University of Chicago Press and the Johns Hopkins University Press. Prior to her move back to Nampa, Lodice became the sales manager for Johns Hopkins University Press, earning such an outstanding reputation that noted authors refused to have anyone but her serve as their principal assistant and adviser as they were publishing their works. In Nampa, Lodice raised two boys and dedicated much of her time to working for and supporting the Roman Catholic Church in Caldwell and then for the Diocese of Idaho.

When Lodice retired from the church in 2003, she continued her staunch support of her husband's work as legal counsel for Owyhee County; they both made improving Owyhee County the capstone of their labor and life's work over the past few years. Lodice was a pillar of strength for her entire family. Her influence for good and her acts of service benefited countless people who loved her and will miss her energy, friendship, and spirit. She tended people in the same way she lovingly tended her beautiful yard and garden—with tenderness, careful attention, and tireless devotion. I was blessed to know her, and I offer my heartfelt condolences to Fred, their children Andy and Jon, five grandchildren, and family and friends during this difficult time.●

CONGRATULATING DR. WALTER BRYZIK

● Mr. LEVIN. Mr. President, I would like to recognize Dr. Walter Bryzik as he retires after 40 years of service to the men and women of our Armed Forces and our Nation. Since 1968, Dr. Bryzik has held a variety of positions at the U.S. Army Tank-Automotive Research, Development and Engineering Center, TARDEC, in Warren, MI, and is retiring early next year as its chief scientist. His career is one to be admired and he will be surely missed

by all of us who are fortunate enough to have worked closely with him.

As he rose to become the Army's senior technical leader in ground system technology, Dr. Bryzik established a legacy of accomplishment that will be difficult to equal. Ten years ago, he was promoted to the highest scientific professional rank in the Army. In 2004, he was presented with the Distinguished Presidential Rank Award for his leadership and technical contributions to the U.S. Government.

Dr. Bryzik's generation of scientists and engineers, and the technologies and systems they developed, are the forgotten part of America's success in winning the Cold War. I often worry that we aren't doing enough to replace this generation of innovators—especially with the quality of individuals like Dr. Bryzik. However, Dr. Bryzik is making an important contribution to this effort. Outside of TARDEC, he has served on the faculty of Wayne State University as a professor in the Department of Engineering, another example of his commitment to the development of the next generation of our Nation's engineers and to the service of his community.

However, most important among his accomplishments are the technologies that Dr. Bryzik helped develop and transition to soldiers in the field. His efforts have helped give our service men and women the most cutting-edge, effective technology possible, and that has been a critical advantage for our Armed Forces as they engage our adversaries around the world. Most importantly, the technological advancements that Dr. Bryzik has overseen have saved lives.

Throughout his career, Dr. Bryzik has been an invaluable resource to me and my staff. In addition to his insight and expert counsel, he has a remarkable ability to convert highly technical subjects into language that the rest of us can understand! I am told he has mentored at least five generations of my staff and helped them navigate the complexities of the work done at TARDEC and throughout the Army.

I am sure my colleagues will join me in congratulating Dr. Bryzik on an extraordinary career and thanking him for his decades of service to our Nation, the Army and TARDEC.●

100TH ANNIVERSARY OF THE OUACHITA NATIONAL FOREST

● Mrs. LINCOLN. M. President, it is no surprise why Arkansas is called the Natural State. That is because we have been blessed with a tremendous abundance of mountains, hills, streams, rivers, and lakes that contribute to the beauty of our great State. For generations, national parks and outdoor recreation have played a big part in the lives of Arkansans. They also have been the source of our large tourism industry, attracting tens of thousands of visitors to our State to enjoy all that nature offers.

One of the crown jewels of our National Forest System is the Ouachita National Forest. Encompassing 1.8 million acres and stretching from western Arkansas to southeastern Oklahoma, the Ouachita National Forest is the largest and oldest national forest in the South. In fact, on December 18, 2007, the Ouachita National Forest will celebrate its 100th anniversary.

Originally named the Arkansas National Forest, the Ouachita National Forest was created from public lands south of the Arkansas River by President Theodore Roosevelt on December 18, 1907. In 1926, President Calvin Coolidge renamed the forest the Ouachita National Forest to reflect the name of the mountains and river that run primarily through it.

Home to breathtaking mountain views and picturesque streams and lakes, outdoor enthusiasts enjoy recreational activities like camping, boating, biking, and hiking on some of the 37 trails that run throughout the national forest. Its thriving wilderness areas provide ample grounds for fisherman and hunters, including nine different turkey hunting areas throughout the park. The forest also supplies ample timber resources to meet the needs of our Nation.

As the 100th anniversary of the Ouachita National Forest approaches, I wish to express my appreciation for the lasting impact that the national forest has made for the people of Arkansas, Oklahoma, and our great Nation. Ouachita Forest supervisor Norman Wagoner has encouraged citizens to join the park staff in celebrating this historic anniversary at any of the forest's 11 district offices on December 18. The meet and greet will be a wonderful time to reflect on the past contributions of the park and the tremendous role it has played in Arkansas' heritage.●

CASIMIR LENARD

● Ms. MIKULSKI. Mr. President, today I wish to pay tribute to the life and legacy of a great American who passed away last week—Casimir Lenard.

Cas Lenard was an American patriot, who also made a tremendous contribution to strengthening the friendship between the United States and Poland. He served bravely in three U.S. wars. He was a leader in the Polish American Community. He was also a beloved husband to the late Myra Lenard, his partner in life and his partner in his work on behalf of the Polish American community.

Cas Lenard was born in Chicago to a family of Polish immigrants. Like so many children of immigrants, Cas Lenard embraced his country while never forgetting his homeland.

After hearing that the Nazis had invaded Poland in 1939, Cas joined the Chicago Black Horse Troop, 106th Cavalry, Illinois National Guard. Two years later, he requested and was assigned to the 1st U.S. Infantry Division—the first U.S. Army unit to go overseas. From 1942–1945, Cas was engaged in overseas combat duty, participating in the Operation Torch landing at Oran, North Africa, the invasion of Sicily, and in the D-Day amphibious landing at Omaha Beach, Normandy.

After his discharge from the Army in 1945, Cas married his beloved wife, Myra, and began working in the family restaurant business in Chicago. Again heeding the call to service, Cas volunteered for active duty and served for 6 years during the Korean War. In 1962, he was selected for a 5-year tour of active duty with the General Staff at the Pentagon, where he became Chief of the Army Intelligence Reserve Office. Cas then went on to serve in Vietnam and at the U.S. Army Institute of Land Combat at Ft. Belvoir, Virginia.

After 30 years of distinguished service, Cas retired from the military and was awarded many citations, including the Silver Star Medal with Cluster, the Legion of Merit, the Meritorious Service Medal, the Bronze Star Medal with ''V'' for Valor, the French Croix de Guerre with Palm, seven overseas campaign ribbons, and the Normandy Medal of the Jubilee of Liberty.

I got to know Cas and Myra Lenard because of their work with the Polish American Congress—where Cas served as its first executive director in Washington.

Cas and Myra worked tirelessly to support the Solidarity movement in Poland. And when the wall came down, Cas and Myra Lenard were strong advocates for Poland's membership in the North Atlantic Treaty Organization, NATO. The Lenards were there every step of the way—organizing the Polish American community to educate their Senators about how Poland's membership in NATO would strengthen America's security.

For all of his efforts on behalf of Polish Americans and for improving Poland's position in the world, Cas received many awards, including the Commander's Cross of the Order of Merit of the Republic of Poland, the Founders Award by the Polish American Congress, and the Polish American Congress Medal of Freedom.

Cas Lenard's life was a triumph. His legacy is a deep friendship and alliance between the United States and a free, democratic Poland. His children and grandchildren are in my thoughts and prayers.●

TRIBUTE TO FIVE VERMONT COMMUNITY LEADERS

● Mr. SANDERS. Mr. President, today I would like to make you aware of five individuals who were recently recognized at the Central Vermont Community Action Council's annual meeting.

Sergio Colon moved to White River Junction with his two adopted sons after his community in Port Charlotte, FL, was devastated by Hurricane Charlie in 2004. A single father working hard to make ends meet, Sergio at one

point was forced to move his family to a homeless shelter in Vermont. Yet, even while his family relied on social services to get by, he volunteered for multiple organizations just as he had always done in Florida. Sergio has since returned to college to work on his psychology degree and is currently looking for a job in human services so he can continue to help people who are struggling.

Borgi von Trapp has been a leader in her community for many years. In 1993, Borgi, a mother of six children, founded Children First, an organization devoted to designing and implementing creative educational environments for children. A year later, she helped develop the Mad River Green Farmers' Market, a successful incubator for locally owned, innovative, healthy, and creative businesses. Since then it has grown to include more than 50 full time vendors and over 12,000 customers per season. Borgi is a model of community leadership and creative learning.

Sherrie Pomainville was a single mother for 22 years, raising four children on a minimum-wage salary. She knew the value of education and worked to obtain it. With the help of the Reach Up Program, she was one of the first clients to successfully complete the postsecondary Education program and earn a bachelor's degree in social work. In 2002, Sherrie graduated cum laude and was on the National Association for Social Workers Board for 3 years. This has allowed her to make a better life for herself and her children, while at the same time giving back to the community that helped her. She currently works for various community organizations in southwestern Vermont.

Jessica Kelley has been actively involved as a parent volunteer in Head Start and an important advocate for children and families in her community. She has served on the Head Start Policy Council for the past 2 years and last year was elected the parent representative of the Vermont Head Start Association. In this role, Jessica attends statewide meetings and participates in policy discussions and initiatives, such as parent leadership, Head Start reauthorization, and No Child Left Behind legislation.

Lydia Chartier is a tireless community leader in the Northeast Kingdom of Vermont. Presently, she donates most of her time to Lincoln Center Child Care, where she uses her own vast experience to assist support staff and other volunteers. She also serves as an invaluable resource to the Lincoln Center's staff. In addition, Lydia volunteers at her church, her son's school, and on many other community projects. If there is a good community event happening, there can be little doubt that Lydia is aware of it and promoting it. But most of all, Lydia is dedicated to ending poverty and doing whatever it takes to help those in need.

The quality of life in Vermont, and in our Nation, is strengthened by individuals like these five community leaders, men and women who work to improve our communities and who strive to give back to the places in which they live. I commend their great contributions and the contributions of many like them across the nation to our American society.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

The President pro tempore (Mr. BYRD) announced that on today, December 13, 2007, he had signed the following enrolled bills, previously signed by the Speaker of the House:

H.R. 365. An act to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes.

H.R. 4252. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 23, 2008, and for other purposes.

ENROLLED BILL SIGNED

At 11:46 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4343. An act to amend title 49, United States Code, to modify age standards for pilots engaged in commercial aviation operations.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 12:07 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate: .

H.R. 3985. An act to amend title 49, United States Code, to direct the Secretary of Transportation to register a person providing transportation by an over-the-road bus as a motor carrier of passengers only if the person is willing and able to comply with certain accessibility requirements in addition to other existing requirements, and for other purposes.

The message also announced that pursuant to section 4404(c)(2) of the Congressional Hunger Fellows Act of 2002 (2 U.S.C. 1161), and the order of the House of January 4, 2007, the Speaker appoints the following member to the Board of Trustees of the Congressional Hunger Fellows Program for a term of four years: Mr. JAMES P. MCGOVERN of Worcester, Massachusetts.

The message further announced that the House being in possession of the official papers, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H.R. 3093) making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2008, and for other purposes, shall be, and they are hereby, discharged to the end that H.R. 3093 and its accompanying papers, be, and they are hereby, laid on the table.

At 2:55 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H. J. Res. 69. Joint resolution making further continuing appropriations for the fiscal year 2008, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2082) to authorize appropriations for fiscal year 2008 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 7:37 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H. J. Res. 69. Joint resolution making further continuing appropriations for the fiscal year 2008, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3985. An act to amend title 49, United States Code, to direct the Secretary of Transportation to register a person providing transportation by an over-the-road bus as a motor carrier of passengers only if the person is willing and able to comply with certain accessibility requirements in addition to other existing requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4299. An act to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2461. A bill to authorize the transfer of certain earmarked funds to accounts for operations and activities in Iraq and Afghanistan.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2483. A bill to authorize certain programs and activities in the Forest Service,

the Department of the Interior, and the Department of Energy, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 388. A resolution designating the week of February 4 through February 8, 2008, as ''National Teen Dating Violence Awareness and Prevention Week''.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title and with an amended preamble:

S. Res. 396. A resolution expressing the sense of the Senate that the hanging of nooses for the purpose of intimidation should be thoroughly investigated by Federal, State, and local law enforcement authorities and that any criminal violations should be vigorously prosecuted.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

S. 1829. A bill to reauthorize programs under the Missing Children's Assistance Act.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2344. A bill to create a competitive grant program to provide for age-appropriate Internet education for children.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BAUCUS for the Committee on Finance.

Christopher A. Padilla, of the District of Columbia, to be Under Secretary of Commerce for International Trade.

*Benjamin Eric Sasse, of Nebraska, to be an Assistant Secretary of Health and Human Services.

*Christina H. Pearson, of Maryland, to be an Assistant Secretary of Health and Human Services.

*Charles E.F. Millard, of New York, to be Director of the Pension Benefit Guaranty Corporation.

By Mr. AKAKA for the Committee on Veterans' Affairs.

*James B. Peake, of the District of Columbia, to be Secretary of Veterans Affairs.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAYH (for himself and Mr. GRAHAM):

S. 2463. A bill to amend the Immigration and Nationality Act and title 18, United States Code, to combat the crime of alien smuggling and related activities, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 2464. A bill to amend title XVIII of the Social Security Act to provide for coverage of federally recommended vaccines under Medicare part B; to the Committee on Finance.

By Mr. KENNEDY:

S. 2465. A bill to amend title XIX of the Social Security Act to include all public clinics for the distribution of pediatric vaccines under the Medicaid program; to the Committee on Finance.

By Mr. KENNEDY:

S. 2466. A bill to amend the Public Health Service Act to increase the availability of vaccines, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 2467. A bill to amend the Social Security Act, the Federal Food, Drug, and Cosmetic Act, and the Public Health Service Act to ensure a sufficient supply of vaccines, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BARRASSO:

S. 2468. A bill to authorize the Secretary of Agriculture (acting through the Chief of the Forest Service) to enter into a cooperative agreement with the State of Wyoming to allow the State of Wyoming to conduct certain forest and watershed restoration services, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself and Mr. DORGAN):

S. 2469. A bill to amend the Communications Act of 1934 to prevent the granting of regulatory forbearance by default; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself and Mr. SCHUMER):

S. 2470. A bill to amend the Controlled Substances Act to prevent the abuse of dehydroepiandrosterone, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. AKAKA, and Mr. OBAMA):

S. 2471. A bill to amend title 38, United States Code, to improve the enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994, and for other purposes; to the Committee on Veterans' Affairs .

By Mr. DODD (for himself and Mr. SMITH):

S. 2472. A bill to amend the U.S. Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself and Mr. KOHL):

S. 2473. A bill to amend the Employee Retirement Income Security Act of 1974 to provide special reporting and disclosure rules for individual account plans and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORNYN:

S. 2474. A bill to provide additional resources and funding to address inspection delays at United States ports of entry on the Southern border, open additional inspection lanes, hire more inspectors, and provide recruitment and retention incentives for United States customs and Border Protection officers who serve on the Northern and Southern borders; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROBERTS (for himself, Mr. BROWNBACK, and Mr. INHOFE):

S. 2475. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to provide an exception for certain States with respect to the distribution of amounts by the Secretary of the Interior from the Abandoned Mine Reclamation Fund; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON:

S. 2476. A bill to amend the Public Health Service Act to improve immunization rates by increasing the supply of vaccines; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEMINT (for himself, Mr. COBURN, Mr. BROWNBACK, Mr. INHOFE, Mr. BURR, Mr. CORKER, and Mr. VITTER):

S. 2477. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SUNUNU (for himself and Mr. GREGG):

S. 2478. A bill to designate the facility of the United States Postal Service located at 59 Colby Corner in East Hampstead, New Hampshire, as the ''Captain Jonathan D. Grassbaugh Post Office''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BROWN (for himself and Mr. CORNYN):

S. 2479. A bill to catalyze change in the care and treatment of diabetes in the United States; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. HARKIN):

S. 2480. A bill to require the Secretary of Health and Human Services to publicly disclose the identity of long-term care facilities listed under the Special Focus Facility Program of the Centers for Medicare & Medicaid Services; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DURBIN, Ms. STABENOW, Mr. DODD, Ms. MIKULSKI, Mr. KERRY, Mrs. CLINTON, Ms. CANTWELL, Mr. OBAMA, Mr. MENENDEZ, Mr. BROWN, and Mr. CARDIN):

S. 2481. A bill to prohibit racial profiling; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. 2482. A bill to repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 2483. A bill to authorize certain programs and activities in the Forest Service, the Department of the Interior, and the Department of Energy, and for other purposes; read the first time.

By Mr. HATCH (for himself, Ms. MIKULSKI, Mr. ENZI, and Mr. HARKIN):

S. 2484. A bill to rename the National Institute of Child Health and Human Development as the Eunice Kennedy Shriver National Institute of Child Health and Human Development; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. CLINTON (for herself and Mr. NELSON of Florida):

S. Res. 404. A resolution congratulating all member states of the International Commission for the International Tracing Service (ITS) on ratifying the May 2006 protocol granting open access to a vast archives on the Holocaust and other World War II materials, located at Bad Arolsen, Germany; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. BROWNBACK, Mr. COBURN, Mr. CORNYN, Mr. DEMINT, Mr. HATCH, Mr. ROBERTS, Mr. SUNUNU, Mrs. DOLE, Mr. ALLARD, Mr. BUNNING, Ms. SNOWE, Mr. DOMENICI, Mr. MARTINEZ, Mr. ENSIGN, Mr. COLEMAN, Mr. VITTER, Mr. HAGEL, Mr. SHELBY, Mr. THUNE, Mr. BENNETT, Mr. CRAPO, Mr. CRAIG, Mr. SESSIONS, Mr. KYL, Mr. SMITH, Mr. GRAHAM, Mr. INHOFE, and Mr. CORKER):

S. Res. 405. A resolution recognizing the life and contributions of Henry John Hyde; considered and agreed to.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. OBAMA, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 431

At the request of Mr. SCHUMER, the names of the Senator from Maryland (Mr. CARDIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Texas (Mr. CORNYN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 431, a bill to require convicted sex offenders to register online identifiers, and for other purposes.

S. 450

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 450, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 557

At the request of Mr. SCHUMER, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to make permanent the depreciation classification of motorsports entertainment complexes.

S. 762

At the request of Mr. GRASSLEY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 762, a bill to include dehydroepiandrosterone as an anabolic steroid.

S. 805

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 877

At the request of Mr. SCHUMER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 877, a bill to amend the Controlled Substances Act to add human growth hormone to schedule III, to prohibit the sale of prescriptions for controlled substances for illegitimate purposes, and for other purposes.

S. 1097

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1097, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War era.

S. 1125

At the request of Mr. LOTT, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1125, a bill to amend the Internal Revenue Code of 1986 to provide incentives to encourage investment in the expansion of freight rail infrastructure capacity and to enhance modal tax equity.

S. 1580

At the request of Mr. INOUYE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1580, a bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

S. 1711

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1711, a bill to target cocaine kingpins and address sentencing disparity between crack and powder cocaine.

S. 1771

At the request of Mr. PRYOR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1771, a bill to increase the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems, to educate the public about pool and spa safety, and for other purposes.

S. 2071

At the request of Mrs. FEINSTEIN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2071, a bill to enhance the ability to combat methamphetamine.

S. 2119

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2140

At the request of Mr. DORGAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2140, a bill to award a Congressional Gold Medal to Francis Collins, in recognition of his outstanding contributions and leadership in the fields of medicine and genetics.

S. 2243

At the request of Mr. SPECTER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2243, a bill to strongly encourage the Government of Saudi Arabia to end its support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, to secure full Saudi cooperation in the investigation of terrorist incidents, to denounce Saudi sponsorship of extremist Wahhabi ideology, and for other purposes.

S. 2387

At the request of Mrs. FEINSTEIN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2387, a bill to establish guidelines and incentives for States to establish arsonist registries and to require the Attorney General to establish a national arsonist registry and notification program, and for other purposes.

S. 2400

At the request of Mr. THUNE, his name was added as a cosponsor of S. 2400, a bill to amend title 37, United States Code, to require the Secretary of Defense to continue to pay to a member of the Armed Forces who is retired or separated from the Armed Forces due to a combat-related injury certain bonuses that the member was entitled to before the retirement or separation and would continue to be entitled to if the member was not retired or separated, and for other purposes.

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 2400, supra.

S. 2420

At the request of Mr. SCHUMER, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2420, a bill to encourage the donation of excess food to nonprofit organizations that provide assistance to food-insecure people in the United States in contracts entered into by executive agencies for the provision, service, or sale of food.

S. 2439

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2439, a bill to require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

S. 2453

At the request of Mr. ALEXANDER, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2453, a bill to amend title VII of the Civil Rights Act of 1964 to clarify

requirements relating to nondiscrimination on the basis of national origin.

S. 2460

At the request of Mrs. DOLE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2460, a bill to extend by one year the moratorium on implementation of a rule relating to the Federal-State financial partnership under Medicaid and the State Children's Health Insurance Program and on finalization of a rule regarding graduate medical education under Medicaid and to include a moratorium on the finalization of the outpatient Medicaid rule making similar changes.

S. CON. RES. 53

At the request of Mr. ISAKSON, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Florida (Mr. MARTINEZ), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. Con. Res. 53, a concurrent resolution condemning the kidnapping and hostage-taking of 3 United States citizens for over 4 years by the Revolutionary Armed Forces of Colombia (FARC), and demanding their immediate and unconditional release.

S. RES. 396

At the request of Mr. CARDIN, the names of the Senator from Utah (Mr. HATCH), the Senator from Vermont (Mr. LEAHY), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Illinois (Mr. OBAMA), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Iowa (Mr. GRASSLEY), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Oklahoma (Mr. COBURN) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 396, a resolution expressing the sense of the Senate that the hanging of nooses for the purpose of intimidation should be thoroughly investigated by Federal, State, and local law enforcement authorities and that any criminal violations should be vigorously prosecuted.

S. RES. 401

At the request of Mr. LIEBERMAN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. Res. 401, a resolution to provide Internet access to certain Congressional Research Service publications.

S. RES. 402

At the request of Mr. GRASSLEY, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. Res. 402, a resolution recognizing the life and contributions of Henry John Hyde.

AMENDMENT NO. 3674

At the request of Mr. GREGG, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of amendment No. 3674 proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

AMENDMENT NO. 3830

At the request of Mr. KENNEDY, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 3830 proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARRASSO:

S. 2468. A bill to authorize the Secretary of Agriculture (acting through the Chief of the Forest Service) to enter into a cooperative agreement with the State of Wyoming to allow the State of Wyoming to conduct certain forest and watershed restoration services, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BARRASSO. I am proud to introduce the Wyoming Forest and Watershed Restoration Act of 2007. This legislation authorizes cooperative action between the U.S. Forest Service and the State of Wyoming to complete forest health projects on private, State and Federal lands.

Almost half of Wyoming's lands are controlled by Federal agencies. We have over 9 million acres of National Forest lands in Wyoming, including seven National Forests. Our State has a long history of forestry, grazing and multiple use of public lands. Recreation and tourism on our public lands is a pillar of our economy. The people of Wyoming are stewards of our public lands and our State depends on the public lands for our future.

It is my goal to enact common-sense policies that address the needs of Wyoming and sustainable management of our Federal lands. Our forests, like those of all States across the West, are facing management challenges. We have an opportunity to set policies that will encourage forest health.

We face an urgent problem with bark beetle infestation. Forests between Interstate 70 in Colorado and Interstate 80 in Wyoming are being killed by these beetles. We have thousands upon thousands of acres that are dying. On the Medicine-Bow Forest, for instance, over 75,000 acres of trees are infected by bark beetles. Forest Service analysis shows the epidemic could grow to 350,000 acres and cover approximately ⅓ of the forest in the next few years.

We can stem the spread of this infestation and save our forests, with quick action on thousands of acres. That kind of response will take coordinated management among all partners private, State, and Federal. Preventing forest fires, addressing watershed health and conserving wildlife habitat require the same ''big picture'' thinking. We have to address threats like bark beetles by taking on forest health projects on a landscape level.

Resource issues don't stop at fencelines, and neither should our policy.

The Wyoming Forest and Watershed Restoration Act of 2007 would set in place a comprehensive management policy. This act would allow the State of Wyoming to go forward with forest health projects as agreed to by the Forest Service. The agencies can cooperatively pursue projects that address our landscape needs. Private, State, and Federal lands can get the on-the-ground management they desperately need.

I am pleased to introduce this legislation today. It is of great importance to the people of Wyoming. I hope my colleagues will proceed quickly with its passage to enhance our State's response to the growing forest health problems. The people of Wyoming demand on-the-ground results. This legislation can deliver those results. I hope we can pass it expediently.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2468

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wyoming Forest and Watershed Restoration Act of 2007''.

SEC. 2. FOREST AND WATERSHED RESTORATION.

(a) DEFINITIONS.—In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture (acting through the Chief of the Forest Service), with respect to National Forest System land.

(2) STATE.—The term ''State'' means the State of Wyoming.

(b) COOPERATIVE AGREEMENT.—

(1) AUTHORITY OF SECRETARY.—Until September 30, 2017, in accordance with paragraphs (2), (3), and (6), the Secretary may enter into a cooperative agreement or contract (including a sole source contract) with the State to allow the State forester of the State to conduct forest and watershed restoration services on land that is—

(A) under the jurisdiction of the Secretary; and

(B) located in the State.

(2) PROJECT BASIS.—Each restoration service that is the subject of a cooperative agreement or contract described in paragraph (1) shall be—

(A) carried out on a project-to-project basis; or

(B) made ready to be carried out under any existing authority of the Secretary.

(3) AUTHORIZED SERVICES.—In carrying out services in accordance with a cooperative agreement or contract entered into between the Secretary and the State under paragraph (1), the State shall conduct certain appropriate services, including—

(A) the treatment of insect-infected trees;

(B) the reduction of hazardous fuels; and

(C) any other activity designed to restore or improve a forest or watershed (including any fish or wildlife habitat), as determined by the Secretary.

(4) STATE AS AGENT.—

(A) IN GENERAL.—Except as provided in paragraph (6), a cooperative agreement or contract entered into by the Secretary and the State under paragraph (1) may allow the State forester of the State to serve as an agent of the Forest Service in carrying out any service described in paragraph (3).

(B) AUTHORITY TO SUBCONTRACT.—In accordance with the laws of the State, in carrying out any authorized service described in paragraph (3), the State forester of the State may enter into a subcontract with any other entity to carry out the services of the State forester of the State.

(5) APPLICABILITY OF NATIONAL FOREST MANAGEMENT ACT OF 1976.—Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to any service performed by the State forester of the State in accordance with a cooperative agreement or contract entered into by the Secretary and the State under paragraph (1).

(6) RETENTION OF CERTAIN RESPONSIBILITIES.—With respect to any authorized service described in paragraph (3), the Secretary, through a cooperative agreement or contract entered into by the Secretary and the State under paragraph (1), shall not allow the State to make any decision required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

By Mr. KENNEDY (for himself, Mr. AKAKA, and Mr. OBAMA):

S. 2471. A bill to amend title 38, United States Code, to improve the enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994, and for other purposes; to the Committee on Veterans' Affairs.

Mr. KENNEDY. Mr. President, since the terrorist attacks of 9/11, more than 1.5 million of our servicemen and women have been sent to Iraq, Afghanistan, and other nations. We have mobilized more than 630,000 members of the National Guard and Reserves, including 92,000 who are on active duty right now.

These service men and women have courageously defended our country overseas, but tens of thousands of them have come home to find that they have lost their employment benefits or even their jobs, and the Government has failed to defend their rights.

Today, Senator Daniel Akaka and I are introducing legislation to guarantee that veterans won't have to wait years for the Government to act to restore their benefits or return to work.

Thirteen years ago, Congress enacted the Uniformed Services Employment and Reemployment Rights Act, specifically to protect our servicemembers when they return home. We understood that, to maintain strong focus and a strong National Guard and Reserves, servicemembers needed confidence that they could return to their civilian jobs when they came home from their tours of duty. That legislation was a clear promise that the Federal Government would step in and defend servicemembers who were wrongly denied their jobs or benefits. We pledged that the Department of Labor would investigate violations of the act, and that if employers refused to follow the law, the Attorney General would take employers to court to protect our servicemembers' rights.

Today, however, the administration has clearly broken that promise to enforce the law and get our veterans back to work.

Last month, during a Senate Committee hearing, I released a Department of Defense survey showing that for tens of thousands of veterans, their service to our country has cost them the salary they deserve, their health care, their pensions, or even their jobs. Among members of the Reserves and National Guard, nearly 11,000 were denied prompt reemployment. More than 22,000 lost seniority and rightful pay. Nearly 20,000 had their pensions reduced. More than 15,000 did not receive the training they needed to resume their former jobs. Nearly 11,000 did not get their health insurance back.

The problem is that employers aren't following the law, and Federal agencies aren't effectively enforcing it. Mr. President, 38 percent of servicemembers who asked the Department of Labor to defend their rights did not receive a prompt response. Servicemembers are forced to wait months or years even to find out whether the Government will agree to represent them and defend their rights. One veteran waited 7 years before the Department of Labor told him whether it would take his case to court. No veteran can afford to wait seven months to return to work or have his health insurance reinstated, let alone wait 7 years.

With these unbelievable delays, it is not surprising that 44 percent of servicemembers who asked the Department of Labor for help said that they were dissatisfied with the assistance they received. When servicemen and women hear about these delays, they ask themselves, ''Why should I even bother to ask for help.''

In fact, the Pentagon tells us that 77 percent of servicemembers whose rights are violated don't contact anyone to defend their rights. They simply give up. Nearly half of them say that they have no confidence that the Government will resolve their problems, or that it is just not worth the effort.

Even worse, a quarter of them don't even know where they can go for help. It is beyond dispute that the administration has broken its promise to help them.

Our veterans deserve better than this. They deserve to know that their Government is working as quickly as possible to get them back to work and restore their benefits.

The current law needs reform as well. It makes no sense to have four different agencies tracking the problems of our servicemembers in four different ways. We also need to know whether disabled veterans are being properly assisted in making their own difficult transition back to work.

It is time for the administration to keep its promise, and end the long delays for veterans who need help in defending their rights. The bill that Senator AKAKA and I are introducing imposes timely and reasonable deadlines on Federal agencies to investigate complaints, to attempt to resolve them, and, if necessary, to refer them for litigation.

The legislation also makes the Federal enforcement of the law more transparent and responsive to the needs of veterans. It assures veterans that they won't have to wait years for an answer about whether they will receive the help they deserve.

By imposing timely deadlines on the Federal agencies, we are also stepping up the pressure on employers that violate the rights of our brave soldiers. With these new deadlines, employers won't be able to drag their heels as the Department of Labor spends months or years investigating violations. They will know that they have to settle each veteran's case quickly and fairly, or else face the U.S. Government in court.

The legislation also implements a number of reforms recommended by the Government Accountability Office—reforms that have received bipartisan support in the House of Representatives. In particular, our bill requires agencies to gather and report information on these cases in a uniform manner, so that we can understand trends and better address the needs of each servicemember. Agencies will also be required to report on cases involving veterans with disabilities, so that we have accurate information on the reemployment problems of our wounded soldiers.

Enacting this legislation alone obviously won't end the job discrimination that too many servicemembers face when they come home. But it will certainly improve the assistance they receive in obtaining the help they have earned and deserve.

Our legislation has the support of the Nation's largest veterans' organization, the American Legion, which emphasizes that the ''enforcement of veterans' employment and reemployment rights . . . can only be achieved through aggressive oversight and timely investigation.'' This legislation, the American Legion says, will ''strengthen veterans' employment and reemployment rights'' by imposing ''timely, realistic deadlines on Federal agencies to process'' their claims. We are proud to have the American Legion's support for this legislation.

We know we can never truly repay our veterans for their immense sacrifices. They have fought hard for our country, and it is up to us to fight just as hard for them when they return home to the heroes' welcome they so justly deserve. An important part of that welcome is keeping the promise that we made to them to protect their employment rights when they return.

That is what this legislation seeks to do, and I urge my colleagues to enact it as soon as possible.

Mr. AKAKA. Mr. President, I am pleased to join with my good friend and distinguished colleague from Massachusetts, Senator KENNEDY, in introducing S. 2471, the proposed USERRA Enforcement Improvement Act of 2007. This measure is intended to make substantial improvements in the manner in which claims made under the Uniformed Services Employment and Reemployment Rights Act of 1994—USERRA—are processed and to help ensure that individuals' complaints are addressed in a prompt and efficient manner.

Our troops are returning home from battle, and many of them seek to return to the jobs that they held prior to their military service, particularly those serving in Guard and Reserve units. USERRA, which is set forth in chapter 43 of title 38, U.S. Code, provides these servicemembers with certain protections. USERRA also sets out certain responsibilities for employers, including to reemploy returning veterans in their previous jobs.

As Chairman of the Senate Veterans' Affairs Committee, I held two hearings earlier this year on issues relating to veterans' employment, including one focusing exclusively on the pilot project for processing USERRA claims in the Federal sector and the jurisdictional questions involving the Department of Labor and the Office of Special Counsel. I must admit to being particularly upset with the volume of USERRA claims related to Federal service. It is simply wrong that individuals who were sent to war by their Government should, upon their return, be put in the position of having to do battle with that same Government in order to regain their jobs and benefits.

Out of those hearings, and an oversight hearing held by the Senate Health, Education, Labor, and Pension Committee, chaired by Senator KENNEDY, we have learned a great deal about the manner in which USERRA claims are investigated, resolved, or referred to other appropriate entities for enforcement actions. By and large, the process is seamless and frequently involves employer education in terms of helping them understand their obligations under the law. Still too often, many claims are quite complicated and involve what are sometimes called ''escalator claims,'' where an individual is seeking to be re-instated in a position with quite complicated benefits, seniority, health care and fiduciary issues. I believe that anytime an individual is denied their USERRA rights is one time too many. However, I understand that the confusion and misunderstanding that can exist for the employer—particularly a small employer or one who may only have one employee who is a member of the Guard or reserve—can be frustrating.

The legislation we are introducing today seeks to establish reasonable time frames for the USERRA process. When veterans turn to the government to protect their employment rights, they deserve solutions, not delays. It is my hope that this legislation will assist the federal government in protecting the employment rights of veterans.

Our legislation would, in brief, require those filing complaints to be notified within 5 days of the establishment of a claim, require that complaints be investigated and a decision made with respect to the need for further referral within 90 days, and require prompt referral to other agencies. The Government Accountability Office would be required to submit quarterly reports on the processing of claims. Finally, data collected by the Employers' Support of the Guard and Reserve, a voluntary organization within the Department of Defense, would be required to be included in the Secretary of Labor's annual report on USERRA. With respect to this ESRG reporting requirement, it should be noted that this provision has already passed both bodies in the context of the pending conference agreement on the National Defense Authorization Act for fiscal year 2008, and it is included here in the event that legislation is not enacted.

I stress that our goal is to improve the current process. We want in no way to place strictures on the program that might result in less than satisfactory consideration and pursuit of claims. I intend to pursue the concerns of all of those involved in these claims—the Departments of Labor, Defense, and Justice, the Office of Personnel Management and the Office of the Special Counsel—through the legislative process in the next session. Should the need for refinements in the measure as it is introduced today become apparent, they will be carefully considered. I know that the Senator from Massachusetts will join me in that endeavor.

By Mr. DODD (for himself and Mr. SMITH):

S. 2472. A bill to amend the U.S. Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, I am pleased to rise today with my colleague Senator GORDON SMITH to introduce the Global Pediatric HIV/AIDS Prevention and Treatment Act. Millions across the world recently observed the 20th World AIDS Day on December 1, a day of mourning, solidarity, and hope: mourning for the more than 25 million killed already in the AIDS pandemic; solidarity with the 33.2 million living with HIV today; and hope that this plague will be conquered in our time—with an achievable goal of realizing the birth of an HIV-free generation.

In the U.S., we have reached a point where a child living with HIV/AIDS no longer faces certain death. Thanks to anti-retroviral, ARV, therapy, many children born infected with HIV/AIDS now have the opportunity to grow up healthy. However, long-term survival is a dream that eludes most of the 2.5 million HIV-infected children around the world.

Of the more than 2.5 million new HIV infections in 2007, more than 420,000 were in children. But while children account for almost 16 percent of all new HIV infections, they make up only 9 percent of those on treatment under the President's Emergency Plan for AIDS Relief, PEPFAR. Without proper care and treatment, half of these newly-infected children will die before their second birthday and 75 percent will die before their fifth.

Every day, approximately 1,100 children across the globe are infected with HIV, the vast majority through mother-to-child transmission during pregnancy, labor or delivery or soon after through breastfeeding. Approximately 90 percent of these infections occur in Africa. With no medical intervention, HIV-positive mothers have a 25 to 30 percent chance of passing the virus to their babies during pregnancy and childbirth. Yet, a single dose of an ARV drug given once to the mother at the onset of labor and once to the baby during the first three days of life reduces transmission of HIV by approximately 50 percent. Providing the full range of interventions, as is the standard of care in the U.S., can further reduce the rate of mother-to-child transmission of HIV to as little as 2 percent. However, according to UNAIDS, the Joint United Nations Programme on HIV/AIDS, less than 10 percent of pregnant women with HIV in resource-poor countries have access to prevention of mother-to-child transmission, PMTCT, services.

Significant barriers to PMTCT and the equal care and treatment of HIV-infected children continue to exist. Among the barriers to PMTCT services is their poor integration into the healthcare system, the lack of infrastructure and poor quality health facilities, low utilization of pre-natal services, and a high percentage of unattended at-home births. Because children are not just small adults, providing care and treatment presents special challenges such as limited access to reliable HIV testing for the youngest children, a shortage of providers trained in delivering pediatric care, weak linkages between services to prevent mother-to-child transmission and care and treatment programs, and the need for additional, low-cost formulations of HIV/AIDS medications.

The unfortunate reality of current HIV/AIDS treatment programs is that they will become unsustainable in the long-term unless the number of new HIV infections is reduced globally. The importance of PMTCT for the prevention of the spread of HIV cannot be overstated. According to UNAIDS, prevention of mother-to-child HIV transmission requires a comprehensive package of services that includes preventing primary HIV infection in

women, preventing unintended pregnancies in women with HIV infection, preventing transmission from HIV-infected pregnant women to their infants, and providing care, treatment and support for HIV-infected women and their families. A 2003 study found that by adding family planning through PMTCT services in 14 high prevalence countries, more than 150,000 unintended pregnancies were averted, child infections averted nearly doubled, and child deaths averted nearly quadrupled. Studies also show that current levels of contraceptive use in sub-Saharan Africa are already preventing an estimated 22 percent of HIV-positive births.

For many pregnant mothers, PMTCT services may be the only entry point for health care services for themselves and their families. That is why it is essential that PMTCT services be integrated with prevention, care and treatment services. With adequate integration of those services and strategies to ensure successful follow-up and continuity of care, we can significantly improve the outcomes for HIV-affected women and families.

The legislation I am introducing today, the Global Pediatric HIV/AIDS Prevention and Treatment Act, will help prevent thousands of new pediatric HIV infections in the years to come and improve the treatment of children living with HIV/AIDS throughout the world. The legislation will bring our international HIV/AIDS efforts in line with the infection rate of children, by establishing a target that, within 5 years, 15 percent of those receiving care and treatment under PEPFAR should be children.

The legislation establishes another 5-year target to help prevent mother-to-child transmission of HIV. In those countries most affected, 80 percent of pregnant women should receive HIV counseling and testing, with all those testing positive receiving antiretroviral medication for the prevention of mother-to-child transmission of HIV.

Under the legislation, the U.S. comprehensive, 5-year global strategy to combat global HIV/AIDS must also integrate prevention, care and treatment with prevention of mother-to-child transmission programs, as soon as feasible and consistent with the national government policies of the foreign countries of PEPFAR countries in order to improve outcomes for HIV-affected women and families and to promote follow-up and continuity of care.

Lastly, the legislation authorizes the creation of a Prevention of Mother-to-Child Transmission Expert Panel to provide an objective review of PMTCT activities funded under PEPFAR and to provide recommendations to the Office of the Global AIDS Coordinator for scale-up of mother-to-child transmission prevention services under PEPFAR in order to reach the newly-established target for PTMCT. The Panel consists of no more than 15 members, to be appointed by the coordinator, and will terminate once it submits its report containing recommendations, findings and conclusions to the coordinator, Congress, and is made public.

To be clear, this legislation does not establish any earmarks within PEPFAR. It does not dictate how much money should be spent on specific activities. I, for one, oppose the current policy under PEPFAR which dictates that one-third of all prevention funds be reserved for abstinence-until-marriage programs, to the detriment of other more effective programs that are producing better results. Certainly abstinence programs have a role to play in PEPFAR, but they should not draw funding away from other, more effective programs. Therefore, it is my hope that Congress does away with that earmark when it reauthorizes PEPFAR, and instead allows for flexibility within PEPFAR.

Instead, the legislation sets 5-year targets that are focused on those receiving services without specifying how much money any given country should spend on specific services to reach the target. I believe this approach is consistent with the April 2007 Institute of Medicine report on PEPFAR which called on Congress to replace arbitrary budget directives with specific targets accounting for the unique epidemics in specific countries, as well as existing available resources. Removal of budget restrictions and the implementation of program targets, such as those authorized under this legislation, would allow local providers to invest in the services and activities most needed to achieve national goals for prevention, care, and treatment.

The struggle against this disease continues on all fronts. Just recently, a report showed that right here in Washington, D.C., the city is in the grip of a ''modern epidemic,'' with one in 20 residents HIV-infected, a rate ten times the national average. In my own State of Connecticut, the need for care and treatment services is at an all time high, while the funding to meet this increased need has declined.

As we take stock of the HIV/AIDS pandemic and our progress against it, we must bear in mind the special vulnerability of the world's children. With this legislation we can increase the number of children receiving care and treatment under PEPFAR and expand access to PMTCT services in order to prevent thousands of new pediatric HIV infections.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2472

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Global Pediatric HIV/AIDS Prevention and Treatment Act''.

SEC. 2. FINDINGS.

Section 2 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (26 U.S.C. 7601) is amended—

(1) in paragraph (3), by adding at the end the following:

''(D) In 2007, the rate at which children accessed treatment failed to keep pace with new pediatric infections. While children account for almost 16 percent of all new HIV infections, they make up only 9 percent of those receiving treatment under this Act.'';

(2) by amending paragraph (16) to read as follows:

''(16) Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS, such as voluntary counseling and testing, are achieving meaningful results and are cost-effective. The challenge is to expand these interventions to a national basis in a coherent and sustainable manner.''; and

(3) by amending paragraph (20) to read as follows:

''(20) With no medical intervention, mothers infected with HIV have a 25 to 30 percent chance of passing the virus to their babies during pregnancy and childbirth. A simple and effective intervention can significantly reduce mother to child transmission of HIV. A single dose of an anti-retroviral drug given once to the mother at the onset of labor, and once to the baby during the first 3 days of life reduces transmission by approximately 50 percent. Other more complex drug regimens can further reduce transmission from mother-to-child. A dramatic expansion of access to prevention of mother-to-child transmission services is critical to preventing thousands of new pediatric HIV infections.''.

SEC. 3. POLICY PLANNING AND COORDINATION.

Section 101(b)(3) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7611(b)(3)) is amended by adding at the end the following:

''(X) A description of the activities that will be conducted to achieve the targets described in paragraphs (1) and (2) of section 312(b).''.

SEC. 4. BILATERAL EFFORTS.

(a) ASSISTANCE TO COMBAT HIV/AIDS.—Section 104A of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2) is amended—

(1) in subsection (d)(1)—

(A) by amending subparagraph (E) to read as follows:

''(E) assistance to—

''(i) achieve the target described in section 312(b)(1) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; and

''(ii) promote infant feeding options for HIV positive mothers that are consistent with the most recent infant feeding recommendations and guidelines supported by the World Health Organization ;'';

(B) in subparagraph (G), by striking ''and'' at the end;

(C) in subparagraph (H), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(I) assistance to achieve the target described in section 312(b)(2) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.''; and

(2) in subsection (e)(2)(C)—

(A) in clause (iii), by striking ''and'' at the end;

(B) in clause (iv), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(v) the number of HIV-infected children currently receiving antiretroviral medications in each country under the United

States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.''.

(b) ASSISTANCE TO CHILDREN AND FAMILIES.—Subtitle B of Title III of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7651 et seq.) is amended by striking sections 311 and 312 and inserting the following:

''SEC. 311. FINDINGS.

''Congress makes the following findings:

''(1) Every day, approximately 1,100 children around the world are infected with HIV, the vast majority through mother-to-child transmission during pregnancy, labor or delivery or soon after through breast-feeding. Approximately 90 percent of these infections occur in Africa.

''(2) With no medical intervention, mothers infected with HIV have a 25 to 30 percent chance of passing the virus to their babies during pregnancy and childbirth. A single dose of an anti-retroviral drug given once to the mother at the onset of labor, and once to the baby during the first 3 days of life reduces transmission by approximately 50 percent.

''(3) Providing the full range of interventions, as is the standard of care in the United States, could reduce the rate of mother-to-child transmission of HIV to as little as 2 percent.

''(4) Global coverage of services to prevent transmission from mother-to-child remains unacceptably low. The Joint United Nations Program on HIV/AIDS (UNAIDS) reports that fewer than 10 percent of pregnant women with HIV in resource-poor countries have access to prevention of mother-to-child transmission services.

''(5) Prevention of mother-to-child transmission programs provide health benefits for women and children beyond preventing the vertical transmission of HIV. They serve as an entry point for mothers to access treatment for their own HIV infection, allowing them to stay healthy and to care for their children. Efforts to connect and integrate prevention of mother-to-child transmission and HIV care, treatment and prevention programs are crucial to achieving improved outcomes for HIV-affected and HIV-infected women and families.

''(6) Access to comprehensive HIV prevention services must be drastically scaled-up among pregnant women infected with HIV and pregnant women not infected with HIV to further protect themselves and their partners against the sexual transmission of HIV/AIDS.

''(7) Preventing unintended pregnancy among HIV-infected women is recognized by the World Health Organization and the Office of the United States Global AIDS Coordinator to be an integral component of prevention of mother-to-child transmission programs. To further reduce infection rates, women accessing prevention of mother-to-child transmission services must have access to a range of high-quality family planning and reproductive health care, so they can make informed decisions about future pregnancies and contraception.

''(8) In 2007, the rate at which children were accessing treatment failed to keep pace with new pediatric infections. While children account for almost 16 percent of all new HIV infections, they make up only 9 percent of those on treatment under this Act.

''(9) Of the more than 2,500,000 people who were newly infected with HIV in 2007, more than 420,000 were children.

''(10) Without proper care and treatment, half of newly HIV-infected children will die before they reach 2 years of age, and 75 percent will die before 5 years of age.

''(11) Because children are not just small adults, providing HIV care and treatment presents special challenges, including—

''(A) limited access to reliable HIV testing for the youngest children;

''(B) a shortage of providers trained in delivering pediatric care;

''(C) weak linkages between services to prevent mother-to-child transmission and care and treatment programs; and

''(D) the need for low-cost pediatric formulations of HIV/AIDS medications.

''SEC. 312. POLICY AND REQUIREMENTS.

''(a) POLICY.—

''(1) IN GENERAL.—The United States Government's response to the global HIV/AIDS pandemic should place high priority on—

''(A) the prevention of mother-to-child transmission of HIV/AIDS; and

''(B) the care and treatment of all children affected by HIV/AIDS, including children orphaned by AIDS.

''(2) COLLABORATION.—The United States Government should work in collaboration with foreign governments, donors, the private sector, nongovernmental organizations, and other key stakeholders.

''(b) REQUIREMENTS.—The comprehensive, 5-year, global strategy required under section 101 shall—

''(1) establish a target for prevention of mother-to-child transmission efforts that by 2013, in those countries most affected by HIV—

''(A) 80 percent of pregnant women receive HIV counseling and testing; and

''(B) all of the pregnant women receiving HIV counseling and testing who test positive for HIV receive anti-retroviral medications for prevention of mother-to-child transmission of HIV;

''(2) establish a target requiring that by 2013, children account for at least 15 percent of those receiving treatment under this Act;

''(3) integrate prevention, care, and treatment with prevention of mother-to-child transmission programs, as soon as feasible and consistent with the national government policies of the foreign countries in which programs under this Act are administered, to improve outcomes for HIV-affected women and families and to promote follow-up and continuity of care;

''(4) expand programs designed to care for children orphaned by AIDS; and

''(5) develop a time line for expanding access to more effective mother-to-child transmission prevention regimens, consistent with the national government policies of the foreign countries in which programs under this Act are administered and the goal of moving towards universal use of such regimens as rapidly as possible.

''(c) APPLICATION OF REQUIREMENTS.—All strategic planning documents and bilateral funding agreements developed under the authority of the Office of the United States Global AIDS Coordinator, including country operating plans and any subsequent mechanisms through which funding under this Act is obligated, shall be consistent with, and in furtherance of, the requirements under subsection (b).

''(d) PREVENTION OF MOTHER-TO-CHILD TRANSMISSION EXPERT PANEL.—

''(1) ESTABLISHMENT.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally (referred to in this section as the 'Coordinator') shall establish a panel of experts to be known as the Prevention of Mother to Child Transmission Panel (referred to in this section as the 'Panel') to—

''(A) provide an objective review of activities to prevent mother-to-child transmission of HIV that receive financial assistance under this Act; and

''(B) provide recommendations to the Coordinator and to the appropriate committees of Congress for scale-up of mother-to-child transmission prevention services under this Act in order to achieve the target established in subsection (b)(1).

''(2) MEMBERSHIP.—The Panel shall be convened and chaired by the Coordinator, who shall serve as a nonvoting member. The Panel shall consist of not more than 15 members (excluding the Coordinator), to be appointed by the Coordinator not later than 60 days after the date of the enactment of this Act, including—

''(A) 2 members from the Department of Health and Human Services with expertise relating to the prevention of mother-to-child transmission activities;

''(B) 2 members from the United States Agency for International Development with expertise relating to the prevention of mother-to-child transmission activities;

''(C) 2 representatives from among health ministers of national governments of foreign countries in which programs under this Act are administered;

''(D) 3 members representing organizations implementing prevention of mother-to-child transmission activities under this Act;

''(E) 2 health care researchers with expertise relating to global HIV/AIDS activities; and

''(F) representatives from among patient advocate groups, health care professionals, persons living with HIV/AIDS, and non-governmental organizations with expertise relating to the prevention of mother-to-child transmission activities, giving priority to individuals in foreign countries in which programs under this Act are administered.

''(3) DUTIES OF PANEL.—The Panel shall—

''(A) review activities receiving financial assistance under this Act to prevent mother-to-child transmission of HIV and assess the effectiveness of current activities in reaching the target described in subsection (b)(1);

''(B) review scientific evidence related to the provision of mother-to-child transmission prevention services, including programmatic data and data from clinical trials;

''(C) review and assess ways in which the Office of the United States Global AIDS Coordinator and programs funded under this Act collaborate with international and multilateral entities on efforts to prevent mother-to-child transmission of HIV in affected countries;

''(D) identify barriers and challenges to increasing access to mother-to-child transmission prevention services and evaluate potential mechanisms to alleviate those barriers and challenges;

''(E) identify the extent to which stigma has hindered pregnant women from obtaining HIV counseling and testing or returning for results, and provide recommendations to address such stigma and its effects;

''(F) identify opportunities to improve linkages between mother-to-child transmission prevention services and care and treatment programs;

''(G) evaluate the adequacy of financial assistance provided under this Act for mother-to-child transmission of HIV prevention services; and

''(H) recommend levels of financial assistance and specific activities to facilitate reaching the target described in subsection (b)(1).

''(4) REPORT.—

''(A) IN GENERAL.—Not later than 14 months after the date of the enactment of this Act, the Panel shall submit a report containing a detailed statement of the recommendations, findings, and conclusions of the Panel to the appropriate congressional committees.

''(B) AVAILABILITY.—The report submitted under subparagraph (A) shall be made available to the public.

''(C) CONSIDERATION BY COORDINATOR.—The Coordinator shall—

''(i) consider any recommendations contained in the report submitted under subparagraph (A); and

''(ii) include in the annual report required under section 104A(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(e)) a description of the activities conducted in response to the recommendations made by the Panel and an explanation of any recommendations not implemented at the time of the report.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Panel such sums as may be necessary for each of the fiscal years 2009 through 2011 to carry out this section.

''(6) TERMINATION.—The Panel shall terminate on the date that is 60 days after the date on which the Panel submits the report to Congress under paragraph (4).''.

(c) ANNUAL REPORT ELEMENTS.—Section 313(b)(2) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7653(b)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(E) coordination and collaboration with governments, donors, the private sector, nongovernmental organizations, and other key stakeholders to achieve the target described in section 312(b)(1); and

''(F) the number of women offered and receiving the 4 components of a comprehensive strategy to prevent mother-to-child transmission of HIV, as recommended by the World Health Organization.''.

By Mr. HARKIN (for himself and Mr. KOHL):

S. 2473. A bill to amend the Employee Retirement Income Security Act of 1974 to provide special reporting and disclosure rules for individual account plans and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I am here today to introduce, along with Senator KOHL, the Defined Contribution Fee Disclosure Act. This legislation is designed to address what may seem at first glance like a small issue, but in fact has a dramatic impact on the retirement security of millions of Americans who have 401(k) plans. Not many people realize this, but the Employee Retirement Income Security act, ERISA, does not require plan sponsors to provide participants with information on the level of fees that participants are charged by the various plans they have to choose between.

The number of people participating in defined contribution plans grows every year, and unfortunately, these plans are a bigger part of their nest egg as employers freeze their defined benefit plans. One of the key challenges as we move away from guaranteed benefits is making sure people have all the relevant information to help them decide which plan will best serve their needs. Recently, AARP conducted a survey in which it asked individuals with 401(k) plans if they even knew what they paid each year in fees. Only 17 percent of people asked said that they know what their fee levels were.

This is far from an academic matter. In fact, this could be disastrous for folks when they reach retirement. One person—who wishes to remain anonymous—recently shared with me a story that highlights what's at stake. She noticed one day that her 401(k) wasn't actually earning anything at all. After some examination, she found that the agent who set up the plan for the company received a fee of 2 percent annually for the first five years, reduced to .25 percent after that, paid by the employees and not the company. The investment firm charged a fee of 1.25 percent which they said was standard for companies with under $1 million in their 401ks. So, last year, she was paying 3.25 percent in fees and earning less than 4 percent from her money market fund. She didn't have a clue about the fees until she inquired after she realized she wasn't making any money on the fund.

So looking back at this AARP survey, of those 17 percent who said they knew what their fees were, 33 percent thought they weren't being charged any fees at all. Some companies will even tell people they are not being charged fees. While it is true that in some cases, employers pay fees, that is hardly the norm. And investment managers don't do their jobs for charity. These fees that people don't know about can have a big effect on what they end up with at retirement.

The U.S. Government Accountability Office recently estimated that a 45 year old with $20,000 in his 401(k) would have $70,555 at age 65 for his retirement, assuming he was getting a 6.5 percent return and only paying 0.5 percent in fees. But that figure decreases dramatically if the fees are increased by just a single percentage point, to 1.5 percent. At that figure the same individual, investing the same amount of money, would have only $58,400 for his retirement, or more than $12,000 less.

AARP took the GAO assumptions and created some additional examples. Consider this case: if a 35 year old invested $20,000 in a 401(k) plan over 30 years, paying 0.5 percent in fees, that individual would have $132,287 for retirement. But increase the fees to 1.5 percent, and the amount available for retirement is only $99,679—that is a 25 percent reduction in the account balance. Even if the fee only increased from 0.5 percent to 1 percent, the value of the retirement account would be reduced by $17,417, or a little over 13 percent over the 30-year period.

If you awoke one day to find that your bank account, or your retirement account, had declined in value by 25 percent, you would understandably be alarmed, and you would act quickly to fix the problem. But with high 401(k) fees, the reduction in benefits isn't immediately obvious. It happens slowly, over time, and often flies under people's radar screens because they are not told the level of fees they are paying, or they don't understand that some 401(k) plans charge far lower fees for providing the same amount of services. It is that problem—that information gap—that the Defined Contribution Fee Disclosure Act is designed to fix.

My bill would provide participants with easily understandable information about the fees that they are paying. This information will be provided to them before they pick which plans they want to invest in, and again, regularly, on their quarterly statements.

In addition, this bill does something even more important: it would require companies to disclose more information to plan sponsors. Right now, if you provide your workers with a 401(k) plan, you are required to act prudently and in their sole interest in your fiduciary duties. However, there are hidden fees that are sometimes not disclosed even to plan sponsors, and sometimes those sponsors also are not told about business arrangements between service providers to steer participants into investment options in which they have a stake, a classic conflict of interest.

To fix this, the bill would require 401(k) plan providers to disclose all fees and relationships between service providers to the people selecting the plan a company will ultimately offer. The bottom line is that we want to create a situation where companies are picking several good options for their employees that all have decent reliable returns and fair fees.

One thing my bill does not do is set a limit on fees that can be charged. As I have noted, high fees can make a real difference in account balances at retirement, but so can high returns, in a more positive direction, obviously. Sometimes, it is well worth paying higher fees if a small increase in fees will have a big effect on returns. In addition, some people want to purchase insurance products so that every month, they are buying a more secure piece of retirement. That is just fine, and my bill doesn't touch that. People who fully understand the real cost of a guaranteed return at retirement are the kind of people who appreciate, and will push for, more defined benefit plans. But they can't do that if they don't know what it costs.

The bottom line is that people need to be investing more, and more confidently, in the 401(k) plans they are being offered. This is especially critical in a world where defined benefit plans are increasingly being slashed and frozen. For a growing number of workers, their only source of retirement income is their 401(k).

Congress needs to focus more squarely on how we get workers to participate in the plans they have available, and what we can do to make sure the savings they grow in them are adequate. When people know they are being given all the facts in an easy-to-understand manner, they are more likely to contribute. And when the fiduciaries who are supposed to be looking out for them make sure all of their

options are good, they end up saving more money at the end of the day.

This bill is a win for companies who want to provide their workers with a secure retirement, it is a win for 401(k) providers who have been providing reasonable fees all along, and it is a win for every American who has one of these plans. My colleagues and I introducing this measure have worked with interested parties on every side of this issue to make sure we're taking into account everyone's views. We also intend to work closely with the Department of Labor on their proposed regulations on this issue. While we believe that Congress has an obligation to address this issue, if we can all work together to develop regulations that address this issue in a way that will truly help participants and beneficiaries get a good deal, I am certainly not opposed to getting this done administratively. I strongly encourage my colleagues to cosponsor this measure.

Mr. KOHL. Mr. President, I rise today to bring attention to the hidden fees associated with 401(k) plans, an important issue affecting the retirement security of millions of Americans. These fees, currently not disclosed to plan participants, can have a drastic effect on one's retirement savings.

More and more Americans are relying on defined contribution plans, such as 401(k) plans, to provide their retirement income. Although these plans have only been in existence since the 1980s, they now cover over 50 million people and exceed $2.5 trillion in total assets. Of those private sector workers with any type of retirement benefit; two thirds have only their 401(k) savings to secure their financial wellbeing in retirement.

Although 401(k)s have become the primary pension fund for most Americans, there are few requirements for fee disclosure to fund managers, and there are absolutely no regulations requiring that plan participants be notified about how much they are paying in fees. Most fees are either absent or obscured in participant statements and investment reports. Not surprisingly, studies have shown that fewer than one in five participants know the fees they are paying. Unfortunately, this lack of disclosure and lack of understanding can have serious consequences on an individual's retirement savings.

The slightest difference in fees can translate into a staggering depletion in savings, greatly affecting one's ability to build a secure retirement. According to the Congressional Research Service, families who save their retirement funds in high-fee accounts could have one-quarter less in retirement than those who work for employers who offer low-fee accounts. For couples who save over their entire lifetime, the CRS study found that an annual fee of 2 percent could reduce savings by nearly $130,000, compared to a more reasonable fee of 0.4 percent.

Today, Senators HARKIN and I are introducing the Defined Contribution Fee Disclosure Act of 2007. We believe consumers have the right to clearly know how much products and services are costing them. Our bill will help shed some light on these fees by requiring complete transparency to both employers and participants. This will allow employers to negotiate with pension fund managers, in order to get the lowest possible fees for their employees. Participants will be able to make informed choices between investment options and potentially increase their retirement savings by thousands of dollars. Ultimately, this legislation will help lower costs for everyone by fostering competition among pension managers.

I strongly encourage my colleagues to cosponsor this measure.

By Mr. ROBERTS (for himself, Mr. BROWNBACK, and Mr. INHOFE):

S. 2475. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to provide an exception for certain States with respect to the distribution of amounts by the Secretary of the Interior from the Abandoned Mine Reclamation Fund; to the Committee on Energy and Natural Resources.

Mr. ROBERTS. Mr. President, I rise today to offer legislation to allow seven States to more aggressively address the health and safety issues that threaten the citizens in their State, and do so immediately. I commend my fellow Kansas colleague, Congresswoman NANCY BOYDA, for introducing similar legislation in the House.

Last December, Congress passed amendments to the Surface Mining Control and Reclamation Act in the Tax Relief and Health Care Act of 2006 to extend the Abandoned Mines Land Trust Fund for 15 additional years. These amendments established a new distribution formula that works through a 4 year,program that phases in funding. Unfortunately, there are currently seven States that do not meet the active mining threshold to meet the minimum funding threshold. Today, I offer legislation that would allow ''minimum program states'' like Kansas to receive their full funding levels of $3 million starting in the fiscal year 2008, instead of requiring the minimum States to follow the percentage distribution formula. This legislation will assist several other States including Missouri, Iowa, Arkansas, Oklahoma, Alaska, and Maryland. With this funding, States can begin to protect their residents from the dangers of abandoned mines sooner rather than later.

By Mr. SUNUNU (for himself and Mr. GREGG):

S. 2478. A bill to designate the facility of the United States Postal Service located at 59 Colby Corner in East Hampstead, New Hampshire, as the ''Captain Jonathan D. Grassbaugh Post Office''; to the Committee on Homeland Security and Governmental Affairs.

Mr. SUNUNU. Mr. President, on behalf of Hampstead, NH, middle school students, school board officials, board of selectmen, and residents, I rise to honor a fallen hero, U.S. Army Ranger CAPT Jonathan David Grassbaugh, by introducing a bill to designate the United States Postal Service facility at 59 Colby Corner in East Hampstead, NH, as the Captain Jonathan D. Grassbaugh Post Office.

Jon, as he was called by his family and friends, moved to East Hampstead, NH, from St. Marys, OH, in 1989. He attended Hampstead Central Elementary School and Hampstead Middle School, where his mother, Patricia, is principal.

Jon graduated high school from Phillips Exeter Academy, in Exeter, NH, where he was a 4-year honor student in the Class of 1999. Jon left a remarkable impression on the Phillips Exeter community; remembered for his manifestation of the motto ''Non Sibi'' or ''Not for Oneself,'' a Latin phrase inscribed on the Academy's seal. Jon exemplified his passion for life through his persistent dedication to his studies, tireless volunteer efforts in school and the local community, commitment to the academy's radio station, Grainger Observatory, and the school's Washington internship program.

Jon's illustrious high school years were prologue to a promising future, full of infinite potential. Jon enrolled at Johns Hopkins University, where he graduated in 2003, earning a bachelors degree in computer science from the renowned Whiting School of Engineering.

At a young age, Jon's family instilled in him the importance of volunteerism and service to the U.S. Jon's father, Mark, proudly served 3½ years as an Army Ranger during Vietnam, and his older brother, West Point alum and Dartmouth Medical School graduate, Army Captain Dr. Jason Grassbaugh, is currently serving as an orthopedic surgeon in Fort Lewis, WA. Jon continued this family tradition of service, joining the Johns Hopkins Army ROTC program, and eventually becoming battalion commander his senior year. He also became a proud member of the Pershing Rifles fraternal organization, captained the Ranger Challenge Team, and won the national two-man duet drill team competition.

In a storybook setting, Jon met Jenna Parkinson, a freshman ROTC cadet from Boxborough MA, during his senior year. Jon and Jenna slowly grew closer, watching movies together during spring break, sharing flights to and from school, and attending the military ball. A few short years later, Jon proposed to Jenna on April 30, 2005, and the young couple subsequently married on June 9, 2006, in a Cape Cod ceremony. Prior to their wedding day, Jon and Jenna filled out a questionnaire for their officiate, which asked, ''Where is a sacred spot, a place where you feel most connected, most at peace and most inspired?'' Jon's answer came in three loving words: ''With my wife.''

Following graduation, Jon completed U.S. Army Ranger School in April 2004 and served his country both at home and abroad. He was assigned to the 7th Cavalry in the Republic of South Korea and served as a member of the Army Hurricane Katrina Relief Team. Later, Jon was assigned to the 5th Squadron, 73rd Cavalry Regiment, 3rd Brigade Combat Team, 82nd Airborne Division in Fort Bragg, NC, where he and the now U.S. Army 2nd Lieutenant Jenna Grassbaugh would reside.

Shortly after Jon and Jenna were married, he was deployed for a second tour of duty, in Iraq. Tragically, on April 7, 2007, Jon was one of four soldiers who died while conducting a combat logistics patrol in Zaganiyah, Iraq. Throughout Jon's distinguished military service, he received a number of accolades and commendations, including: the Bronze Star Medal, Purple Heart Medal, Meritorious Service Medal, Army Commendation Medal, Joint Service Achievement Medal, Army Achievement Medal, National Defense Service Medal, Iraqi Campaign Medal, Global War on Terrorism Service Medal, Korean Defense Service Medal, Humanitarian Service Medal, Army Service Ribbon, Ranger Tab, Combat Action Badge, and Parachutist Badge.

Jon is remembered as a confident and mentally strong leader, whose poise under pressure, intelligence, compassion, and love for God, country and family transcends his passing. His valor on the field of battle was equally as impressive as his undying loyalty to and love for his squadron. One well-known anecdote recalls a combat operation in which Jon had pizza flown by helicopter from 100 kilometers away to where his troops were conducting combat operations in an effort to lift morale. Jon left a legacy that continues to inspire our Nation's future leaders from Hampstead and Exeter, NH, Johns Hopkins, and those he proudly served beside in Iraq.

On a deep and personal note, for those who had the sincere privilege and honor to meet Jon, it was evident his exuberance for life and new experiences, ingenuity, and academic acumen destined him for greatness. By the time of his death, Jon had achieved more than most individuals do in a lifetime, a testimonial to his family's love and guidance through his young life, and Jenna's warmth and support as he fought for our Nation.

Today, Jonathan Grassbaugh rests in peace at one of our Nation's most hallowed and sacred grounds, Arlington National Cemetery—his rightful place among generations of brave Americans who sacrificed their lives in defense of this country. His loved ones will forever remember him as a loving husband, son, brother, and friend. Let it be known, the citizens of New Hampshire and our Nation are eternally in debt to Jonathan David Grassbaugh, an honorable son of New Hampshire, an American Patriot, and a guardian of liberty.

Mr. President, I ask unanimous consent that a letter of support be printed in the RECORD.

There being no objection, the material was ordered to be placed in the Record, as follows:

TOWN OF HAMPSTEAD,
OFFICE OF THE SELECTMEN,
Hampstead, NH, December, 2007.

Re Petition of dedication.

Office of U.S. Senator JOHN E. SUNUNU,
Elm Street,
Manchester, NH.

DEAR SENATOR SUNUNU, Students of the Hampstead Middle: School prepared a petition to support honoring Captain Jonathan Grassbaugh, who gave his life for our country. The petition seeks to honor him by dedicating the East Hampstead, NH, 03826 Post Office in his name.

The petition was presented to the Hampstead Board of Selectmen on Monday, December 10, 2007.

The Board of Selectmen accepted the petition and voted unanimously to support the project.

Please find enclosed the petition along with the signatures of 526 individuals.

Thank you for your help in moving this project forward.

Very Truly Yours,

RICHARD H. HARTUNG,
Chairman.
PRISCILLA R. LINDQUIST,
Selectman.
JIM STEWART,
Selectman.

BY Mr. BROWN (for himself and Mr. CORNYN):

S. 2479. A bill to catalyze change in the care and treatment of diabetes in the United States; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, today, I am introducing, along with Senator CORNYN, an important bill—the Catalyst for Better Diabetes Care Act—that will enhance and better coordinate our Nation's fight against diabetes.

It is estimated that one out of every three Americans born after the year 2000 will develop diabetes in their lifetime. This startling statistic should be reason enough for this body to act swiftly and decisively on this issue. We must increase our investment into this deadly and costly disease before the epidemic reaches overwhelming proportions. The Catalyst for Better Diabetes Care Act marks an important step in this effort by focusing the government's attention on specific areas in diabetes care that can and must be improved.

First, we must ensure that all Americans are aware of the importance and availability of diabetes screening. Like any preventable and manageable disease, early diagnosis of diabetes is key. Yet millions of Americans—nearly a third of the 20-plus million Americans with diabetes—have diabetes but don't know it. Recognizing the enormity of this problem, many of us in Congress fought hard in recent years to include a diabetes screening benefit in Medicare, a program that already spends a third of its total budget on diabetes patients. Now the challenge is to ensure that Americans are fully utilizing this and other screening opportunities, which is exactly what this bill aims to do. By establishing a collaboration and outreach program within the Department of Health and Human Services, HHS, this act would help reduce the number of Americans with diabetes who remain undiagnosed.

The private sector also has a role to play in this fight. Thankfully, many companies have already started investing in employee wellness programs that reward pro-active, preventative care. With chronic diseases like diabetes driving up health insurance costs for individuals and employers, it is critical that new, pre-emptive approaches to health care are encouraged. This bill would create an advisory group in HHS to determine which wellness programs work and which do not, information that will encourage employers to provide effective diabetes prevention programs.

It is also critical to carefully monitor our effectiveness in combating diabetes and the impact of this disabling and deadly condition on our nation. With that information in hand, we will be far better equipped to determine the nature and scope of diabetes prevention and treatment strategies. The bill includes two key provisions to address this need. It would create a National Diabetes Report Card that provides crucial information on diabetes' impact on the nation. The report card would be published every 2 years. It would also take steps to ensure accurate data on diabetes morbidity and mortality. Diabetes is often not listed anywhere on death certificates as a cause of death. This bill would ensure the training of physicians on properly completing birth and death certificates and improving the collection of diabetes data.

Finally, this act would commission an Institute of Medicine study on diabetes medical education to ensure that physician training—which currently requires less than four hours of diabetes education—is keeping pace with the growing threat diabetes poses to the public's health. The study would make a recommendation as to the appropriate level of diabetes medical education that should be required prior to licensure, board certification, and board recertification.

Our country faces a tremendously challenging fight against diabetes, but it is one we can and will win. The Catalyst for Better Diabetes Care Act is a targeted and cost-effective bill that will push us toward victory. Let us act quickly and pass this bill.

By Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DURBIN, Ms. STABENOW, Mr. DODD, Ms. MIKULSKI, Mr. KERRY, Mrs. CLINTON, Ms. CANTWELL, Mr. OBAMA, Mr. MENENDEZ, Mr. BROWN, and Mr. CARDIN):

S. 2481. A bill to prohibit racial profiling; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I will introduce the End Racial Profiling Act of 2007.

Ending racial profiling in America has been a priority for me for many years. I worked with the senior Senator from New Jersey, Senator LAUTENBERG, back in 1999 on a bill to collect statistics on traffic stops, which is where the problem of racial profiling was first revealed. Many studies from around the country now confirm that racial profiling is indeed a real problem that wastes police resources and diminishes trust between police departments and the communities they protect.

In 2001, in his first State of the Union address, President Bush told the American people that ''racial profiling is wrong and we will end it in America.'' He asked the Attorney General to implement a policy to end racial profiling. The Department of Justice released a Fact Sheet and Policy Guidance addressing racial profiling in 2003, stating that racial profiling is wrong and ineffective and perpetuates negative racial stereotypes in our country. Though these guidelines are helpful, they do not end racial profiling and they do not have the force of law. Unfortunately, more than 6 years after the President's promise to the country, we have not yet ended racial profiling in this country.

The End Racial Profiling Act of 2007 will do what the President promised; it will help America achieve the goal of bringing an end to racial profiling. This bill bans racial profiling and requires Federal, State, and local law enforcement officers to take steps to end this practice.

Racial profiling is the practice by which some law enforcement agents treat differently African Americans, Latinos, Asian Americans, Arab Americans and others simply because of their race, ethnicity, national origin, or perceived religion. I have the utmost respect for law enforcement agents, and I believe that most of them do not engage in this practice. Nonetheless, reports in States from New Jersey to Florida, and Maryland to Texas all show that African Americans, Hispanics, and members of other minority groups were stopped by some police far more often than their share of the population and the crime rates for those racial categories.

Passing this bill is even more urgent after 9/11, as we have seen racial profiling used against Arab and Muslim Americans or Americans perceived to be Arab or Muslim. The 9/11 attacks were horrific, and I share the determination of many Americans that finding those responsible and preventing future attacks should be this Nation's top priority. This is a challenge that our country can and must meet. But to do that we need improved intelligence and law enforcement. Making assumptions based on racial, ethnic, or religious stereotypes will not protect our nation from crime or from future terrorist attacks.

A report released in May by the Department of Justice's Bureau of Justice Statistics, covering 2005 data, found that while an African American person is now almost equally likely to be stopped as a white person, he or she is more than two and a half times more likely to be searched, more than twice as likely to be arrested, and more than three and a half times more likely to experience the use of force. Yet, according to studies from multiple police jurisdictions, these encounters with law enforcement are less likely to reveal criminal activity on the part of African Americans than whites. The flagrancy of this flawed and irrational practice has led Harvard Law School professor Charles Ogletree to observe, ''If I'm dressed in a knit cap and hooded jacket, I'm probable cause.''

The disparities outlined above, which also apply to other ethnic groups, have led the International Association of Chiefs of Police to call for an end to racial profiling. In addition, police departments around the country have independently developed programs and policies to prevent racial profiling and comply with the Department of Justice's policy guidance. In my own State of Wisconsin, law enforcement officials have taken steps to train police officers, improve academy training, establish model policies prohibiting racial profiling, and improve relations with our State's diverse communities. I applaud the efforts of Wisconsin law enforcement. This is excellent progress and shows widespread recognition that racial profiling harms our society. But like the DOJ policy guidance, local programs don't have the force of law behind them. The Federal government must step up, as President Bush promised. It must play a vital role in protecting civil rights and acting as a model for State and local law enforcement.

Now, perhaps more than ever before, our Nation cannot afford to waste precious law enforcement resources or alienate Americans by tolerating discriminatory practices. The mass detention of hundreds of Middle Eastern and Arab men on minor violations after 9/11, for example, resulted in not a single terrorism charge. These detentions did, however, shatter the lives of many people with no connection to terrorism whatsoever through lengthy disappearances, detentions, and deportations.

Similarly, when the Federal Government required the registration of individuals from Arab or Muslim countries in 2002, between 500 and 1,000 registrants who voluntarily complied were detained in the Los Angeles/Orange County area alone. Such heavy-handed tactics do not help us in fighting terrorism—they shut off dialogue and make good people unwilling to risk interaction with their Government. Treating sympathetic communities as suspicious ones is counterproductive, and it is wrong.

It is past time for Congress and the President to enact comprehensive Federal legislation that will end racial profiling once and for all. In clear language, the End Racial Profiling Act of 2007 bans racial profiling. It defines racial profiling in terms that are consistent with the Department of Justice's Policy Guidance. But this bill does more than prohibit and define racial profiling—it gives law enforcement agencies and officers the tools necessary to end the harmful practice. For that reason, the End Racial Profiling Act of 2007 is a pro-law enforcement bill.

This bill would allow the Justice Department or individuals to enforce the prohibition by filing a suit for injunctive relief. The bill would also require Federal, State, and local law enforcement agencies to adopt policies prohibiting racial profiling, implement effective complaint procedures or create independent auditor programs, implement disciplinary procedures for officers who engage in the practice, and collect data on routine and spontaneous investigatory activities. In addition, it requires the Attorney General to report to Congress so Congress and the American people can monitor whether the steps outlined in the bill to prevent and end racial profiling have been effective.

This bill also authorizes the Attorney General to provide incentive grants to help law enforcement comply with the ban on racial profiling, including funds to conduct training of police officers or purchase in-car video cameras.

Like the bill I introduced in 2005, this year's bill contains a significant improvement over previous versions. In some early proposals, DOJ grants for State and local law enforcement agencies were tied to the agency having some kind of procedure for handling complaints of racial profiling. At the suggestion of experts in the field, the bill now requires law enforcement agencies to adopt either an administrative complaint procedure or an independent auditor program to be eligible for DOJ grants. The Attorney General must promulgate regulations that set out the types of procedures and audit programs that will be sufficient. We believe that the independent auditor option will be preferable for many local law enforcement agencies, and such programs have proven to be an effective way to discourage racial profiling. Also, the Attorney General is required to conduct a 2-year demonstration project to help law enforcement agencies with data collection.

Let me emphasize that local, State, and Federal law enforcement agents play a vital role in protecting the public from crime and protecting the Nation from terrorism. The vast majority of law enforcement agents nationwide discharge their duties professionally and without bias and we are all indebted to them for their courage and dedication. This bill should not be misinterpreted as a criticism of those who

put their lives on the line for the rest of us each and every day. Rather, it is a statement that the use of race, ethnicity, religion, or national origin in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches, and seizures is wrong and ineffective, except where there is specific information linking persons of a particular race, ethnicity, religion, or national origin to a crime.

The provisions in this bill will help restore the trust and confidence of the communities that our law enforcement have pledged to serve and protect. That confidence is crucial to our success in stopping crime and in stopping terrorism. The End Racial Profiling Act of 2007 is good for law enforcement and good for America.

I urge the President to make good on his pledge to end racial profiling, and I urge my colleagues to join me in supporting the End Racial Profiling Act of 2007.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2481

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''End Racial Profiling Act of 2007'' or ''ERPA''.

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

SEC. 2. FINDINGS, PURPOSES, AND INTENT.

(a) FINDINGS.—Congress finds the following:

(1) Federal, State, and local law enforcement agents play a vital role in protecting the public from crime and protecting the Nation from terrorism. The vast majority of law enforcement agents nationwide discharge their duties professionally and without bias.

(2) The use by police officers of race, ethnicity, national origin, or religion in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches, and seizures is improper.

(3) In his address to a joint session of Congress on February 27, 2001, President George W. Bush declared that ''racial profiling is wrong and we will end it in America.''. He directed the Attorney General to implement this policy.

(4) In June 2003, the Department of Justice issued a Policy Guidance regarding racial profiling by Federal law enforcement agencies which stated: ''Racial profiling in law enforcement is not merely wrong, but also ineffective. Race-based assumptions in law enforcement perpetuate negative racial stereotypes that are harmful to our rich and diverse democracy, and materially impair our efforts to maintain a fair and just society.''.

(5) The Department of Justice Guidance is a useful first step, but does not achieve the President's stated goal of ending racial profiling in America, as—

(A) it does not apply to State and local law enforcement agencies;

(B) it does not contain a meaningful enforcement mechanism;

(C) it does not require data collection; and

(D) it contains an overbroad exception for immigration and national security matters.

(6) Current efforts by State and local governments to eradicate racial profiling and redress the harms it causes, while also laudable, have been limited in scope and insufficient to address this national problem. Therefore, Federal legislation is needed.

(7) Statistical evidence from across the country demonstrates that racial profiling is a real and measurable phenomenon.

(8) As of November 15, 2000, the Department of Justice had 14 publicly noticed, ongoing, pattern or practice investigations involving allegations of racial profiling and had filed 5 pattern or practice lawsuits involving allegations of racial profiling, with 4 of those cases resolved through consent decrees.

(9) A large majority of individuals subjected to stops and other enforcement activities based on race, ethnicity, national origin, or religion are found to be law abiding and therefore racial profiling is not an effective means to uncover criminal activity.

(10) A 2001 Department of Justice report on citizen-police contacts that occurred in 1999, found that, although Blacks and Hispanics were more likely to be stopped and searched, they were less likely to be in possession of contraband. On average, searches and seizures of Black drivers yielded evidence only 8 percent of the time, searches and seizures of Hispanic drivers yielded evidence only 10 percent of the time, and searches and seizures of White drivers yielded evidence 17 percent of the time.

(11) A 2000 General Accounting Office report on the activities of the United States Customs Service during fiscal year 1998 found that—

(A) Black women who were United States citizens were 9 times more likely than White women who were United States citizens to be x-rayed after being frisked or patted down;

(B) Black women who were United States citizens were less than half as likely as White women who were United States citizens to be found carrying contraband; and

(C) in general, the patterns used to select passengers for more intrusive searches resulted in women and minorities being selected at rates that were not consistent with the rates of finding contraband.

(12) A 2005 report of the Bureau of Justice Statistics of the Department of Justice on citizen-police contacts that occurred in 2002, found that, although Whites, Blacks, and Hispanics were stopped by the police at the same rate—

(A) Blacks and Hispanics were much more likely to be arrested than Whites;

(B) Hispanics were much more likely to be ticketed than Blacks or Whites;

(C) Blacks and Hispanics were much more likely to report the use or threatened use of force by a police officer;

(D) Blacks and Hispanics were much more likely to be handcuffed than Whites; and

(E) Blacks and Hispanics were much more likely to have their vehicles searched than Whites.

(13) In some jurisdictions, local law enforcement practices, such as ticket and arrest quotas and similar management practices, may have the unintended effect of encouraging law enforcement agents to engage in racial profiling.

(14) Racial profiling harms individuals subjected to it because they experience fear, anxiety, humiliation, anger, resentment, and cynicism when they are unjustifiably treated as criminal suspects. By discouraging individuals from traveling freely, racial profiling impairs both interstate and intrastate commerce.

(15) Racial profiling damages law enforcement and the criminal justice system as a whole by undermining public confidence and trust in the police, the courts, and the criminal law.

(16) In the wake of the September 11, 2001, terrorist attacks, many Arabs, Muslims, Central and South Asians, and Sikhs, as well as other immigrants and Americans of foreign descent, were treated with generalized suspicion and subjected to searches and seizures based upon religion and national origin, without trustworthy information linking specific individuals to criminal conduct. Such profiling has failed to produce tangible benefits, yet has created a fear and mistrust of law enforcement agencies in these communities.

(17) Racial profiling violates the equal protection clause of the fourteenth amendment to the Constitution of the United States. Using race, ethnicity, religion, or national origin as a proxy for criminal suspicion violates the constitutional requirement that police and other government officials accord to all citizens the equal protection of the law. Batson v. Kentucky, 476 U.S. 79 (1986); Palmore v. Sidoti, 466 U.S. 429 (1984).

(18) Racial profiling is not adequately addressed through suppression motions in criminal cases for 2 reasons. First, the Supreme Court held, in Whren v. United States, 517 U.S. 806 (1996), that the racially discriminatory motive of a police officer in making an otherwise valid traffic stop does not warrant the suppression of evidence under the fourth amendment to the Constitution of the United States. Second, since most stops do not result in the discovery of contraband, there is no criminal prosecution and no evidence to suppress.

(19) A comprehensive national solution is needed to address racial profiling at the Federal, State, and local levels. Federal support is needed to combat racial profiling through specialized training of law enforcement agents, improved management systems, and the acquisition of technology such as in-car video cameras.

(b) PURPOSES.—The purposes of this Act are—

(1) to enforce the constitutional right to equal protection of the laws, pursuant to the fifth amendment and section 5 of the fourteenth amendment to the Constitution of the United States;

(2) to enforce the constitutional right to protection against unreasonable searches and seizures, pursuant to the fourteenth amendment to the Constitution of the United States;

(3) to enforce the constitutional right to interstate travel, pursuant to section 2 of article IV of the Constitution of the United States; and

(4) to regulate interstate commerce, pursuant to clause 3 of section 8 of article I of the Constitution of the United States.

(c) INTENT.—This Act is not intended to and should not impede the ability of Federal, State, and local law enforcement to protect the country and its people from any threat, be it foreign or domestic.

SEC. 3. DEFINITIONS.

In this Act:

(1) COVERED PROGRAM.—The term ''covered program'' means any program or activity funded in whole or in part with funds made available under—

(A) the Edward Byrne Memorial State and Local Law Enforcement Assistance Program (part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.)); and

(B) the ''Cops on the Beat'' program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.), but not including any program, project, or other activity specified in section 1701(b)(13) of that Act (42 U.S.C. 3796dd(b)(13)).

(2) GOVERNMENTAL BODY.—The term ''governmental body'' means any department, agency, special purpose district, or other instrumentality of Federal, State, local, or Indian tribal government.

(3) INDIAN TRIBE.—The term ''Indian tribe'' has the same meaning as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603)).

(4) LAW ENFORCEMENT AGENCY.—The term ''law enforcement agency'' means any Federal, State, local, or Indian tribal public agency engaged in the prevention, detection, or investigation of violations of criminal, immigration, or customs laws.

(5) LAW ENFORCEMENT AGENT.—The term ''law enforcement agent'' means any Federal, State, local, or Indian tribal official responsible for enforcing criminal, immigration, or customs laws, including police officers and other agents of a law enforcement agency.

(6) RACIAL PROFILING.—The term ''racial profiling'' means the practice of a law enforcement agent or agency relying, to any degree, on race, ethnicity, national origin, or religion in selecting which individual to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links a person of a particular race, ethnicity, national origin, or religion to an identified criminal incident or scheme.

(7) ROUTINE OR SPONTANEOUS INVESTIGATORY ACTIVITIES.—The term ''routine or spontaneous investigatory activities'' means the following activities by a law enforcement agent:

(A) Interviews.

(B) Traffic stops.

(C) Pedestrian stops.

(D) Frisks and other types of body searches.

(E) Consensual or nonconsensual searches of the persons or possessions (including vehicles) of motorists or pedestrians.

(F) Inspections and interviews of entrants into the United States that are more extensive than those customarily carried out.

(G) Immigration related workplace investigations.

(H) Such other types of law enforcement encounters compiled by the Federal Bureau of Investigation and the Justice Departments Bureau of Justice Statistics.

(8) REASONABLE REQUEST.—The term ''reasonable request'' means all requests for information, except for those that—

(A) are immaterial to the investigation;

(B) would result in the unnecessary exposure of personal information; or

(C) would place a severe burden on the resources of the law enforcement agency given its size.

(9) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government'' means—

(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

(B) any law enforcement district or judicial enforcement district that—

(i) is established under applicable State law; and

(ii) has the authority to, in a manner independent of other State entities, establish a budget and impose taxes;

(C) any Indian tribe that performs law enforcement functions, as determined by the Secretary of the Interior; or

(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

(i) the District of Columbia; or

(ii) any Trust Territory of the United States.

TITLE I—PROHIBITION OF RACIAL PROFILING

SEC. 101. PROHIBITION.

No law enforcement agent or law enforcement agency shall engage in racial profiling.

SEC. 102. ENFORCEMENT.

(a) REMEDY.—The United States, or an individual injured by racial profiling, may enforce this title in a civil action for declaratory or injunctive relief, filed either in a State court of general jurisdiction or in a district court of the United States.

(b) PARTIES.—In any action brought under this title, relief may be obtained against—

(1) any governmental body that employed any law enforcement agent who engaged in racial profiling;

(2) any agent of such body who engaged in racial profiling; and

(3) any person with supervisory authority over such agent.

(c) NATURE OF PROOF.—Proof that the routine or spontaneous investigatory activities of law enforcement agents in a jurisdiction have had a disparate impact on racial, ethnic, or religious minorities shall constitute prima facie evidence of a violation of this title.

(d) ATTORNEY'S FEES.—In any action or proceeding to enforce this title against any governmental unit, the court may allow a prevailing plaintiff, other than the United States, reasonable attorney's fees as part of the costs, and may include expert fees as part of the attorney's fee.

TITLE II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 201. POLICIES TO ELIMINATE RACIAL PROFILING.

(a) IN GENERAL.—Federal law enforcement agencies shall—

(1) maintain adequate policies and procedures designed to eliminate racial profiling; and

(2) cease existing practices that permit racial profiling.

(b) POLICIES.—The policies and procedures described in subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) training on racial profiling issues as part of Federal law enforcement training;

(3) the collection of data in accordance with the regulations issued by the Attorney General under section 401;

(4) procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents;

(5) policies requiring that corrective action be taken when law enforcement agents are determined to have engaged in racial profiling; and

(6) such other policies or procedures that the Attorney General deems necessary to eliminate racial profiling.

TITLE III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY STATE, LOCAL, AND INDIAN TRIBAL LAW ENFORCEMENT AGENCIES

SEC. 301. POLICIES REQUIRED FOR GRANTS.

(a) IN GENERAL.—An application by a State, a unit of local government, or a State, local, or Indian tribal law enforcement agency for funding under a covered program shall include a certification that such State, unit of local government, or law enforcement agency, and any law enforcement agency to which it will distribute funds—

(1) maintains adequate policies and procedures designed to eliminate racial profiling; and

(2) has eliminated any existing practices that permit or encourage racial profiling.

(b) POLICIES.—The policies and procedures described in subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) training on racial profiling issues as part of law enforcement training;

(3) the collection of data in accordance with the regulations issued by the Attorney General under section 401;

(4) participation in an administrative complaint procedure or independent auditor program that meets the requirements of section 302;

(5) policies requiring that corrective action be taken when law enforcement agents are determined to have engaged in racial profiling; and

(6) such other policies or procedures that the Attorney General deems necessary to eliminate racial profiling.

(c) EFFECTIVE DATE.—This section shall take effect 12 months after the date of enactment of this Act.

SEC. 302. ADMINISTRATIVE COMPLAINT PROCEDURE OR INDEPENDENT AUDITOR PROGRAM REQUIRED FOR GRANTS.

(a) ESTABLISHMENT OF ADMINISTRATIVE COMPLAINT PROCEDURE OR INDEPENDENT AUDITOR PROGRAM.—An application by a State or unit of local government for funding under a covered program shall include a certification that the applicant has established and is maintaining, for each law enforcement agency of the applicant, either—

(1) an administrative complaint procedure that meets the requirements of subsection (b); or

(2) an independent auditor program that meets the requirements of subsection (c).

(b) REQUIREMENTS FOR ADMINISTRATIVE COMPLAINT PROCEDURE.—To meet the requirements of this subsection, an administrative complaint procedure shall—

(1) allow any person who believes there has been a violation of section 101 to file a complaint;

(2) allow a complaint to be made—
(A) in writing or orally;
(B) in person or by mail, telephone, facsimile, or electronic mail; and
(C) anonymously or through a third party;
(3) require that the complaint be investigated and heard by an independent review board that—
(A) is located outside of any law enforcement agency or the law office of the State or unit of local government;
(B) includes, as at least a majority of its members, individuals who are not employees of the State or unit of local government;
(C) does not include as a member any individual who is then serving as a law enforcement agent;
(D) possesses the power to request all relevant information from a law enforcement agency; and
(E) possesses staff and resources sufficient to perform the duties assigned to the independent review board under this subsection;
(4) provide that the law enforcement agency shall comply with all reasonable requests for information in a timely manner;
(5) require the review board to inform the Attorney General when a law enforcement agency fails to comply with a request for information under this subsection;
(6) provide that a hearing be held, on the record, at the request of the complainant;
(7) provide for an appropriate remedy, and publication of the results of the inquiry by the review board, if the review board determines that a violation of section 101 has occurred;
(8) provide that the review board shall dismiss the complaint and publish the results of the inquiry by the review board, if the review board determines that no violation has occurred;
(9) provide that the review board shall make a final determination with respect to a complaint in a reasonably timely manner;
(10) provide that a record of all complaints and proceedings be sent to the Civil Rights Division and the Bureau of Justice Statistics of the Department of Justice;
(11) provide that no published information shall reveal the identity of the law enforcement officer, the complainant, or any other individual who is involved in a detention; and
(12) otherwise operate in a manner consistent with regulations promulgated by the Attorney General under section 303.

(c) REQUIREMENTS FOR INDEPENDENT AUDITOR PROGRAM.—To meet the requirements of this subsection, an independent auditor program shall—
(1) provide for the appointment of an independent auditor who is not a sworn officer or employee of a law enforcement agency;
(2) provide that the independent auditor be given staff and resources sufficient to perform the duties of the independent auditor program under this section;
(3) provide that the independent auditor be given full access to all relevant documents and data of a law enforcement agency;
(4) require the independent auditor to inform the Attorney General when a law enforcement agency fails to comply with a request for information under this subsection;
(5) require the independent auditor to issue a public report each year that—
(A) addresses the efforts of each law enforcement agency of the State or unit of local government to combat racial profiling; and
(B) recommends any necessary changes to the policies and procedures of any law enforcement agency;
(6) require that each law enforcement agency issue a public response to each report issued by the auditor under paragraph (5);
(7) provide that the independent auditor, upon determining that a law enforcement agency is not in compliance with this Act, shall forward the public report directly to the Attorney General;
(8) provide that the independent auditor shall engage in community outreach on racial profiling issues; and
(9) otherwise operate in a manner consistent with regulations promulgated by the Attorney General under section 303.

(d) LOCAL USE OF STATE COMPLAINT PROCEDURE OR INDEPENDENT AUDITOR PROGRAM.—
(1) IN GENERAL.—A State shall permit a unit of local government within its borders to use the administrative complaint procedure or independent auditor program it establishes under this section.
(2) EFFECT OF USE.—A unit of local government shall be deemed to have established and maintained an administrative complaint procedure or independent auditor program for purposes of this section if the unit of local government uses the administrative complaint procedure or independent auditor program of either the State in which it is located, or another unit of local government in the State in which it is located.
(e) EFFECTIVE DATE.—This section shall go into effect 12 months after the date of enactment of this Act.

SEC. 303. INVOLVEMENT OF ATTORNEY GENERAL.

(a) REGULATIONS.—
(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act and in consultation with stakeholders, including Federal, State, and local law enforcement agencies and community, professional, research, and civil rights organizations, the Attorney General shall issue regulations for the operation of the administrative complaint procedures and independent auditor programs required under subsections (b) and (c) of section 302.
(2) GUIDELINES.—The regulations issued under paragraph (1) shall contain guidelines that ensure the fairness, effectiveness, and independence of the administrative complaint procedures and independent auditor programs.
(b) NONCOMPLIANCE.—If the Attorney General determines that the recipient of any covered grant is not in compliance with the requirements of section 301 or 302 or the regulations issued under subsection (a), the Attorney General shall withhold, in whole or in part, funds for 1 or more covered grants, until the grantee establishes compliance.
(c) PRIVATE PARTIES.—The Attorney General shall provide notice and an opportunity for private parties to present evidence to the Attorney General that a grantee is not in compliance with the requirements of this title.

SEC. 304. DATA COLLECTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Attorney General shall, through competitive grants or contracts, carry out a 2-year demonstration project for the purpose of developing and implementing data collection on hit rates for stops and searches. The data shall be disaggregated by race, ethnicity, national origin, and religion.
(b) COMPETITIVE AWARDS.—The Attorney General shall provide not more than 5 grants or contracts to police departments that—
(1) are not already collecting data voluntarily or otherwise; and
(2) serve communities where there is a significant concentration of racial or ethnic minorities.
(c) REQUIRED ACTIVITIES.—Activities carried out under subsection (b) shall include—
(1) developing a data collection tool;
(2) training of law enforcement personnel on data collection;
(3) collecting data on hit rates for stops and searches; and
(4) reporting the compiled data to the Attorney General.
(d) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall enter into a contract with an institution of higher education to analyze the data collected by each of the 5 sites funded under this section.
(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out activities under this section—
(1) $5,000,000, over a 2-year period for a demonstration project on 5 sites; and
(2) $500,000 to carry out the evaluation in subsection (d).

SEC. 305. BEST PRACTICES DEVELOPMENT GRANTS.

(a) GRANT AUTHORIZATION.—The Attorney General, through the Bureau of Justice Assistance, may make grants to States, law enforcement agencies, and units of local government to develop and implement best practice devices and systems to eliminate racial profiling.
(b) USE OF FUNDS.—The funds provided under subsection (a) may be used for—
(1) the development and implementation of training to prevent racial profiling and to encourage more respectful interaction with the public;
(2) the acquisition and use of technology to facilitate the collection of data regarding routine investigatory activities sufficient to permit an analysis of these activities by race, ethnicity, national origin, and religion;
(3) the analysis of data collected by law enforcement agencies to determine whether the data indicate the existence of racial profiling;
(4) the acquisition and use of technology to verify the accuracy of data collection, including in-car video cameras and portable computer systems;
(5) the development and acquisition of early warning systems and other feedback systems that help identify officers or units of officers engaged in, or at risk of engaging in, racial profiling or other misconduct, including the technology to support such systems;
(6) the establishment or improvement of systems and procedures for receiving, investigating, and responding meaningfully to complaints alleging racial, ethnic, or religious bias by law enforcement agents;
(7) the establishment or improvement of management systems to ensure that supervisors are held accountable for the conduct of their subordinates; and
(8) the establishment and maintenance of an administrative complaint procedure or independent auditor program under section 302.
(c) EQUITABLE DISTRIBUTION.—The Attorney General shall ensure that grants under this section are awarded in a manner that reserves an equitable share of funding for small and rural law enforcement agencies.
(d) APPLICATION.—Each State, local law enforcement agency, or unit of local government desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE IV—DATA COLLECTION

SEC. 401. ATTORNEY GENERAL TO ISSUE REGULATIONS.

(a) REGULATIONS.—Not later than 6 months after the enactment of this Act, the Attorney General, in consultation with stakeholders, including Federal, State, and local

law enforcement agencies and community, professional, research, and civil rights organizations, shall issue regulations for the collection and compilation of data under sections 201 and 301.

(b) REQUIREMENTS.—The regulations issued under subsection (a) shall—

(1) provide for the collection of data on all routine or spontaneous investigatory activities;

(2) provide that the data collected shall—

(A) be collected by race, ethnicity, national origin, gender, and religion, as perceived by the law enforcement officer;

(B) include the date, time, and location of the investigatory activities; and

(C) include detail sufficient to permit an analysis of whether a law enforcement agency is engaging in racial profiling;

(3) provide that a standardized form shall be made available to law enforcement agencies for the submission of collected data to the Department of Justice;

(4) provide that law enforcement agencies shall compile data on the standardized form created under paragraph (3), and submit the form to the Civil Rights Division and the Bureau of Justice Statistics of the Department of Justice;

(5) provide that law enforcement agencies shall maintain all data collected under this Act for not less than 4 years;

(6) include guidelines for setting comparative benchmarks, consistent with best practices, against which collected data shall be measured; and

(7) provide that the Bureau of Justice Statistics shall—

(A) analyze the data for any statistically significant disparities, including—

(i) disparities in the percentage of drivers or pedestrians stopped relative to the proportion of the population passing through the neighborhood;

(ii) disparities in the percentage of false stops relative to the percentage of drivers or pedestrians stopped; and

(iii) disparities in the frequency of searches performed on minority drivers and the frequency of searches performed on nonminority drivers; and

(B) not later than 3 years after the date of enactment of this Act, and annually thereafter, prepare a report regarding the findings of the analysis conducted under subparagraph (A) and provide the report to Congress and make the report available to the public, including on a website of the Department of Justice.

SEC. 402. PUBLICATION OF DATA.

The Bureau of Justice Statistics shall provide to Congress and make available to the public, together with each annual report described in section 401, the data collected pursuant to this Act.

SEC. 403. LIMITATIONS ON PUBLICATION OF DATA.

The name or identifying information of a law enforcement officer, complainant, or any other individual involved in any activity for which data is collected and compiled under this Act shall not be—

(1) released to the public;

(2) disclosed to any person, except for such disclosures as are necessary to comply with this Act;

(3) subject to disclosure under section 552 of title 5, United States Code (commonly know as the Freedom of Information Act).

TITLE V—DEPARTMENT OF JUSTICE REGULATIONS AND REPORTS ON RACIAL PROFILING IN THE UNITED STATES

SEC. 501. ATTORNEY GENERAL TO ISSUE REGULATIONS AND REPORTS.

(a) REGULATIONS.—In addition to the regulations required under sections 303 and 401, the Attorney General shall issue such other regulations as the Attorney General determines are necessary to implement this Act.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and each year thereafter, the Attorney General shall submit to Congress a report on racial profiling by law enforcement agencies.

(2) SCOPE.—Each report submitted under paragraph (1) shall include—

(A) a summary of data collected under sections 201(b)(3) and 301(b)(1)(C) and from any other reliable source of information regarding racial profiling in the United States;

(B) a discussion of the findings in the most recent report prepared by the Bureau of Justice Statistics under section 401(a)(8);

(C) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies under section 201;

(D) the status of the adoption and implementation of policies and procedures by State and local law enforcement agencies under sections 301 and 302; and

(E) a description of any other policies and procedures that the Attorney General believes would facilitate the elimination of racial profiling.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of this Act to any person or circumstance shall not be affected thereby.

SEC. 602. SAVINGS CLAUSE.

Nothing in this Act shall be construed to limit legal or administrative remedies under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14141), the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

By Mr. BINGAMAN:

S. 2483. A bill to authorize certain programs and activities in the Forest Service, the Department of the Interior, and the Department of Energy, and for other purposes; read the first time.

Mr. BINGAMAN. Mr. President, today I am introducing the National Forests, Parks, Public Land, and Reclamation Project Authorization Act of 2007, a collection of approximately 50 individual bills under the jurisdiction of the Committee on Energy and Natural Resources. All of the individual provisions included in this bill have been passed by the House of Representatives, and most have also been favorably reported from the Energy and Natural Resources Committee. I believe everything included within this bill is non-controversial and it is my hope that the Senate will pass this bill expeditiously.

Mr. President, I ask unanimous consent that a table listing the various measures included in this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST SERVICE AUTHORIZATIONS

Sec. 101 Wild Sky wilderness (H.R. 886/S. 520)

Sec. 102 Jim Weaver trail (H.R. 247)

BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

Sec. 201 Piedras Blancas Historic Light Station (H.R. 276)

Sec. 202 Nevada National Guard land conveyance (H.R. 815/S. 1608)

NATIONAL PARK SERVICE AUTHORIZATIONS

Sec. 301 National Park Service cooperative agreements (H.R. 658/S. 241)

Sec. 311 Carl Sandburg NHS boundary adjustment (H.R. 1100/S. 488)

Sec. 312 Lowell NHP boundary adjustment (H.R. 299/S. 867)

Sec. 313 Mesa Verde NP boundary adjustment (H.R. 783/S. 126)

Sec. 321 Newtonia Civil War battlefields study (H.R. 376)

Sec. 322 Soldiers' Memorial Military Museum study (H.R. 1047)

Sec. 323 Wolf House study (H.R. 3998/S. 1941)

Sec. 324 Space Shuttle Columbia study (H.R. 807)

Sec. 325 Cesar Chavez study (H.R. 359/S. 327)

Sec. 326 Taunton, MA study (H.R. 1021/S. 1184)

Sec. 331 Francis Marion Commemorative Work (H.R. 497/S. 312)

Sec. 332 Eisenhower Memorial Commission (H.R. 2094/S. 890)

Sec. 333 American Latino museum commission (H.R. 512/S. 500)

Sec. 334 Hudson-Fulton Champlain commissions (H.R. 1520/S. 1148)

Sec. 335 National Museum of Wildlife Art (H. Con. Res. 116/S. Con. Res. 6)

Sec. 336 Ellis Island Library redesignation (H.R. 759)

Sec. 341 Star-Spangled Banner National Historic Trail (H.R. 1388/S. 797)

Sec. 342 Lewis & Clark NHT visitor center conveyance (H.R. 761/S. 471)

Sec. 343 Lewis & Clark NHT study of Eastern States (H.R. 3998/S. 1991)

Sec. 344 Eightmile River Wild & Scenic River designation (H.R. 986/ S. 553)

Sec. 351 Denali National Park Exchange with Alaska Railroad (H.R. 830/ S. 1808)

Sec. 361 Underground Railroad Network (H.R. 1239/S. 1709)

Sec. 371 Grand Canyon National Park Subcontractors (H.R. 1191)

NATIONAL HERITAGE AREAS

Subtitle A Journey Through Hallowed Ground NHA (H.R. 1483/S. 289)

Subtitle B Niagara Falls National Heritage Area (H.R. 1483/S. 800)

Subtitle C Abraham Lincoln National Heritage Area (H.R. 1483/S. 955)

Subtitle D Extension of Existing Heritage Area Authorities (H.R. 1483/S. 817)

Subtitle E Technical Corrections and Additions (H.R. 1483)

Sec. 471 National Coal Heritage Area amendments (H.R. 1483/S. 817)

Sec. 472 Rivers of Steel NHA addition (H.R. 1483/S. 817)

Sec. 473 South Carolina NHA addition (H.R. 1483/S. 817)

Sec. 474 Ohio and Erie Canal NHA amendments (H.R. 1483/S. 817)

Sec. 475 New Jersey Coastal Heritage Trail (H.R. 1483/S. 1039)

Sec. 481 Columbia-Pacific heritage area study (H.R. 407/S. 257)

Sec. 482 Abraham Lincoln heritage sites in Kentucky (S. 955)

BUREAU OF RECLAMATION AND U.S. GEOLOGICAL SURVEY AUTHORIZATIONS

Sec. 501 Alaska water resources study (H.R. 1114/S. 200)

Sec. 502 Redwood Valley Water District payment schedule (H.R. 235/S. 1112)

Sec. 503 American River Pump Station project transfer (H.R. 482)

Sec. 504 Watkins Dam enlargement (H.R. 839/S. 512)

Sec. 505 New Mexico water planning assistance (H.R. 1904/S. 255)
Sec. 506 Yakima Project lands and building conveyance (H.R. 386/S. 235)
Sec. 507 Juab County, Utah conjunctive water use (H.R. 1736/S. 1110)
Sec. 508 A&B Irrigation District contract repayment (H.R. 467/S. 220)
Sec. 509 Oregon Water Resources (H.R. 495)
Sec. 510 Republican River Basin study (H.R. 1025)
Sec. 511 Eastern Municipal Water District (H.R. 30)
Sec. 512 Inland Empire recycling projects (H.R. 122/S. 1054)
Sec. 513 Bay Area regional recycling program (H.R. 1526/S. 1475)
Sec. 514 Bureau of Reclamation site security (H.R. 1662/S. 1258)

DEPARTMENT OF ENERGY AUTHORIZATIONS

Sec. 601 Energy technology transfer (H.R. 85)
Sec. 602 Steel & Aluminum Act amendments (H.R. 1126)
Title VII Commonwealth of the Northern Mariana Islands (H.R. 3079/ S. 1634)
Title VIII Compact of Free Association Amendments (H.R. 2705/S. 283)

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 404—CONGRATULATING ALL MEMBER STATES OF THE INTERNATIONAL COMMISSION FOR THE INTERNATIONAL TRACING SERVICE (ITS) ON RATIFYING THE MAY 2006 PROTOCOL GRANTING OPEN ACCESS TO A VAST ARCHIVES ON THE HOLOCAUST AND OTHER WORLD WAR II MATERIALS, LOCATED AT BAD AROLSEN, GERMANY

Mrs. CLINTON (for herself and Mr. NELSON of Florida) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 404

Whereas, for the past 62 years, until November 28, 2007, the International Tracing Service (ITS) archives located in Bad Arolsen, Germany remained the largest closed Holocaust-era archives in the world;

Whereas, while Holocaust survivors and their descendants have had limited access to individual records, reports suggest that they faced long delays, incomplete information, and even unresponsiveness when they tried to access the materials in the archives;

Whereas the 1955 Bonn Accords established the International Commission (on which 11 member nations sit: Belgium, France, Germany, Greece, Israel, Italy, Luxembourg, the Netherlands, Poland, the United Kingdom, and the United States) responsible for overseeing the administration of the ITS Holocaust archives, which includes 17,500,000 individual names and 50,000,000 documents;

Whereas, until ITC received the ratification of the 2006 amendments to the Bonn Accords from the last remaining member nation on November 28, 2007, the materials remained inaccessible to researchers and research institutions;

Whereas the International Committee of the Red Cross (ICRC) and the Director of the ITS, who is an ICRC employee, oversee the day-to-day operations of the ITS and report to the International Commission for the ITS at its annual meetings;

Whereas the new International Committee of the Red Cross leadership at the ITS should be commended for their commitment to providing expedited and comprehensive responses to Holocaust survivor requests for information, and for their efforts to complete the digitization of all archives as soon as possible;

Whereas, since the inception of the ITS, the Government of Germany has financed its operations;

Whereas, beginning in the late 1990s, the United States Holocaust Memorial Museum (Holocaust Museum), Holocaust survivor organizations, and others began exerting pressure on International Commission members to allow unfettered access to the ITS archives;

Whereas, following years of delay, in May 2006 in Luxembourg the International Commission of the ITS agreed upon amendments to the Bonn Accords which would grant researchers access to the archives and would allow each Commission member country to receive a digitized copy of the archives and make them available to researchers, consistent with their own country's respective archival and privacy laws and practices;

Whereas the first 3 Commission member states to ratify the amendments were the United States, Israel, and Poland, all 3 of which are home to hundreds of thousands of survivors of Nazi brutality;

Whereas the Holocaust Museum has worked assiduously for years to ensure the timely release of the archives to survivors and the public;

Whereas the Department of State has been engaged in diplomatic efforts with other Commission member nations to provide open access to the archives;

Whereas the House of Representatives unanimously passed H. Res. 240 on April 25, 2007, and the United States Senate passed S. Res. 141 on May 1, 2007, urging all member countries of the International Commission of the ITS who have yet to ratify the May 2006 amendments to the 1955 Bonn Accords to expedite the ratification process, to allow for open access to the archives;

Whereas, on May 15, 2007, the International Commission voted in favor of a United States proposal to allow immediate transfer of a digital copy of archived materials to any of the 11 member states that have adopted the May 2006 amendments to the Bonn Accords, and thereafter, transfer of materials to both the Holocaust Museum and to Yad Vashem, the Holocaust Martyrs' and Heroes' Remembrance Authority in Israel, was initiated;

Whereas, while it is not possible to fully compensate Holocaust survivors for the pain, suffering, and loss of loved ones they have experienced, it is a moral and justifiable imperative for Holocaust survivors and their families to be offered expedited open access to these archives;

Whereas time is of the essence in order for Holocaust researchers to access the archives while eyewitnesses to the horrific atrocities of Nazi Germany are still alive;

Whereas opening the historic record is a vital contribution to the world's collective memory and understanding of the Holocaust and ensures that unchecked anti-Semitism and complete disrespect for the value of human life—including the crimes committed against non-Jewish victims—which made such horrors possible are never again permitted to take hold;

Whereas, despite overwhelming international recognition of the unconscionable horrors of the Holocaust and its devastating impact on world Jewry, there has been a sharp increase in anti-Semitism and Holocaust denial across the globe in recent years; and

Whereas it is critical that the international community continue to heed the lessons of the Holocaust, one of the darkest periods in the history of humankind, and take immediate and decisive measures to combat the scourge of anti-Semitism: Now, therefore, be it

Resolved, That the Senate—

(1) commends in the strongest terms all nations that worked expeditiously to ratify the amendments to the Bonn Accords to allow for open access to the Holocaust Archives located at Bad Arolsen, Germany;

(2) congratulates the dedication, commitment, and collaborative efforts of the United States Holocaust Memorial Museum, the Department of State, and the International Committee of the Red Cross to open the archives;

(3) encourages the United States Holocaust Memorial Museum and the International Committee of the Red Cross to act with all possible urgency to create appropriate conditions to ensure that survivors, their families, and researchers have direct access to the archives and are offered effective assistance in navigating and interpreting these archives;

(4) remembers and pays tribute to the murder of 6,000,000 innocent Jews and more than 5,000,000 other innocent victims during the Holocaust by Nazi perpetrators and their collaborators; and

(5) must remain vigilant in combating global anti-Semitism, intolerance, and bigotry.

SENATE RESOLUTION 405—RECOGNIZING THE LIFE AND CONTRIBUTIONS OF HENRY JOHN HYDE

Mr. GRASSLEY (for himself, Mr. BROWNBACK, Mr. COBURN, Mr. CORNYN, Mr. DEMINT, Mr. HATCH, Mr. ROBERTS, Mr. SUNUNU, Mrs. DOLE, Mr. ALLARD, Mr. BUNNING, Ms. SNOWE, Mr. DOMENICI, Mr. MARTINEZ, Mr. ENSIGN, Mr. COLEMAN, Mr. VITTER, Mr. HAGEL, Mr. SHELBY, Mr. THUNE, Mr. BENNETT, Mr. CRAPO, Mr. CRAIG, Mr. SESSIONS, Mr. KYL, Mr. SMITH, Mr. GRAHAM, Mr. INHOFE, and Mr. CORKER) submitted the following resolution; which was considered and agreed to:

S. RES. 405

Whereas Representative Henry John Hyde of Illinois was born in Chicago, Cook County, Illinois, on April 18, 1924;

Whereas Henry Hyde excelled as a student both at Georgetown University, at which he helped take the Hoyas basketball team to the National Collegiate Athletic Association semifinals in 1943 and from which he graduated with a bachelor of science degree in 1947, and at Loyola University Chicago School of Law, from which he graduated in 1949;

Whereas Henry Hyde served his country for his entire adult life, as an officer of the United States Navy from 1944 to 1946, where he served in combat in the Philippines during World War II, in the United States Navy Reserve from 1946 to 1968, from which he retired at the rank of Commander, as a member of the Illinois House of Representatives from 1967 to 1974 and Majority Leader of that body from 1971 to 1972, as a delegate to the Illinois Republican State Conventions from 1958 to 1974, and as a Republican Member of the United States House of Representatives for 16 Congresses, over 3 decades from January 3, 1975, to January 3, 2007;

Whereas Henry Hyde served as the Ranking Member on the Select Committee on Intelligence of the House of Representatives from 1985 to 1991, in the 99th through 101st

Congresses, and as chairman of the Committee on the Judiciary of the House of Representatives from the 104th through 106th Congresses and the Committee on International Relations from the 107th through 109th Congresses;

Whereas, in his capacity as a United States Representative, Henry Hyde tirelessly served as a champion for children, both born and unborn, and relentlessly defended the rule of law;

Whereas Henry Hyde demonstrated his commitment to the rule of law during his tenure in the House of Representatives, once stating, ''The rule of law is no pious aspiration from a civics textbook. The rule of law is what stands between us and the arbitrary exercise of power by the state. The rule of law is the safeguard of our liberties. The rule of law is what allows us to live our freedom in ways that honor the freedom of others while strengthening the common good. . . If across the river in Arlington Cemetery there are American heroes who died in defense of the rule of law, can we give less than the full measure of our devotion to that great cause?'';

Whereas Henry Hyde was a key player in some of the highest level debates concerning the response to the terrorist attacks on our Nation on September 11, 2001;

Whereas Henry Hyde received the Presidential Medal of Freedom, the Nation's highest civilian honor, on November 5, 2007, at a ceremony at which President George W. Bush explained about Representative Hyde, ''He used his persuasive powers for noble causes. He stood for a strong and purposeful America—confident in freedom's advance, and firm in freedom's defense. He stood for limited, accountable government, and the equality of every person before the law. He was a gallant champion of the weak and forgotten, and a fearless defender of life in all its seasons.'';

Whereas Henry Hyde's greatest legacy is as the author, during his freshman term in the House of Representatives, of an amendment to the 1976 Departments of Labor and Health, Education, and Welfare Appropriations Act—commonly referred to as the Hyde Amendment—that prohibits Federal dollars from being used to pay for the abortion of unborn babies, which conservative figures estimate has saved at least 1,000,000 lives;

Whereas Henry Hyde lived by the belief that we will all be judged by our Creator in the end for our actions here on Earth, which he once explained on the floor of the House of Representatives by saying, ''Our moment in history is marked by a mortal conflict between a culture of life and a culture of death. God put us in the world to do noble things, to love and to cherish our fellow human beings, not to destroy them. Today we must choose sides.'';

Whereas Henry Hyde selflessly battled for the causes that formed the core of his beliefs until the end of his life, and was greatly respected by his friends and adversaries alike for his dedication and will remain a role model for advocates of those causes by virtue of his conviction, passion, wisdom, and character; and

Whereas Henry Hyde was preceded in death by his first wife, Jeanne, and his son Hank, and is survived by his second wife, Judy, his sons Robert and Anthony and daughter Laura, 3 stepchildren, Susan, Mitch, and Stephen, 7 grandchildren, and 7 step-grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) notes with deep sorrow the death of Henry John Hyde on November 29, 2007, in Chicago;

(2) extends its heartfelt sympathy to the family of Henry Hyde;

(3) recognizes the life of service and the outstanding contributions of Henry Hyde; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the family of Henry Hyde.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3849. Ms. MIKULSKI (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table.

SA 3850. Mr. REID proposed an amendment to the bill H.R. 6, to move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and for other purposes.

SA 3851. Mr. HARKIN (for himself, Mr. CHAMBLISS, Mrs. FEINSTEIN, Mr. LEVIN, Ms. SNOWE, Mr. CRAPO, Mr. CONRAD, Ms. CANTWELL, Ms. COLLINS, Mr. DORGAN, Mr. DURBIN, Mr. LIEBERMAN, and Mr. SCHUMER) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

SA 3852. Mr. HARKIN (for Mr. DODD) proposed an amendment to the bill S. 1858, to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.

TEXT OF AMENDMENTS

SA 3849. Ms. MIKULSKI (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, after line 2, insert the following:

SEC. 7505. STUDIES AND REPORTS BY THE DEPARTMENT OF AGRICULTURE AND THE NATIONAL ACADEMY OF SCIENCES ON FOOD PRODUCTS FROM CLONED ANIMALS.

(a) STUDY BY THE DEPARTMENT OF AGRICULTURE.—

(1) IN GENERAL.—The Secretary of Agriculture, in coordination with the Economic Research Service, and after consultation with the Secretary of Health and Human Services, shall conduct a study and report to Congress on the state of domestic and international markets for products from cloned animals, including consumer acceptance. Such report shall be submitted to Congress no later than 180 days after the date of enactment of this Act.

(2) CONTENT.—The study and report under paragraph (1) shall include a description of how countries regulate the importation of food and agricultural products (including dairy products), the basis for such regulations, and potential obstacles to trade.

(b) STUDY WITH THE NATIONAL ACADEMY OF SCIENCES.—

(1) IN GENERAL.—The Secretary of Agriculture shall contract with the National Academy of Sciences to conduct a study and report to Congress regarding the safety of food products derived from cloned animals and the health effects and costs attributable to milk from cloned animals in the food supply. Such report shall be submitted to Congress no later than 1 year after the date of enactment of this Act.

(2) CONTENT.—The study and report under paragraph (1) shall include—

(A) a review and an assessment of whether the studies (including peer review studies), data, and analysis used in the draft risk assessment issued by the Food and Drug Administration entitled *Animal Cloning: A Draft Risk Assessment* (issued on December 28, 2006) supported the conclusions drawn by such draft risk assessment and—

(i) whether there were a sufficient number of studies to support such conclusions; and

(ii) whether additional pertinent studies and data exist which were not considered in the draft risk assessment and how this additional information affects the conclusions drawn in such draft risk assessment; and

(B) an evaluation and measurement of the potential public health effects and associated health care costs, including any consumer behavior changes and negative impacts on nutrition, health, and chronic diseases that may result from any decrease in dairy consumption, attributable to the commercialization of milk from cloned animals and their progeny.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to impede ongoing scientific research in artificial reproductive health technologies.

(d) TIMEFRAME OF FINAL RISK ASSESSMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (acting through the Commissioner of Food and Drugs) shall not issue the final risk assessment on the safety of cloned animals and food products derived from cloned animals until the date that the Secretary of Agriculture completes the studies required under this section.

(e) CONTINUANCE OF MORATORIUM.—Any voluntary moratorium on introducing food from cloned animals or their progeny into the food supply shall remain in effect at least until the date that the Secretary of Health and Human Services (acting through the Commissioner of Food and Drugs) issues the final risk assessment described in subsection (d).

SA 3850. Mr. REID proposed an amendment to the bill H.R. 6, to move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the amendment of the Senate to the text of the bill H.R. 6, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Independence and Security Act of 2007''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3. RELATIONSHIP TO OTHER LAW.

Except to the extent expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act supersedes, limits the authority provided or responsibility conferred by, or authorizes any violation of any provision of law (including a regulation), including any energy or environmental law or regulation.

TITLE I—ENERGY SECURITY THROUGH IMPROVED VEHICLE FUEL ECONOMY

Subtitle A—Increased Corporate Average Fuel Economy Standards

SEC. 101. SHORT TITLE.

This subtitle may be cited as the ''Ten-in-Ten Fuel Economy Act''.

SEC. 102. AVERAGE FUEL ECONOMY STANDARDS FOR AUTOMOBILES AND CERTAIN OTHER VEHICLES.

(a) INCREASED STANDARDS.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''NON-PASSENGER AUTOMOBILES.—'' and inserting ''PRESCRIPTION OF STANDARDS BY REGULATION.—'';

(B) by striking ''(except passenger automobiles)'' in subsection (a); and

(C) by striking the last sentence;

(2) by striking subsection (b) and inserting the following:

''(b) STANDARDS FOR AUTOMOBILES AND CERTAIN OTHER VEHICLES.—

''(1) IN GENERAL.—The Secretary of Transportation, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe separate average fuel economy standards for—

''(A) passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection;

''(B) non-passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection; and

''(C) work trucks and commercial medium-duty or heavy-duty on-highway vehicles in accordance with subsection (k).

''(2) FUEL ECONOMY STANDARDS FOR AUTOMOBILES.—

''(A) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2011 THROUGH 2020.—The Secretary shall prescribe a separate average fuel economy standard for passenger automobiles and a separate average fuel economy standard for non-passenger automobiles for each model year beginning with model year 2011 to achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.

''(B) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2021 THROUGH 2030.—For model years 2021 through 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles manufactured for sale in the United States shall be the maximum feasible average fuel economy standard for each fleet for that model year.

''(C) PROGRESS TOWARD STANDARD REQUIRED.—In prescribing average fuel economy standards under subparagraph (A), the Secretary shall prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary shall—

''(A) prescribe by regulation separate average fuel economy standards for passenger and non-passenger automobiles based on 1 or more vehicle attributes related to fuel economy and express each standard in the form of a mathematical function; and

''(B) issue regulations under this title prescribing average fuel economy standards for at least 1, but not more than 5, model years.

''(4) MINIMUM STANDARD.—In addition to any standard prescribed pursuant to paragraph (3), each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of—

''(A) 27.5 miles per gallon; or

''(B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year, which projection shall be published in the Federal Register when the standard for that model year is promulgated in accordance with this section.''; and

(3) in subsection (c)—

(A) by striking ''(1) Subject to paragraph (2) of this subsection, the'' and inserting ''The''; and

(B) by striking paragraph (2).

(b) FUEL ECONOMY STANDARD FOR COMMERCIAL MEDIUM-DUTY AND HEAVY-DUTY ON-HIGHWAY VEHICLES AND WORK TRUCKS.—Section 32902 of title 49, United States Code, is amended by adding at the end the following:

''(k) COMMERCIAL MEDIUM- AND HEAVY-DUTY ON-HIGHWAY VEHICLES AND WORK TRUCKS.—

''(1) STUDY.—Not later than 1 year after the National Academy of Sciences publishes the results of its study under section 108 of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall examine the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks and determine—

''(A) the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles and work trucks;

''(B) the appropriate metric for measuring and expressing commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency performance, taking into consideration, among other things, the work performed by such on-highway vehicles and work trucks and types of operations in which they are used;

''(C) the range of factors, including, without limitation, design, functionality, use, duty cycle, infrastructure, and total overall energy consumption and operating costs that affect commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency; and

''(D) such other factors and conditions that could have an impact on a program to improve commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency.

''(2) RULEMAKING.—Not later than 24 months after completion of the study required under paragraph (1), the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, by regulation, shall determine in a rulemaking proceeding how to implement a commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement, and shall adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.

''(3) LEAD-TIME; REGULATORY STABILITY.—The commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard adopted pursuant to this subsection shall provide not less than—

''(A) 4 full model years of regulatory lead-time; and

''(B) 3 full model years of regulatory stability.''.

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 32901(a) of title 49, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) except as provided in section 32908 of this title, 'automobile' means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight, except—

''(A) a vehicle operated only on a rail line;

''(B) a vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

''(C) a work truck.'';

(2) by redesignating paragraphs (7) through (16) as paragraphs (8) through (17), respectively;

(3) by inserting after paragraph (6) the following:

''(7) 'commercial medium- and heavy-duty on-highway vehicle' means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.'';

(4) in paragraph (9)(A), as redesignated, by inserting ''or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as 'B20')'' after ''alternative fuel'';

(5) by redesignating paragraph (17), as redesignated, as paragraph (18);

(6) by inserting after paragraph (16), as redesignated, the following:

''(17) 'non-passenger automobile' means an automobile that is not a passenger automobile or a work truck.''; and

(7) by adding at the end the following:

''(19) 'work truck' means a vehicle that—

''(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and

''(B) is not a medium-duty passenger vehicle (as defined in section 86.1803–01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act).''.

SEC. 104. CREDIT TRADING PROGRAM.

(a) IN GENERAL.—Section 32903 of title 49, United States Code, is amended—

(1) by striking ''section 32902(b)-(d) of this title'' each place it appears and inserting ''subsections (a) through (d) of section 32902'';

(2) in subsection (a)(2)—

(A) by striking ''3 consecutive model years'' and inserting ''5 consecutive model years'';

(B) by striking ''clause (1) of this subsection,'' and inserting ''paragraph (1)'';

(3) by redesignating subsection (f) as subsection (h); and

(4) by inserting after subsection (e) the following:

''(f) CREDIT TRADING AMONG MANUFACTURERS.—

''(1) IN GENERAL.—The Secretary of Transportation may establish, by regulation, a fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards such that the total oil savings associated with manufacturers that exceed the prescribed standards are preserved when trading credits to manufacturers that fail to achieve the prescribed standards.

''(2) LIMITATION.—The trading of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements of section 32902(b)(4), without regard to any trading of credits from other manufacturers.

''(g) CREDIT TRANSFERRING WITHIN A MANUFACTURER'S FLEET.—

''(1) IN GENERAL.—The Secretary of Transportation shall establish by regulation a fuel economy credit transferring program to allow any manufacturer whose automobiles exceed any of the average fuel economy standards prescribed under section 32902 to transfer the credits earned under this section and to apply such credits within that manufacturer's fleet to a compliance category of automobiles that fails to achieve the prescribed standards.

''(2) YEARS FOR WHICH USED.—Credits transferred under this subsection are available to be used in the same model years that the manufacturer could have applied such credits under subsections (a), (b), (d), and (e), as well as for the model year in which the manufacturer earned such credits.

''(3) MAXIMUM INCREASE.—The maximum increase in any compliance category attributable to transferred credits is—

''(A) for model years 2011 through 2013, 1.0 mile per gallon;

''(B) for model years 2014 through 2017, 1.5 miles per gallon; and

''(C) for model year 2018 and subsequent model years, 2.0 miles per gallon.

''(4) LIMITATION.—The transfer of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements under section 32904(b)(4), without regard to any transfer of credits from other categories of automobiles described in paragraph (6)(B).

''(5) YEARS AVAILABLE.—A credit may be transferred under this subsection only if it is earned after model year 2010.

''(6) DEFINITIONS.—In this subsection:

''(A) FLEET.—The term 'fleet' means all automobiles manufactured by a manufacturer in a particular model year.

''(B) COMPLIANCE CATEGORY OF AUTOMOBILES.—The term 'compliance category of automobiles' means any of the following 3 categories of automobiles for which compliance is separately calculated under this chapter:

''(i) Passenger automobiles manufactured domestically.

''(ii) Passenger automobiles not manufactured domestically.

''(iii) Non-passenger automobiles.''.

(b) CONFORMING AMENDMENTS.—

(1) LIMITATIONS.—Section 32902(h) of title 49, United States Code, is amended—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) may not consider, when prescribing a fuel economy standard, the trading, transferring, or availability of credits under section 32903.''.

(2) SEPARATE CALCULATIONS.—Section 32904(b)(1)(B) is amended by striking ''chapter.'' and inserting ''chapter, except for the purposes of section 32903.''.

SEC. 105. CONSUMER INFORMATION.

Section 32908 of title 49, United States Code, is amended by adding at the end the following:

''(g) CONSUMER INFORMATION.—

''(1) PROGRAM.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a program to require manufacturers—

''(A) to label new automobiles sold in the United States with—

''(i) information reflecting an automobile's performance on the basis of criteria that the Administrator shall develop, not later than 18 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act, to reflect fuel economy and greenhouse gas and other emissions over the useful life of the automobile;

''(ii) a rating system that would make it easy for consumers to compare the fuel economy and greenhouse gas and other emissions of automobiles at the point of purchase, including a designation of automobiles—

''(I) with the lowest greenhouse gas emissions over the useful life of the vehicles; and

''(II) the highest fuel economy; and

''(iii) a permanent and prominent display that an automobile is capable of operating on an alternative fuel; and

''(B) to include in the owner's manual for vehicles capable of operating on alternative fuels information that describes that capability and the benefits of using alternative fuels, including the renewable nature and environmental benefits of using alternative fuels.

''(2) CONSUMER EDUCATION.—

''(A) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a consumer education program to improve consumer understanding of automobile performance described in paragraph (1)(A)(i) and to inform consumers of the benefits of using alternative fuel in automobiles and the location of stations with alternative fuel capacity.

''(B) FUEL SAVINGS EDUCATION CAMPAIGN.—The Secretary of Transportation shall establish a consumer education campaign on the fuel savings that would be recognized from the purchase of vehicles equipped with thermal management technologies, including energy efficient air conditioning systems and glass.

''(3) FUEL TANK LABELS FOR ALTERNATIVE FUEL AUTOMOBILES.—The Secretary of Transportation shall by rule require a label to be attached to the fuel compartment of vehicles capable of operating on alternative fuels, with the form of alternative fuel stated on the label. A label attached in compliance with the requirements of section 32905(h) is deemed to meet the requirements of this paragraph.

''(4) RULEMAKING DEADLINE.—The Secretary of Transportation shall issue a final rule under this subsection not later than 42 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act.''.

SEC. 106. CONTINUED APPLICABILITY OF EXISTING STANDARDS.

Nothing in this subtitle, or the amendments made by this subtitle, shall be construed to affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2011.

SEC. 107. NATIONAL ACADEMY OF SCIENCES STUDIES.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating vehicle fuel economy standards, including—

(1) an assessment of automotive technologies and costs to reflect developments since the Academy's 2002 report evaluating the corporate average fuel economy standards was conducted;

(2) an analysis of existing and potential technologies that may be used practically to improve automobile and medium-duty and heavy-duty truck fuel economy;

(3) an analysis of how such technologies may be practically integrated into the automotive and medium-duty and heavy-duty truck manufacturing process; and

(4) an assessment of how such technologies may be used to meet the new fuel economy standards under chapter 329 of title 49, United States Code, as amended by this subtitle.

(b) REPORT.—The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations

not later than 5 years after the date on which the Secretary executes the agreement with the Academy.

(c) QUINQUENNIAL UPDATES.—After submitting the initial report, the Academy shall update the report at 5 year intervals thereafter through 2025.

SEC. 108. NATIONAL ACADEMY OF SCIENCES STUDY OF MEDIUM-DUTY AND HEAVY-DUTY TRUCK FUEL ECONOMY.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating medium-duty and heavy-duty truck fuel economy standards, including—

(1) an assessment of technologies and costs to evaluate fuel economy for medium-duty and heavy-duty trucks;

(2) an analysis of existing and potential technologies that may be used practically to improve medium-duty and heavy-duty truck fuel economy;

(3) an analysis of how such technologies may be practically integrated into the medium-duty and heavy-duty truck manufacturing process;

(4) an assessment of how such technologies may be used to meet fuel economy standards to be prescribed under section 32902(k) of title 49, United States Code, as amended by this subtitle; and

(5) associated costs and other impacts on the operation of medium-duty and heavy-duty trucks, including congestion.

(b) REPORT.—The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 1 year after the date on which the Secretary executes the agreement with the Academy.

SEC. 109. EXTENSION OF FLEXIBLE FUEL VEHICLE CREDIT PROGRAM.

(a) IN GENERAL.—Section 32906 of title 49, United States Code, is amended to read as follows:

''§ 32906. Maximum fuel economy increase for alternative fuel automobiles

''(a) IN GENERAL.—For each of model years 1993 through 2019 for each category of automobile (except an electric automobile), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is—

''(1) 1.2 miles a gallon for each of model years 1993 through 2014;

''(2) 1.0 miles per gallon for model year 2015;

''(3) 0.8 miles per gallon for model year 2016;

''(4) 0.6 miles per gallon for model year 2017;

''(5) 0.4 miles per gallon for model year 2018;

''(6) 0.2 miles per gallon for model year 2019; and

''(7) 0 miles per gallon for model years after 2019.

''(b) CALCULATION.—In applying subsection (a), the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula under section 32904(a)(1) by including as the denominator for each model of dual fueled automobiles the fuel economy when the automobiles are operated on gasoline or diesel fuel.''.

(b) CONFORMING AMENDMENTS.—Section 32905 of title 49, United States Code, is amended—

(1) in subsection (b), by striking ''1993-2010,'' and inserting ''1993 through 2019,'';

(2) in subsection (d), by striking ''1993-2010,'' and inserting ''1993 through 2019,'';

(3) by striking subsections (f) and (g); and

(4) by redesignating subsection (h) as subsection (f).

(c) B20 BIODIESEL FLEXIBLE FUEL CREDIT.—Section 32905(b)(2) of title 49, United States Code, is amended to read as follows:

''(2) .5 divided by the fuel economy—

''(A) measured under subsection (a) when operating the model on alternative fuel; or

''(B) measured based on the fuel content of B20 when operating the model on B20, which is deemed to contain 0.15 gallon of fuel.''.

SEC. 110. PERIODIC REVIEW OF ACCURACY OF FUEL ECONOMY LABELING PROCEDURES.

Beginning in December, 2009, and not less often than every 5 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall—

(1) reevaluate the fuel economy labeling procedures described in the final rule published in the Federal Register on December 27, 2006 (71 Fed. Reg. 77,872; 40 C.F.R. parts 86 and 600) to determine whether changes in the factors used to establish the labeling procedures warrant a revision of that process; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the results of the reevaluation process.

SEC. 111. CONSUMER TIRE INFORMATION.

(a) IN GENERAL.—Chapter 323 of title 49, United States Code, is amended by inserting after section 32304 the following:

''§ 32304A. Consumer tire information

''(a) RULEMAKING.—

''(1) IN GENERAL.—Not later than 24 months after the date of enactment of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation shall, after notice and opportunity for comment, promulgate rules establishing a national tire fuel efficiency consumer information program for replacement tires designed for use on motor vehicles to educate consumers about the effect of tires on automobile fuel efficiency, safety, and durability.

''(2) ITEMS INCLUDED IN RULE.—The rulemaking shall include—

''(A) a national tire fuel efficiency rating system for motor vehicle replacement tires to assist consumers in making more educated tire purchasing decisions;

''(B) requirements for providing information to consumers, including information at the point of sale and other potential information dissemination methods, including the Internet;

''(C) specifications for test methods for manufacturers to use in assessing and rating tires to avoid variation among test equipment and manufacturers; and

''(D) a national tire maintenance consumer education program including, information on tire inflation pressure, alignment, rotation, and tread wear to maximize fuel efficiency, safety, and durability of replacement tires.

''(3) APPLICABILITY.—This section shall apply only to replacement tires covered under section 575.104(c) of title 49, Code of Federal Regulations, in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act.

''(b) CONSULTATION.—The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on the means of conveying tire fuel efficiency consumer information.

''(c) REPORT TO CONGRESS.—The Secretary shall conduct periodic assessments of the rules promulgated under this section to determine the utility of such rules to consumers, the level of cooperation by industry, and the contribution to national goals pertaining to energy consumption. The Secretary shall transmit periodic reports detailing the findings of such assessments to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

''(d) TIRE MARKING.—The Secretary shall not require permanent labeling of any kind on a tire for the purpose of tire fuel efficiency information.

''(e) APPLICATION WITH STATE AND LOCAL LAWS AND REGULATIONS.—Nothing in this section prohibits a State or political subdivision thereof from enforcing a law or regulation on tire fuel efficiency consumer information that was in effect on January 1, 2006. After a requirement promulgated under this section is in effect, a State or political subdivision thereof may adopt or enforce a law or regulation on tire fuel efficiency consumer information enacted or promulgated after January 1, 2006, if the requirements of that law or regulation are identical to the requirement promulgated under this section. Nothing in this section shall be construed to preempt a State or political subdivision thereof from regulating the fuel efficiency of tires (including establishing testing methods for determining compliance with such standards) not otherwise preempted under this chapter.''.

(b) ENFORCEMENT.—Section 32308 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d)and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) SECTION 32304A.—Any person who fails to comply with the national tire fuel efficiency information program under section 32304A is liable to the United States Government for a civil penalty of not more than $50,000 for each violation.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 323 of title 49, United States Code, is amended by inserting after the item relating to section 32304 the following:

''32304A. Consumer tire information''.

SEC. 112. USE OF CIVIL PENALTIES FOR RESEARCH AND DEVELOPMENT.

Section 32912 of title 49, United States Code, is amended by adding at the end the following:

''(e) USE OF CIVIL PENALTIES.—For fiscal year 2008 and each fiscal year thereafter, from the total amount deposited in the general fund of the Treasury during the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section (including funds obtained under consent decrees), the Secretary of the Treasury, subject to the availability of appropriations, shall—

''(1) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to support rulemaking under this chapter; and

''(2) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to carry out a program to make grants to manufacturers for retooling, reequipping, or expanding existing manufacturing facilities in the United States to produce advanced technology vehicles and components.''.

SEC. 113. EXEMPTION FROM SEPARATE CALCULATION REQUIREMENT.

(a) REPEAL.—Paragraphs (6), (7), and (8) of section 32904(b) of title 49, United States Code, are repealed.

(b) EFFECT OF REPEAL ON EXISTING EXEMPTIONS.—Any exemption granted under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act shall remain in effect subject to its terms through model year 2013.

(c) ACCRUAL AND USE OF CREDITS.—Any manufacturer holding an exemption under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act may accrue and use credits under sections 32903 and 32905 of such title begining with model year 2011.

Subtitle B—Improved Vehicle Technology

SEC. 131. TRANSPORTATION ELECTRIFICATION.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BATTERY.—The term ''battery'' means an electrochemical energy storage system powered directly by electrical current.

(3) ELECTRIC TRANSPORTATION TECHNOLOGY.—The term ''electric transportation technology'' means—

(A) technology used in vehicles that use an electric motor for all or part of the motive power of the vehicles, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles, or rail transportation; or

(B) equipment relating to transportation or mobile sources of air pollution that use an electric motor to replace an internal combustion engine for all or part of the work of the equipment, including—

(i) corded electric equipment linked to transportation or mobile sources of air pollution; and

(ii) electrification technologies at airports, ports, truck stops, and material-handling facilities.

(4) NONROAD VEHICLE.—The term ''nonroad vehicle'' means a vehicle—

(A) powered—

(i) by a nonroad engine, as that term is defined in section 216 of the Clean Air Act (42 U.S.C. 7550); or

(ii) fully or partially by an electric motor powered by a fuel cell, a battery, or an offboard source of electricity; and

(B) that is not a motor vehicle or a vehicle used solely for competition.

(5) PLUG-IN ELECTRIC DRIVE VEHICLE.—The term ''plug-in electric drive vehicle'' means a vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(6) QUALIFIED ELECTRIC TRANSPORTATION PROJECT.—The term ''qualified electric transportation project'' means an electric transportation technology project that would significantly reduce emissions of criteria pollutants, greenhouse gas emissions, and petroleum, including—

(A) shipside or shoreside electrification for vessels;

(B) truck-stop electrification;

(C) electric truck refrigeration units;

(D) battery powered auxiliary power units for trucks;

(E) electric airport ground support equipment;

(F) electric material and cargo handling equipment;

(G) electric or dual-mode electric rail;

(H) any distribution upgrades needed to supply electricity to the project; and

(I) any ancillary infrastructure, including panel upgrades, battery chargers, in-situ transformers, and trenching.

(b) PLUG-IN ELECTRIC DRIVE VEHICLE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a competitive program to provide grants on a cost-shared basis to State governments, local governments, metropolitan transportation authorities, air pollution control districts, private or nonprofit entities, or combinations of those governments, authorities, districts, and entities, to carry out 1 or more projects to encourage the use of plug-in electric drive vehicles or other emerging electric vehicle technologies, as determined by the Secretary.

(2) ADMINISTRATION.—The Secretary shall, in consultation with the Secretary of Transportation and the Administrator, establish requirements for applications for grants under this section, including reporting of data to be summarized for dissemination to grantees and the public, including safety, vehicle, and component performance, and vehicle and component life cycle costs.

(3) PRIORITY.—In making awards under this subsection, the Secretary shall—

(A) give priority consideration to applications that—

(i) encourage early widespread use of vehicles described in paragraph (1); and

(ii) are likely to make a significant contribution to the advancement of the production of the vehicles in the United States; and

(B) ensure, to the maximum extent practicable, that the program established under this subsection includes a variety of applications, manufacturers, and end-uses.

(4) REPORTING.—The Secretary shall require a grant recipient under this subsection to submit to the Secretary, on an annual basis, data relating to safety, vehicle performance, life cycle costs, and emissions of vehicles demonstrated under the grant, including emissions of greenhouse gases.

(5) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a grant made under this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $90,000,000 for each of fiscal years 2008 through 2012, of which not less than ⅓ of the total amount appropriated shall be available each fiscal year to make grants to local and municipal governments.

(c) NEAR-TERM TRANSPORTATION SECTOR ELECTRIFICATION PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation and the Administrator, shall establish a program to provide grants for the conduct of qualified electric transportation projects.

(2) PRIORITY.—In providing grants under this subsection, the Secretary shall give priority to large-scale projects and large-scale aggregators of projects.

(3) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a grant made under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $95,000,000 for each of fiscal years 2008 through 2013.

(d) EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a nationwide electric drive transportation technology education program under which the Secretary shall provide—

(A) teaching materials to secondary schools and high schools; and

(B) assistance for programs relating to electric drive system and component engineering to institutions of higher education.

(2) ELECTRIC VEHICLE COMPETITION.—The program established under paragraph (1) shall include a plug-in hybrid electric vehicle competition for institutions of higher education, which shall be known as the ''Dr. Andrew Frank Plug-In Electric Vehicle Competition''.

(3) ENGINEERS.—In carrying out the program established under paragraph (1), the Secretary shall provide financial assistance to institutions of higher education to create new, or support existing, degree programs to ensure the availability of trained electrical and mechanical engineers with the skills necessary for the advancement of—

(A) plug-in electric drive vehicles; and

(B) other forms of electric drive transportation technology vehicles.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 132. DOMESTIC MANUFACTURING CONVERSION GRANT PROGRAM.

Section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062) is amended to read as follows:

''SEC. 712. DOMESTIC MANUFACTURING CONVERSION GRANT PROGRAM.

''(a) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles and components of those vehicles.

''(2) INCLUSIONS.—The program shall include grants to automobile manufacturers and suppliers and hybrid component manufacturers to encourage domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and advanced diesel vehicles.

''(3) PRIORITY.—Priority shall be given to the refurbishment or retooling of manufacturing facilities that have recently ceased operation or will cease operation in the near future.

''(b) COORDINATION WITH STATE AND LOCAL PROGRAMS.—The Secretary may coordinate implementation of this section with State and local programs designed to accomplish similar goals, including the retention and retraining of skilled workers from the manufacturing facilities, including by establishing matching grant arrangements.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.''.

SEC. 133. INCLUSION OF ELECTRIC DRIVE IN ENERGY POLICY ACT OF 1992.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively;

(2) by inserting before subsection (b) the following:

''(a) DEFINITIONS.—In this section:

''(1) FUEL CELL ELECTRIC VEHICLE.—The term 'fuel cell electric vehicle' means an on-road or nonroad vehicle that uses a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

''(2) HYBRID ELECTRIC VEHICLE.—The term 'hybrid electric vehicle' means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

''(3) MEDIUM- OR HEAVY-DUTY ELECTRIC VEHICLE.—The term 'medium- or heavy-duty electric vehicle' means an electric, hybrid electric, or plug-in hybrid electric vehicle with a gross vehicle weight of more than 8,501 pounds.

''(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term 'neighborhood electric vehicle' means a 4-wheeled on-road or nonroad vehicle that—

''(A) has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and

''(B) is propelled by an electric motor and on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.

''(5) PLUG-IN ELECTRIC DRIVE VEHICLE.—The term 'plug-in electric drive vehicle' means a vehicle that—

''(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

''(B) can be recharged from an external source of electricity for motive power; and

''(C) is a light-, medium-, or heavy duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550).'';

(3) in subsection (b) (as redesignated by paragraph (1))—

(A) by striking ''The Secretary'' and inserting the following:

''(1) ALLOCATION.—The Secretary''; and

(B) by adding at the end the following:

''(2) ELECTRIC VEHICLES.—Not later than January 31, 2009, the Secretary shall—

''(A) allocate credit in an amount to be determined by the Secretary for—

''(i) acquisition of—

''(I) a hybrid electric vehicle;

''(II) a plug-in electric drive vehicle;

''(III) a fuel cell electric vehicle;

''(IV) a neighborhood electric vehicle; or

''(V) a medium- or heavy-duty electric vehicle; and

''(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

''(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

''(i) a reduction in petroleum demand;

''(ii) technological advancement; and

''(iii) a reduction in vehicle emissions.'';

(4) in subsection (c) (as redesignated by paragraph (1)), by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(5) by adding at the end the following:

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2013.''.

SEC. 134. LOAN GUARANTEES FOR FUEL-EFFICIENT AUTOMOBILE PARTS MANUFACTURERS.

(a) IN GENERAL.—Section 712(a)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16062(a)(2)) (as amended by section 132) is amended by inserting ''and loan guarantees under section 1703'' after ''grants''.

(b) CONFORMING AMENDMENT.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by striking paragraph (8) and inserting the following:

''(8) Production facilities for the manufacture of fuel efficient vehicles or parts of those vehicles, including electric drive vehicles and advanced diesel vehicles.''.

SEC. 135. ADVANCED BATTERY LOAN GUARANTEE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the manufacture of advanced vehicle batteries and battery systems that are developed and produced in the United States, including advanced lithium ion batteries and hybrid electrical system and component manufacturers and software designers.

(b) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (a) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (a);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(c) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility.

(d) MATURITY.—A loan guaranteed under subsection (a) shall have a maturity of not more than 20 years.

(e) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (a) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(f) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (a) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(g) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (a) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(h) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(i) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(k) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (a) terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 136. ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED TECHNOLOGY VEHICLE.—The term ''advanced technology vehicle'' means a light duty vehicle that meets—

(A) the Bin 5 Tier II emission standard established in regulations issued by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower-numbered Bin emission standard;

(B) any new emission standard in effect for fine particulate matter prescribed by the Administrator under that Act (42 U.S.C. 7401 et seq.); and

(C) at least 125 percent of the average base year combined fuel economy for vehicles with substantially similar attributes.

(2) COMBINED FUEL ECONOMY.—The term ''combined fuel economy'' means—

(A) the combined city/highway miles per gallon values, as reported in accordance with section 32904 of title 49, United States Code; and

(B) in the case of an electric drive vehicle with the ability to recharge from an off-board source, the reported mileage, as determined in a manner consistent with the Society of Automotive Engineers recommended practice for that configuration or a similar practice recommended by the Secretary.

(3) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) incorporating qualifying components into the design of advanced technology vehicles; and

(B) designing tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced technology vehicles.

(4) QUALIFYING COMPONENTS.—The term ''qualifying components'' means components that the Secretary determines to be—

(A) designed for advanced technology vehicles; and

(B) installed for the purpose of meeting the performance requirements of advanced technology vehicles.

(b) ADVANCED VEHICLES MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to automobile manufacturers and component suppliers to pay not more than 30 percent of the cost of—

(1) reequipping, expanding, or establishing a manufacturing facility in the United States to produce—

(A) qualifying advanced technology vehicles; or

(B) qualifying components; and

(2) engineering integration performed in the United States of qualifying vehicles and qualifying components.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) APPLICATION.—An applicant for a loan under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a loan under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, United States Code; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

(3) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(4) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

(e) IMPROVEMENT.—The Secretary shall issue regulations that require that, in order for an automobile manufacturer to be eligible for an award or loan under this section during a particular year, the adjusted average fuel economy of the manufacturer for light duty vehicles produced by the manufacturer during the most recent year for which data are available shall be not less than the average fuel economy for all light duty vehicles of the manufacturer for model year 2005. In order to determine fuel economy baselines for eligibility of a new manufacturer or a manufacturer that has not produced previously produced equivalent vehicles, the Secretary may substitute industry averages.

(f) FEES.—Administrative costs shall be no more than $100,000 or 10 basis point of the loan.

(g) PRIORITY.—The Secretary shall, in making awards or loans to those manufacturers that have existing facilities, give priority to those facilities that are oldest or have been in existence for at least 20 years. Such facilities can currently be sitting idle.

(h) SET ASIDE FOR SMALL AUTOMOBILE MANUFACTURERS AND COMPONENT SUPPLIERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs less than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds that are used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

Subtitle C—Federal Vehicle Fleets

SEC. 141. FEDERAL VEHICLE FLEETS.

Section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) VEHICLE EMISSION REQUIREMENTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) FEDERAL AGENCY.—The term 'Federal agency' does not include any office of the legislative branch, except that it does include the House of Representatives with respect to an acquisition described in paragraph (2)(C).

''(B) MEDIUM DUTY PASSENGER VEHICLE.—The term 'medium duty passenger vehicle' has the meaning given that term section 523.2 of title 49 of the Code of Federal Regulations, as in effect on the date of enactment of this paragraph.

''(C) MEMBER'S REPRESENTATIONAL ALLOWANCE.—The term 'Member's Representational Allowance' means the allowance described in section 101(a) of the House of Representatives Administrative Reform Technical Corrections Act (2 U.S.C. 57b(a)).

''(2) PROHIBITION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no Federal agency shall acquire a light duty motor vehicle or medium duty passenger vehicle that is not a low greenhouse gas emitting vehicle.

''(B) EXCEPTION.—The prohibition in subparagraph (A) shall not apply to acquisition of a vehicle if the head of the agency certifies in writing, in a separate certification for each individual vehicle purchased, either—

''(i) that no low greenhouse gas emitting vehicle is available to meet the functional needs of the agency and details in writing the functional needs that could not be met with a low greenhouse gas emitting vehicle; or

''(ii) that the agency has taken specific alternative more cost-effective measures to reduce petroleum consumption that—

''(I) have reduced a measured and verified quantity of greenhouse gas emissions equal to or greater than the quantity of greenhouse gas reductions that would have been achieved through acquisition of a low greenhouse gas emitting vehicle over the lifetime of the vehicle; or

''(II) will reduce each year a measured and verified quantity of greenhouse gas emissions equal to or greater than the quantity of greenhouse gas reductions that would have been achieved each year through acquisition of a low greenhouse gas emitting vehicle.

''(C) SPECIAL RULE FOR VEHICLES PROVIDED BY FUNDS CONTAINED IN MEMBERS' REPRESENTATIONAL ALLOWANCE.—This paragraph shall apply to the acquisition of a light duty motor vehicle or medium duty passenger vehicle using any portion of a Member's Representational Allowance, including an acquisition under a long-term lease.

''(3) GUIDANCE.—

''(A) IN GENERAL.—Each year, the Administrator of the Environmental Protection Agency shall issue guidance identifying the makes and model numbers of vehicles that are low greenhouse gas emitting vehicles.

''(B) CONSIDERATION.—In identifying vehicles under subparagraph (A), the Administrator shall take into account the most stringent standards for vehicle greenhouse gas emissions applicable to and enforceable against motor vehicle manufacturers for vehicles sold anywhere in the United States.

''(C) REQUIREMENT.—The Administrator shall not identify any vehicle as a low greenhouse gas emitting vehicle if the vehicle emits greenhouse gases at a higher rate than such standards allow for the manufacturer's fleet average grams per mile of carbon dioxide-equivalent emissions for that class of vehicle, taking into account any emissions allowances and adjustment factors such standards provide.''.

SEC. 142. FEDERAL FLEET CONSERVATION REQUIREMENTS.

Part J of title III of the Energy Policy and Conservation Act (42 U.S.C. 6374 et seq.) is amended by adding at the end the following:

''SEC. 400FF. FEDERAL FLEET CONSERVATION REQUIREMENTS.

''(a) MANDATORY REDUCTION IN PETROLEUM CONSUMPTION.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations for Federal fleets subject to section 400AA to require that, beginning in fiscal year 2010, each Federal agency shall reduce petroleum consumption and increase alternative fuel consumption each year by an amount necessary to meet the goals described in paragraph (2).

''(2) GOALS.—The goals of the requirements under paragraph (1) are that not later than October 1, 2015, and for each year thereafter, each Federal agency shall achieve at least a 20 percent reduction in annual petroleum consumption and a 10 percent increase in annual alternative fuel consumption, as calculated from the baseline established by the Secretary for fiscal year 2005.

''(3) MILESTONES.—The Secretary shall include in the regulations described in paragraph (1)—

''(A) interim numeric milestones to assess annual agency progress towards accomplishing the goals described in that paragraph; and

''(B) a requirement that agencies annually report on progress towards meeting each of the milestones and the 2015 goals.

''(b) PLAN.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The regulations under subsection (a) shall require each Federal agency to develop a plan, and implement the measures specified in the plan by dates specified in the plan, to meet the required petroleum reduction levels and the alternative fuel consumption increases, including the milestones specified by the Secretary.

''(B) INCLUSIONS.—The plan shall—

''(i) identify the specific measures the agency will use to meet the requirements of subsection (a)(2); and

''(ii) quantify the reductions in petroleum consumption or increases in alternative fuel consumption projected to be achieved by each measure each year.

''(2) MEASURES.—The plan may allow an agency to meet the required petroleum reduction level through—

''(A) the use of alternative fuels;

''(B) the acquisition of vehicles with higher fuel economy, including hybrid vehicles, neighborhood electric vehicles, electric vehicles, and plug-in hybrid vehicles if the vehicles are commercially available;

''(C) the substitution of cars for light trucks;

''(D) an increase in vehicle load factors;

''(E) a decrease in vehicle miles traveled;

''(F) a decrease in fleet size; and

''(G) other measures.''.

TITLE II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS

Subtitle A—Renewable Fuel Standard

SEC. 201. DEFINITIONS.

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)) is amended to read as follows:

''(1) DEFINITIONS.—In this section:

''(A) ADDITIONAL RENEWABLE FUEL.—The term 'additional renewable fuel' means fuel that is produced from renewable biomass and

that is used to replace or reduce the quantity of fossil fuel present in home heating oil or jet fuel.

''(B) ADVANCED BIOFUEL.—

''(i) IN GENERAL.—The term 'advanced biofuel' means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions.

''(ii) INCLUSIONS.—The types of fuels eligible for consideration as 'advanced biofuel' may include any of the following:

''(I) Ethanol derived from cellulose, hemicellulose, or lignin.

''(II) Ethanol derived from sugar or starch (other than corn starch).

''(III) Ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste, and food waste and yard waste.

''(IV) Biomass-based diesel.

''(V) Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass.

''(VI) Butanol or other alcohols produced through the conversion of organic matter from renewable biomass.

''(VII) Other fuel derived from cellulosic biomass.

''(C) BASELINE LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term 'baseline lifecycle greenhouse gas emissions' means the average lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, for gasoline or diesel (whichever is being replaced by the renewable fuel) sold or distributed as transportation fuel in 2005.

''(D) BIOMASS-BASED DIESEL.—The term 'biomass-based diesel' means renewable fuel that is biodiesel as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) and that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than the baseline lifecycle greenhouse gas emissions. Notwithstanding the preceding sentence, renewable fuel derived from coprocessing biomass with a petroleum feedstock shall be advanced biofuel if it meets the requirements of subparagraph (B), but is not biomass-based diesel.

''(E) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and that has lifecycle greenhouse gas emissions, as determined by the Administrator, that are at least 60 percent less than the baseline lifecycle greenhouse gas emissions.

''(F) CONVENTIONAL BIOFUEL.—The term 'conventional biofuel' means renewable fuel that is ethanol derived from corn starch

''(G) GREENHOUSE GAS.—The term 'greenhouse gas' means carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, sulfur hexafluoride. The Administrator may include any other anthropogenically-emitted gas that is determined by the Administrator, after notice and comment, to contribute to global warming.

''(H) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term 'lifecycle greenhouse gas emissions' means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means each of the following:

''(i) Planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to the enactment of this sentence that is either actively managed or fallow, and nonforested.

''(ii) Planted trees and tree residue from actively managed tree plantations on nonfederal land cleared at any time prior to enactment of this sentence, including land belonging to an Indian tribe or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States.

''(iii) Animal waste material and animal byproducts.

''(iv) Slash and pre-commercial thinnings that are from non-federal forestlands, including forestlands belonging to an Indian tribe or an Indian individual, that are held in trust by the United States or subject to a restriction against alienation imposed by the United States, but not forests or forestlands that are ecological communities with a global or State ranking of critically imperiled, imperiled, or rare pursuant to a State Natural Heritage Program, old growth forest, or late successional forest.

''(v) Biomass obtained from the immediate vicinity of buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

''(vi) Algae.

''(vii) Separated yard waste or food waste, including recycled cooking and trap grease.

''(J) RENEWABLE FUEL.—The term 'renewable fuel' means fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

''(K) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(L) TRANSPORTATION FUEL.—The term 'transportation fuel' means fuel for use in motor vehicles, motor vehicle engines, nonroad vehicles, or nonroad engines (except for ocean-going vessels).''.

SEC. 202. RENEWABLE FUEL STANDARD.

(a) RENEWABLE FUEL PROGRAM.—Paragraph (2) of section 211(o) (42 U.S.C. 7545(o)(2)) of the Clean Air Act is amended as follows:

(1) REGULATIONS.—Clause (i) of subparagraph (A) is amended by adding the following at the end thereof: ''Not later than 1 year after the date of enactment of this sentence, the Administrator shall revise the regulations under this paragraph to ensure that transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains at least the applicable volume of renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel, determined in accordance with subparagraph (B) and, in the case of any such renewable fuel produced from new facilities that commence construction after the date of enactment of this sentence, achieves at least a 20 percent reduction in lifecycle greenhouse gas emissions compared to baseline lifecycle greenhouse gas emissions.''

(2) APPLICABLE VOLUMES OF RENEWABLE FUEL.—Subparagraph (B) is amended to read as follows:

''(B) APPLICABLE VOLUMES.—

''(i) CALENDAR YEARS AFTER 2005.—

''(I) RENEWABLE FUEL.—For the purpose of subparagraph (A), the applicable volume of renewable fuel for the calendar years 2006 through 2022 shall be determined in accordance with the following table:

"Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	9.0
2009	11.1
2010	12.95
2011	13.95
2012	15.2
2013	16.55
2014	18.15
2015	20.5
2016	22.25
2017	24.0
2018	26.0
2019	28.0
2020	30.0
2021	33.0
2022	36.0

''(II) ADVANCED BIOFUEL.—For the purpose of subparagraph (A), of the volume of renewable fuel required under subclause (I), the applicable volume of advanced biofuel for the calendar years 2009 through 2022 shall be determined in accordance with the following table:

"Calendar year:	Applicable volume of advanced biofuel (in billions of gallons):
2009	0.6
2010	0.95
2011	1.35
2012	2.0
2013	2.75
2014	3.75
2015	5.5
2016	7.25
2017	9.0
2018	11.0
2019	13.0
2020	15.0
2021	18.0
2022	21.0

''(III) CELLULOSIC BIOFUEL.—For the purpose of subparagraph (A), of the volume of advanced biofuel required under subclause (II), the applicable volume of cellulosic biofuel for the calendar years 2010 through 2022 shall be determined in accordance with the following table:

"Calendar year:	Applicable volume of cellulosic biofuel (in billions of gallons):
2010	0.1
2011	0.25
2012	0.5
2013	1.0
2014	1.75
2015	3.0
2016	4.25
2017	5.5
2018	7.0
2019	8.5
2020	10.5
2021	13.5
2022	16.0

''(IV) BIOMASS-BASED DIESEL.—For the purpose of subparagraph (A), of the volume of advanced biofuel required under subclause (II), the applicable volume of biomass-based diesel for the calendar years 2009 through 2012 shall be determined in accordance with the following table:

"Calendar year:	Applicable volume of biomass-based diesel (in billions of gallons):
2009	0.5

"Calendar year:	Applicable volume of biomass-based diesel (in billions of gallons):
2010	0.65
2011	0.80
2012	1.0

''(ii) OTHER CALENDAR YEARS.—For the purposes of subparagraph (A), the applicable volumes of each fuel specified in the tables in clause (i) for calendar years after the calendar years specified in the tables shall be determined by the Administrator, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years specified in the tables, and an analysis of—

''(I) the impact of the production and use of renewable fuels on the environment, including on air quality, climate change, conversion of wet lands, eco-systems, wildlife habitat, water quality, and water supply;

''(II) the impact of renewable fuels on the energy security of the United States;

''(III) the expected annual rate of future commercial production of renewable fuels, including advanced biofuels in each category (cellulosic biofuel and biomass-based diesel);

''(IV) the impact of renewable fuels on the infrastructure of the United States, including deliverability of materials, goods, and products other than renewable fuel, and the sufficiency of infrastructure to deliver and use renewable fuel;

''(V) the impact of the use of renewable fuels on the cost to consumers of transportation fuel and on the cost to transport goods; and

''(VI) the impact of the use of renewable fuels on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

The Administrator shall promulgate rules establishing the applicable volumes under this clause no later than 14 months before the first year for which such applicable volume will apply.

''(iii) APPLICABLE VOLUME OF ADVANCED BIOFUEL.—For the purpose of making the determinations in clause (ii), for each calendar year, the applicable volume of advanced biofuel shall be at least the same percentage of the applicable volume of renewable fuel as in calendar year 2022.

''(iv) APPLICABLE VOLUME OF CELLULOSIC BIOFUEL.—For the purpose of making the determinations in clause (ii), for each calendar year, the applicable volume of cellulosic biofuel established by the Administrator shall be based on the assumption that the Administrator will not need to issue a waiver for such years under paragraph (7)(D).

''(v) MINIMUM APPLICABLE VOLUME OF BIOMASS-BASED DIESEL.—For the purpose of making the determinations in clause (ii), the applicable volume of biomass-based diesel shall not be less than the applicable volume listed in clause (i)(IV) for calendar year 2012.''.

(b) APPLICABLE PERCENTAGES.—Paragraph (3) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(3)) is amended as follows:

(1) In subparagraph (A), by striking ''2011'' and inserting ''2021''.

(2) In subparagraph (A), by striking ''gasoline'' and inserting ''transportation fuel, biomass-based diesel, and cellulosic biofuel''.

(3) In subparagraph (B), by striking ''2012'' and inserting ''2021'' in clause (i).

(4) In subparagraph (B), by striking ''gasoline'' and inserting ''transportation fuel'' in clause (ii)(II).

(c) MODIFICATION OF GREENHOUSE GAS PERCENTAGES.—Paragraph (4) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(4)) is amended to read as follows:

''(4) MODIFICATION OF GREENHOUSE GAS REDUCTION PERCENTAGES.—

''(A) IN GENERAL.—The Administrator may, in the regulations under the last sentence of paragraph (2)(A)(i), adjust the 20 percent, 50 percent, and 60 percent reductions in lifecycle greenhouse gas emissions specified in paragraphs (2)(A)(i)(relating to renewable fuel), (1)(D) (relating to biomass-based diesel), (1)(B)(i)(relating to advanced biofuel), and (1)(E) (relating to cellulosic biofuel) to a lower percentage. For the 50 and 60 percent reductions, the Administrator may make such an adjustment only if he determines that generally such reduction is not commercially feasible for fuels made using a variety of feedstocks, technologies, and processes to meet the applicable reduction.

''(B) AMOUNT OF ADJUSTMENT.—In promulgating regulations under this paragraph, the specified 50 percent reduction in greenhouse gas emissions from advanced biofuel and in biomass-based diesel may not be reduced below 40 percent. The specified 20 percent reduction in greenhouse gas emissions from renewable fuel may not be reduced below 10 percent, and the specified 60 percent reduction in greenhouse gas emissions from cellulosic biofuel may not be reduced below 50 percent.

''(C) ADJUSTED REDUCTION LEVELS.—An adjustment under this paragraph to a percent less than the specified 20 percent greenhouse gas reduction for renewable fuel shall be the minimum possible adjustment, and the adjusted greenhouse gas reduction shall be established by the Administrator at the maximum achievable level, taking cost in consideration, for natural gas fired corn-based ethanol plants, allowing for the use of a variety of technologies and processes. An adjustment in the 50 or 60 percent greenhouse gas levels shall be the minimum possible adjustment for the fuel or fuels concerned, and the adjusted greenhouse gas reduction shall be established at the maximum achievable level, taking cost in consideration, allowing for the use of a variety of feedstocks, technologies, and processes.

''(D) 5-YEAR REVIEW.—Whenever the Administrator makes any adjustment under this paragraph, not later than 5 years thereafter he shall review and revise (based upon the same criteria and standards as required for the initial adjustment) the regulations establishing the adjusted level.

''(E) SUBSEQUENT ADJUSTMENTS.—After the Administrator has promulgated a final rule under the last sentence of paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, except as provided in subparagraph (D), the Administrator may not adjust the percent greenhouse gas reduction levels unless he determines that there has been a significant change in the analytical methodology used for determining the lifecycle greenhouse gas emissions. If he makes such determination, he may adjust the 20, 50, or 60 percent reduction levels through rulemaking using the criteria and standards set forth in this paragraph.

''(F) LIMIT ON UPWARD ADJUSTMENTS.—If, under subparagraph (D) or (E), the Administrator revises a percent level adjusted as provided in subparagraph (A), (B), and (C) to a higher percent, such higher percent may not exceed the applicable percent specified in paragraph (2)(A)(i), (1)(D),(1)(B)(i), or (1)(E).

''(G) APPLICABILITY OF ADJUSTMENTS.—If the Administrator adjusts, or revises, a percent level referred to in this paragraph or makes a change in the analytical methodology used for determining the lifecycle greenhouse gas emissions, such adjustment, revision, or change (or any combination thereof) shall only apply to renewable fuel from new facilities that commence construction after the effective date of such adjustment, revision, or change.''.

(d) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—Paragraph (5) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is amended by adding the following new subparagraph at the end thereof:

''(E) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—The Administrator may issue regulations providing (i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports additional renewable fuels specified by the Administrator and (ii) for the use of such credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).''.

(e) WAIVERS.—

(1) IN GENERAL.—Paragraph (7)(A) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)(A)) is amended by inserting '', by any person subject to the requirements of this subsection, or by the Administrator on his own motion'' after ''one or more States'' in subparagraph (A) and by striking out ''State'' in subparagraph (B).

(2) CELLULOSIC BIOFUEL.—Paragraph (7) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is amended by adding the following at the end thereof:

''(D) CELLULOSIC BIOFUEL.—(i) For any calendar year for which the projected volume of cellulosic biofuel production is less than the minimum applicable volume established under paragraph (2)(B), as determined by the Administrator based on the estimate provided under paragraph (3)(A), not later than November 30 of the preceding calendar year, the Administrator shall reduce the applicable volume of cellulosic biofuel required under paragraph (2)(B) to the projected volume available during that calendar year. For any calendar year in which the Administrator makes such a reduction, the Administrator may also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same or a lesser volume.

''(ii) Whenever the Administrator reduces the minimum cellulosic biofuel volume under this subparagraph, the Administrator shall make available for sale cellulosic biofuel credits at the higher of $0.25 per gallon or the amount by which $3.00 per gallon exceeds the average wholesale price of a gallon of gasoline in the United States. Such amounts shall be adjusted for inflation by the Administrator for years after 2008.

''(iii) 18 months after date of enactment of this subparagraph, the Administrator shall promulgate regulations to govern the issuance of credits under this subparagraph. The regulations shall set forth the method for determining the exact price of credits in the event of a waiver. The price of such credits shall not be changed more frequently than once each quarter. These regulations shall include such provisions, including limiting the credits' uses and useful life, as the Administrator deems appropriate to assist market liquidity and transparency, to provide appropriate certainty for regulated entities and renewable fuel producers, and to limit any potential misuse of cellulosic biofuel credits to reduce the use of other renewable fuels, and for such other purposes as the Administrator determines will help achieve the goals of this subsection. The regulations shall limit the number of cellulosic biofuel credits for any calendar year to the minimum applicable volume (as reduced under this subparagraph) of cellulosic biofuel for that year.''.

(3) BIOMASS-BASED DIESEL.—Paragraph (7) of section 211(o) of the Clean Air Act (42

U.S.C. 7545(o)(7)) is amended by adding the following at the end thereof:

''(E) BIOMASS-BASED DIESEL.—

''(i) MARKET EVALUATION.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall periodically evaluate the impact of the biomass-based diesel requirements established under this paragraph on the price of diesel fuel.

''(ii) WAIVER.—If the Administrator determines that there is a significant renewable feedstock disruption or other market circumstances that would make the price of biomass-based diesel fuel increase significantly, the Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall issue an order to reduce, for up to a 60-day period, the quantity of biomass-based diesel required under subparagraph (A) by an appropriate quantity that does not exceed 15 percent of the applicable annual requirement for biomass-based diesel. For any calendar year in which the Administrator makes a reduction under this subparagraph, the Administrator may also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same or a lesser volume.

''(iii) EXTENSIONS.—If the Administrator determines that the feedstock disruption or circumstances described in clause (ii) is continuing beyond the 60-day period described in clause (ii) or this clause, the Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, may issue an order to reduce, for up to an additional 60-day period, the quantity of biomass-based diesel required under subparagraph (A) by an appropriate quantity that does not exceed an additional 15 percent of the applicable annual requirement for biomass-based diesel.

''(F) MODIFICATION OF APPLICABLE VOLUMES.—For any of the tables in paragraph (2)(B), if the Administrator waives—

''(i) at least 20 percent of the applicable volume requirement set forth in any such table for 2 consecutive years; or

''(ii) at least 50 percent of such volume requirement for a single year,

the Administrator shall promulgate a rule (within one year after issuing such waiver) that modifies the applicable volumes set forth in the table concerned for all years following the final year to which the waiver applies, except that no such modification in applicable volumes shall be made for any year before 2016. In promulgating such a rule, the Administrator shall comply with the processes, criteria, and standards set forth in paragraph (2)(B)(ii).''.

SEC. 203. STUDY OF IMPACT OF RENEWABLE FUEL STANDARD.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to assess the impact of the requirements described in section 211(o) of the Clean Air Act on each industry relating to the production of feed grains, livestock, food, forest products, and energy.

(b) PARTICIPATION.—In conducting the study under this section, the National Academy of Sciences shall seek the participation, and consider the input, of—

(1) producers of feed grains;

(2) producers of livestock, poultry, and pork products;

(3) producers of food and food products;

(4) producers of energy;

(5) individuals and entities interested in issues relating to conservation, the environment, and nutrition;

(6) users and consumer of renewable fuels;

(7) producers and users of biomass feedstocks; and

(8) land grant universities.

(c) CONSIDERATIONS.—In conducting the study, the National Academy of Sciences shall consider—

(1) the likely impact on domestic animal agriculture feedstocks that, in any crop year, are significantly below current projections;

(2) policy options to alleviate the impact on domestic animal agriculture feedstocks that are significantly below current projections; and

(3) policy options to maintain regional agricultural and silvicultural capability.

(d) COMPONENTS.—The study shall include—

(1) a description of the conditions under which the requirements described in section 211(o) of the Clean Air Act should be suspended or reduced to prevent adverse impacts to domestic animal agriculture feedstocks described in subsection (c)(2) or regional agricultural and silvicultural capability described in subsection (c)(3); and

(2) recommendations for the means by which the Federal Government could prevent or minimize adverse economic hardships and impacts.

(e) DEADLINE FOR COMPLETION OF STUDY.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under this section.

(f) PERIODIC REVIEWS.—Section 211(o) of the Clean Air Act is amended by adding the following at the end thereof:

''(11) PERIODIC REVIEWS.—To allow for the appropriate adjustment of the requirements described in subparagraph (B) of paragraph (2), the Administrator shall conduct periodic reviews of—

''(A) existing technologies;

''(B) the feasibility of achieving compliance with the requirements; and

''(C) the impacts of the requirements described in subsection (a)(2) on each individual and entity described in paragraph (2).''.

SEC. 204. ENVIRONMENTAL AND RESOURCE CONSERVATION IMPACTS.

(a) IN GENERAL.—Not later than 3 years after the enactment of this section and every 3 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall assess and report to Congress on the impacts to date and likely future impacts of the requirements of section 211(o) of the Clean Air Act on the following:

(1) Environmental issues, including air quality, effects on hypoxia, pesticides, sediment, nutrient and pathogen levels in waters, acreage and function of waters, and soil environmental quality.

(2) Resource conservation issues, including soil conservation, water availability, and ecosystem health and biodiversity, including impacts on forests, grasslands, and wetlands.

(3) The growth and use of cultivated invasive or noxious plants and their impacts on the environment and agriculture.

In advance of preparing the report required by this subsection, the Administrator may seek the views of the National Academy of Sciences or another appropriate independent research institute. The report shall include the annual volume of imported renewable fuels and feedstocks for renewable fuels, and the environmental impacts outside the United States of producing such fuels and feedstocks. The report required by this subsection shall include recommendations for actions to address any adverse impacts found.

(b) EFFECT ON AIR QUALITY AND OTHER ENVIRONMENTAL REQUIREMENTS.—Except as provided in section 211(o)(13) of the Clean Air Act, nothing in the amendments made by this title to section 211(o) of the Clean Air Act shall be construed as superseding, or limiting, any more environmentally protective requirement under the Clean Air Act, or under any other provision of State or Federal law or regulation, including any environmental law or regulation.

SEC. 205. BIOMASS BASED DIESEL AND BIODIESEL LABELING.

(a) IN GENERAL.—Each retail diesel fuel pump shall be labeled in a manner that informs consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel blend or biodiesel blend that is offered for sale, as determined by the Federal Trade Commission.

(b) LABELING REQUIREMENTS.—Not later than 180 days after the date of enactment of this section, the Federal Trade Commission shall promulgate biodiesel labeling requirements as follows:

(1) Biomass-based diesel blends or biodiesel blends that contain less than or equal to 5 percent biomass-based diesel or biodiesel by volume and that meet ASTM D975 diesel specifications shall not require any additional labels.

(2) Biomass based diesel blends or biodiesel blends that contain more than 5 percent biomass-based diesel or biodiesel by volume but not more than 20 percent by volume shall be labeled ''contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent''.

(3) Biomass-based diesel or biodiesel blends that contain more than 20 percent biomass based or biodiesel by volume shall be labeled ''contains more than 20 percent biomass-based diesel or biodiesel''.

(c) DEFINITIONS.—In this section:

(1) ASTM.—The term ''ASTM'' means the American Society of Testing and Materials.

(2) BIOMASS-BASED DIESEL.—The term ''biomass-based diesel'' means biodiesel as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

(3) BIODIESEL.—The term ''biodiesel'' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet—

(A) the registration requirements for fuels and fuel additives under this section; and

(B) the requirements of ASTM standard D6751.

(4) BIOMASS-BASED DIESEL AND BIODIESEL BLENDS.—The terms ''biomass-based diesel blend'' and ''biodiesel blend'' means a blend of ''biomass-based diesel'' or ''biodiesel'' fuel that is blended with petroleum based diesel fuel.

SEC. 206. STUDY OF CREDITS FOR USE OF RENEWABLE ELECTRICITY IN ELECTRIC VEHICLES.

(a) DEFINITION OF ELECTRIC VEHICLE.—In this section, the term ''electric vehicle'' means an electric motor vehicle (as defined in section 601 of the Energy Policy Act of 1992 (42 U.S.C. 13271)) for which the rechargeable storage battery—

(1) receives a charge directly from a source of electric current that is external to the vehicle; and

(2) provides a minimum of 80 percent of the motive power of the vehicle.

(b) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study on the feasibility of issuing credits under the program established under section 211(o) of the Clean Air Act to electric vehicles powered by electricity produced from renewable energy sources.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee

on Energy and Commerce of the United States House of Representatives a report that describes the results of the study, including a description of—

(1) existing programs and studies on the use of renewable electricity as a means of powering electric vehicles; and

(2) alternatives for—

(A) designing a pilot program to determine the feasibility of using renewable electricity to power electric vehicles as an adjunct to a renewable fuels mandate;

(B) allowing the use, under the pilot program designed under subparagraph (A), of electricity generated from nuclear energy as an additional source of supply;

(C) identifying the source of electricity used to power electric vehicles; and

(D) equating specific quantities of electricity to quantities of renewable fuel under section 211(o) of the Clean Air Act.

SEC. 207. GRANTS FOR PRODUCTION OF ADVANCED BIOFUELS.

(a) IN GENERAL.—The Secretary of Energy shall establish a grant program to encourage the production of advanced biofuels.

(b) REQUIREMENTS AND PRIORITY.—In making grants under this section, the Secretary—

(1) shall make awards to the proposals for advanced biofuels with the greatest reduction in lifecycle greenhouse gas emissions compared to the comparable motor vehicle fuel lifecycle emissions during calendar year 2005; and

(2) shall not make an award to a project that does not achieve at least a 80 percent reduction in such lifecycle greenhouse gas emissions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 for the period of fiscal years 2008 through 2015.

SEC. 208. INTEGRATED CONSIDERATION OF WATER QUALITY IN DETERMINATIONS ON FUELS AND FUEL ADDITIVES.

Section 211(c)(1) of the Clean Air Act (42 U.S.C. 7545(c)(1)) is amended as follows:

(1) By striking ''nonroad vehicle (A) if in the judgment of the Administrator'' and inserting ''nonroad vehicle if, in the judgment of the Administrator, any fuel or fuel additive or'' ; and

(2) In subparagraph (A), by striking ''air pollution which'' and inserting ''air pollution or water pollution (including any degradation in the quality of groundwater) that''.

SEC. 209. ANTI-BACKSLIDING.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

''(v) PREVENTION OF AIR QUALITY DETERIORATION.—

''(1) STUDY.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall complete a study to determine whether the renewable fuel volumes required by this section will adversely impact air quality as a result of changes in vehicle and engine emissions of air pollutants regulated under this Act.

''(B) CONSIDERATIONS.—The study shall include consideration of—

''(i) different blend levels, types of renewable fuels, and available vehicle technologies; and

''(ii) appropriate national, regional, and local air quality control measures.

''(2) REGULATIONS.—Not later than 3 years after the date of enactment of this subsection, the Administrator shall—

''(A) promulgate fuel regulations to implement appropriate measures to mitigate, to the greatest extent achievable, considering the results of the study under paragraph (1), any adverse impacts on air quality, as the result of the renewable volumes required by this section; or

''(B) make a determination that no such measures are necessary.''.

SEC. 210. EFFECTIVE DATE, SAVINGS PROVISION, AND TRANSITION RULES.

(a) TRANSITION RULES.—(1) For calendar year 2008, transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), that is produced from facilities that commence construction after the date of enactment of this Act shall be treated as renewable fuel within the meaning of section 211(o) of the Clean Air Act only if it achieves at least a 20 percent reduction in lifecycle greenhouse gas emissions compared to baseline lifecycle greenhouse gas emissions. For calendar years 2008 and 2009, any ethanol plant that is fired with natural gas, biomass, or any combination thereof is deemed to be in compliance with such 20 percent reduction requirement and with the 20 percent reduction requirement of section 211(o)(1) of the Clean Air Act. The terms used in this subsection shall have the same meaning as provided in the amendment made by this Act to section 211(o) of the Clean Air Act.

(2) Until January 1, 2009, the Administrator of the Environmental Protection Agency shall implement section 211(o) of the Clean Air Act and the rules promulgated under that section in accordance with the provisions of that section as in effect before the enactment of this Act and in accordance with the rules promulgated before the enactment of this Act, except that for calendar year 2008, the number ''9.0'' shall be substituted for the number ''5.4'' in the table in section 211(o)(2)(B) and in the corresponding rules promulgated to carry out those provisions. The Administrator is authorized to take such other actions as may be necessary to carry out this paragraph notwithstanding any other provision of law.

(b) SAVINGS CLAUSE.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding the following new paragraph at the end thereof:

''(12) EFFECT ON OTHER PROVISIONS.—Nothing in this subsection, or regulations issued pursuant to this subsection, shall affect or be construed to affect the regulatory status of carbon dioxide or any other greenhouse gas, or to expand or limit regulatory authority regarding carbon dioxide or any other greenhouse gas, for purposes of other provisions (including section 165) of this Act. The previous sentence shall not affect implementation and enforcement of this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this title to section 211(o) of the Clean Air Act shall take effect January 1, 2009, except that the Administrator shall promulgate regulations to carry out such amendments not later than one year after the enactment of this Act.

Subtitle B—Biofuels Research and Development

SEC. 221. BIODIESEL.

(a) BIODIESEL STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on any research and development challenges inherent in increasing the proportion of diesel fuel sold in the United States that is biodiesel.

(b) MATERIAL FOR THE ESTABLISHMENT OF STANDARDS.—The Director of the National Institute of Standards and Technology, in consultation with the Secretary, shall make publicly available the physical property data and characterization of biodiesel and other biofuels as appropriate.

SEC. 222. BIOGAS.

Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on any research and development challenges inherent in increasing the amount of transportation fuels sold in the United States that are fuel with biogas or a blend of biogas and natural gas.

SEC. 223. GRANTS FOR BIOFUEL PRODUCTION RESEARCH AND DEVELOPMENT IN CERTAIN STATES.

(a) IN GENERAL.—The Secretary shall provide grants to eligible entities for research, development, demonstration, and commercial application of biofuel production technologies in States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol, as determined by the Secretary.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1)(A) be an institution of higher education (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)), including tribally controlled colleges or universities, located in a State described in subsection (a); or

(B) be a consortium including at least 1 such institution of higher education, and industry, State agencies, Indian tribal agencies, National Laboratories, or local government agencies located in the State; and

(2) have proven experience and capabilities with relevant technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2010.

SEC. 224. BIOREFINERY ENERGY EFFICIENCY.

Section 932 of Energy Policy Act of 2005 (42 U.S.C. 16232) is amended by adding at the end the following new subsections:

''(g) BIOREFINERY ENERGY EFFICIENCY.—The Secretary shall establish a program of research, development, demonstration, and commercial application for increasing energy efficiency and reducing energy consumption in the operation of biorefinery facilities.

''(h) RETROFIT TECHNOLOGIES FOR THE DEVELOPMENT OF ETHANOL FROM CELLULOSIC MATERIALS.—The Secretary shall establish a program of research, development, demonstration, and commercial application on technologies and processes to enable biorefineries that exclusively use corn grain or corn starch as a feedstock to produce ethanol to be retrofitted to accept a range of biomass, including lignocellulosic feedstocks.''.

SEC. 225. STUDY OF OPTIMIZATION OF FLEXIBLE FUELED VEHICLES TO USE E–85 FUEL.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall conduct a study of whether optimizing flexible fueled vehicles to operate using E–85 fuel would increase the fuel efficiency of flexible fueled vehicles.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate, a report that describes the results of the study under this section, including any recommendations of the Secretary.

SEC. 226. STUDY OF ENGINE DURABILITY AND PERFORMANCE ASSOCIATED WITH THE USE OF BIODIESEL.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall initiate a study on the effects of the use of biodiesel on the performance and durability of engines and engine systems.

(b) COMPONENTS.—The study under this section shall include—

(1) an assessment of whether the use of biodiesel lessens the durability and performance of conventional diesel engines and engine systems; and

(2) an assessment of the effects referred to in subsection (a) with respect to biodiesel blends at varying concentrations, including the following percentage concentrations of biodiesel:

(A) 5 percent biodiesel.

(B) 10 percent biodiesel.

(C) 20 percent biodiesel.

(D) 30 percent biodiesel.

(E) 100 percent biodiesel.

(c) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, a report that describes the results of the study under this section, including any recommendations of the Secretary.

SEC. 227. STUDY OF OPTIMIZATION OF BIOGAS USED IN NATURAL GAS VEHICLES.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study of methods of increasing the fuel efficiency of vehicles using biogas by optimizing natural gas vehicle systems that can operate on biogas, including the advancement of vehicle fuel systems and the combination of hybrid-electric and plug-in hybrid electric drive platforms with natural gas vehicle systems using biogas.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate, and to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, a report that describes the results of the study, including any recommendations of the Secretary.

SEC. 228. ALGAL BIOMASS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the progress of the research and development that is being conducted on the use of algae as a feedstock for the production of biofuels.

(b) CONTENTS.—The report shall identify continuing research and development challenges and any regulatory or other barriers found by the Secretary that hinder the use of this resource, as well as recommendations on how to encourage and further its development as a viable transportation fuel.

SEC. 229. BIOFUELS AND BIOREFINERY INFORMATION CENTER.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a biofuels and biorefinery information center to make available to interested parties information on—

(1) renewable fuel feedstocks, including the varieties of fuel capable of being produced from various feedstocks;

(2) biorefinery processing techniques related to various renewable fuel feedstocks;

(3) the distribution, blending, storage, and retail dispensing infrastructure necessary for the transport and use of renewable fuels;

(4) Federal and State laws and incentives related to renewable fuel production and use;

(5) renewable fuel research and development advancements;

(6) renewable fuel development and biorefinery processes and technologies;

(7) renewable fuel resources, including information on programs and incentives for renewable fuels;

(8) renewable fuel producers;

(9) renewable fuel users; and

(10) potential renewable fuel users.

(b) ADMINISTRATION.—In administering the biofuels and biorefinery information center, the Secretary shall—

(1) continually update information provided by the center;

(2) make information available relating to processes and technologies for renewable fuel production;

(3) make information available to interested parties on the process for establishing a biorefinery; and

(4) make information and assistance provided by the center available through a toll-free telephone number and website.

(c) COORDINATION AND NONDUPLICATION.—To maximum extent practicable, the Secretary shall ensure that the activities under this section are coordinated with, and do not duplicate the efforts of, centers at other government agencies.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 230. CELLULOSIC ETHANOL AND BIOFUELS RESEARCH.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means—

(1) an 1890 Institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7061));

(2) a part B institution (as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)) (commonly referred to as ''Historically Black Colleges and Universities'');

(3) a tribal college or university (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)); or

(4) a Hispanic-serving institution (as defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

(b) GRANTS.—The Secretary shall make cellulosic ethanol and biofuels research and development grants to 10 eligible entities selected by the Secretary to receive a grant under this section through a peer-reviewed competitive process.

(c) COLLABORATION.—An eligible entity that is selected to receive a grant under subsection (b) shall collaborate with 1 of the Bioenergy Research Centers of the Office of Science of the Department.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to make grants described in subsection (b) $50,000,000 for fiscal year 2008, to remain available until expended.

SEC. 231. BIOENERGY RESEARCH AND DEVELOPMENT, AUTHORIZATION OF APPROPRIATION.

Section 931 of the Energy Policy Act of 2005 (42 U.S.C. 16231) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) $963,000,000 for fiscal year 2010.''; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''$251,000,000'' and inserting ''$377,000,000''; and

(ii) by striking ''and'' at the end;

(B) in paragraph (3)—

(i) by striking ''$274,000,000'' and inserting ''$398,000,000''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) $419,000,000 for fiscal year 2010, of which $150,000,000 shall be for section 932(d).''.

SEC. 232. ENVIRONMENTAL RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 977 of the Energy Policy Act of 2005 (42 U.S.C. 16317) is amended—

(1) in subsection (a)(1), by striking ''and computational biology'' and inserting ''computational biology, and environmental science''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''in sustainable production systems that reduce greenhouse gas emissions'' after ''hydrogen'';

(B) in paragraph (3), by striking ''and'' at the end;

(C) by redesignating paragraph (4) as paragraph (5); and

(D) by inserting after paragraph (3) the following:

''(4) develop cellulosic and other feedstocks that are less resource and land intensive and that promote sustainable use of resources, including soil, water, energy, forests, and land, and ensure protection of air, water, and soil quality; and''.

(b) TOOLS AND EVALUATION.—Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(d)) is amended—

(1) in paragraph (3)(E), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(5) the improvement and development of analytical tools to facilitate the analysis of life-cycle energy and greenhouse gas emissions, including emissions related to direct and indirect land use changes, attributable to all potential biofuel feedstocks and production processes; and

''(6) the systematic evaluation of the impact of expanded biofuel production on the environment, including forest lands, and on the food supply for humans and animals.''.

(c) SMALL-SCALE PRODUCTION AND USE OF BIOFUELS.—Section 307(e) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(e)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) to facilitate small-scale production, local, and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.''.

SEC. 233. BIOENERGY RESEARCH CENTERS.

Section 977 of the Energy Policy Act of 2005 (42 U.S.C. 16317) is amended by adding at the end the following:

''(f) BIOENERGY RESEARCH CENTERS.—

''(1) ESTABLISHMENT OF CENTERS.—In carrying out the program under subsection (a), the Secretary shall establish at least 7 bioenergy research centers, which may be of varying size.

''(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall establish at least 1 bioenergy research center in each Petroleum Administration for Defense District or Subdistrict of a Petroleum Administration for Defense District.

''(3) GOALS.—The goals of the centers established under this subsection shall be to accelerate basic transformational research and development of biofuels, including biological processes.

''(4) SELECTION AND DURATION.—

''(A) IN GENERAL.—A center under this subsection shall be selected on a competitive basis for a period of 5 years.

''(B) REAPPLICATION.—After the end of the period described in subparagraph (A), a grantee may reapply for selection on a competitive basis.

''(5) INCLUSION.—A center that is in existence on the date of enactment of this subsection—

''(A) shall be counted towards the requirement for establishment of at least 7 bioenergy research centers; and

''(B) may continue to receive support for a period of 5 years beginning on the date of establishment of the center.''.

SEC. 234. UNIVERSITY BASED RESEARCH AND DEVELOPMENT GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a competitive grant program, in a geographically diverse manner, for projects submitted for consideration by institutions of higher education to conduct research and development of renewable energy technologies. Each grant made shall not exceed $2,000,000.

(b) ELIGIBILITY.—Priority shall be given to institutions of higher education with—

(1) established programs of research in renewable energy;

(2) locations that are low income or outside of an urbanized area;

(3) a joint venture with an Indian tribe; and

(4) proximity to trees dying of disease or insect infestation as a source of woody biomass.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $25,000,000 for carrying out this section.

(d) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning as defined in section 126(c) of the Energy Policy Act of 2005.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' has the meaning as defined in section 902 of the Energy Policy Act of 2005.

(3) URBANIZED AREA.—The term ''urbanized area'' has the mean as defined by the U.S. Bureau of the Census.

Subtitle C—Biofuels Infrastructure

SEC. 241. PROHIBITION ON FRANCHISE AGREEMENT RESTRICTIONS RELATED TO RENEWABLE FUEL INFRASTRUCTURE.

(a) IN GENERAL.—Title I of the Petroleum Marketing Practices Act (15 U.S.C. 2801 et seq.) is amended by adding at the end the following:

''SEC. 107. PROHIBITION ON RESTRICTION OF INSTALLATION OF RENEWABLE FUEL PUMPS.

''(a) DEFINITION.—In this section:

''(1) RENEWABLE FUEL.—The term 'renewable fuel' means any fuel—

''(A) at least 85 percent of the volume of which consists of ethanol; or

''(B) any mixture of biodiesel and diesel or renewable diesel (as defined in regulations adopted pursuant to section 211(o) of the Clean Air Act (40 CFR, Part 80)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel or renewable diesel.

''(2) FRANCHISE-RELATED DOCUMENT.—The term 'franchise-related document' means—

''(A) a franchise under this Act; and

''(B) any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee.

''(b) PROHIBITIONS.—

''(1) IN GENERAL.—No franchise-related document entered into or renewed on or after the date of enactment of this section shall contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the franchisee from—

''(A) installing on the marketing premises of the franchisee a renewable fuel pump or tank, except that the franchisee's franchisor may restrict the installation of a tank on leased marketing premises of such franchisor;

''(B) converting an existing tank or pump on the marketing premises of the franchisee for renewable fuel use, so long as such tank or pump and the piping connecting them are either warranted by the manufacturer or certified by a recognized standards setting organization to be suitable for use with such renewable fuel;

''(C) advertising (including through the use of signage) the sale of any renewable fuel;

''(D) selling renewable fuel in any specified area on the marketing premises of the franchisee (including any area in which a name or logo of a franchisor or any other entity appears);

''(E) purchasing renewable fuel from sources other than the franchisor if the franchisor does not offer its own renewable fuel for sale by the franchisee;

''(F) listing renewable fuel availability or prices, including on service station signs, fuel dispensers, or light poles; or

''(G) allowing for payment of renewable fuel with a credit card,

so long as such activities described in subparagraphs (A) through (G) do not constitute mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

''(2) EFFECT OF PROVISION.—Nothing in this section shall be construed to preclude a franchisor from requiring the franchisee to obtain reasonable indemnification and insurance policies.

''(c) EXCEPTION TO 3-GRADE REQUIREMENT.—No franchise-related document that requires that 3 grades of gasoline be sold by the applicable franchisee shall prevent the franchisee from selling an renewable fuel in lieu of 1, and only 1, grade of gasoline.''.

(b) ENFORCEMENT.—Section 105 of the Petroleum Marketing Practices Act (15 U.S.C. 2805) is amended by striking ''102 or 103'' each place it appears and inserting ''102, 103, or 107''.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 101(13) of the Petroleum Marketing Practices Act (15 U.S.C. 2801(13)) is amended by aligning the margin of subparagraph (C) with subparagraph (B).

(2) TABLE OF CONTENTS.—The table of contents of the Petroleum Marketing Practices Act (15 U.S.C. 2801 note) is amended—

(A) by inserting after the item relating to section 106 the following:

''Sec. 107. Prohibition on restriction of installation of renewable fuel pumps.''; and

(B) by striking the item relating to section 202 and inserting the following:

''Sec. 202. Automotive fuel rating testing and disclosure requirements.''.

SEC. 242. RENEWABLE FUEL DISPENSER REQUIREMENTS.

(a) MARKET PENETRATION REPORTS.—The Secretary, in consultation with the Secretary of Transportation, shall determine and report to Congress annually on the market penetration for flexible-fuel vehicles in use within geographic regions to be established by the Secretary.

(b) DISPENSER FEASIBILITY STUDY.—Not later than 24 months after the date of enactment of this Act, the Secretary, in consultation with the Department of Transportation, shall report to the Congress on the feasibility of requiring motor fuel retailers to install E–85 compatible dispensers and related systems at retail fuel facilities in regions where flexible-fuel vehicle market penetration has reached 15 percent of motor vehicles. In conducting such study, the Secretary shall consider and report on the following factors:

(1) The commercial availability of E–85 fuel and the number of competing E–85 wholesale suppliers in a given region.

(2) The level of financial assistance provided on an annual basis by the Federal Government, State governments, and nonprofit entities for the installation of E–85 compatible infrastructure.

(3) The number of retailers whose retail locations are unable to support more than 2 underground storage tank dispensers.

(4) The expense incurred by retailers in the installation and sale of E–85 compatible dispensers and related systems and any potential effects on the price of motor vehicle fuel.

SEC. 243. ETHANOL PIPELINE FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Transportation, shall conduct a study of the feasibility of the construction of pipelines dedicated to the transportation of ethanol.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Secretary shall take into consideration—

(1) the quantity of ethanol production that would make dedicated pipelines economically viable;

(2) existing or potential barriers to the construction of pipelines dedicated to the transportation of ethanol, including technical, siting, financing, and regulatory barriers;

(3) market risk (including throughput risk) and means of mitigating the risk;

(4) regulatory, financing, and siting options that would mitigate the risk and help ensure the construction of 1 or more pipelines dedicated to the transportation of ethanol;

(5) financial incentives that may be necessary for the construction of pipelines dedicated to the transportation of ethanol, including the return on equity that sponsors of the initial dedicated ethanol pipelines will require to invest in the pipelines;

(6) technical factors that may compromise the safe transportation of ethanol in pipelines, including identification of remedial and preventive measures to ensure pipeline integrity; and

(7) such other factors as the Secretary considers to be appropriate.

(c) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 and 2009, to remain available until expended.

SEC. 244. RENEWABLE FUEL INFRASTRUCTURE GRANTS.

(a) DEFINITION OF RENEWABLE FUEL BLEND.—For purposes of this section, the term ''renewable fuel blend'' means gasoline blend that contain not less than 11 percent, and not more than 85 percent, renewable fuel

or diesel fuel that contains at least 10 percent renewable fuel.

(b) INFRASTRUCTURE DEVELOPMENT GRANTS.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for making grants for providing assistance to retail and wholesale motor fuel dealers or other entities for the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure to be used exclusively to store and dispense renewable fuel blends.

(2) SELECTION CRITERIA.—Not later than 12 months after the date of enactment of this Act, the Secretary shall establish criteria for evaluating applications for grants under this subsection that will maximize the availability and use of renewable fuel blends, and that will ensure that renewable fuel blends are available across the country. Such criteria shall provide for—

(A) consideration of the public demand for each renewable fuel blend in a particular geographic area based on State registration records showing the number of flexible-fuel vehicles;

(B) consideration of the opportunity to create or expand corridors of renewable fuel blend stations along interstate or State highways;

(C) consideration of the experience of each applicant with previous, similar projects;

(D) consideration of population, number of flexible-fuel vehicles, number of retail fuel outlets, and saturation of flexible-fuel vehicles; and

(E) priority consideration to applications that—

(i) are most likely to maximize displacement of petroleum consumption, measured as a total quantity and a percentage;

(ii) are best able to incorporate existing infrastructure while maximizing, to the extent practicable, the use of renewable fuel blends; and

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subsection is completed.

(3) LIMITATIONS.—Assistance provided under this subsection shall not exceed—

(A) 33 percent of the estimated cost of the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure; or

(B) $180,000 for a combination of equipment at any one retail outlet location.

(4) OPERATION OF RENEWABLE FUEL BLEND STATIONS.—The Secretary shall establish rules that set forth requirements for grant recipients under this section that include providing to the public the renewable fuel blends, establishing a marketing plan that informs consumers of the price and availability of the renewable fuel blends, clearly labeling the dispensers and related equipment, and providing periodic reports on the status of the renewable fuel blend sales, the type and amount of the renewable fuel blends dispensed at each location, and the average price of such fuel.

(5) NOTIFICATION REQUIREMENTS.—Not later than the date on which each renewable fuel blend station begins to offer renewable fuel blends to the public, the grant recipient that used grant funds to construct or upgrade such station shall notify the Secretary of such opening. The Secretary shall add each new renewable fuel blend station to the renewable fuel blend station locator on its Website when it receives notification under this subsection.

(6) DOUBLE COUNTING.—No person that receives a credit under section 30C of the Internal Revenue Code of 1986 may receive assistance under this section.

(7) RESERVATION OF FUNDS.—The Secretary shall reserve funds appropriated for the renewable fuel blends infrastructure development grant program for technical and marketing assistance described in subsection (c).

(c) RETAIL TECHNICAL AND MARKETING ASSISTANCE.—The Secretary shall enter into contracts with entities with demonstrated experience in assisting retail fueling stations in installing refueling systems and marketing renewable fuel blends nationally, for the provision of technical and marketing assistance to recipients of grants under this section. Such assistance shall include—

(1) technical advice for compliance with applicable Federal and State environmental requirements;

(2) help in identifying supply sources and securing long-term contracts; and

(3) provision of public outreach, education, and labeling materials.

(d) REFUELING INFRASTRUCTURE CORRIDORS.—

(1) IN GENERAL.—The Secretary shall establish a competitive grant pilot program (referred to in this subsection as the ''pilot program''), to be administered through the Vehicle Technology Deployment Program of the Department, to provide not more than 10 geographically-dispersed project grants to State governments, Indian tribal governments, local governments, metropolitan transportation authorities, or partnerships of those entities to carry out 1 or more projects for the purposes described in paragraph (2).

(2) GRANT PURPOSES.—A grant under this subsection shall be used for the establishment of refueling infrastructure corridors, as designated by the Secretary, for renewable fuel blends, including—

(A) installation of infrastructure and equipment necessary to ensure adequate distribution of renewable fuel blends within the corridor;

(B) installation of infrastructure and equipment necessary to directly support vehicles powered by renewable fuel blends; and

(C) operation and maintenance of infrastructure and equipment installed as part of a project funded by the grant.

(3) APPLICATIONS.—

(A) REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), not later than 90 days after the date of enactment of this Act, the Secretary shall issue requirements for use in applying for grants under the pilot program.

(ii) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant under this subsection—

(I) be submitted by—

(aa) the head of a State, tribal, or local government or a metropolitan transportation authority, or any combination of those entities; and

(bb) a registered participant in the Vehicle Technology Deployment Program of the Department; and

(II) include—

(aa) a description of the project proposed in the application, including the ways in which the project meets the requirements of this subsection;

(bb) an estimate of the degree of use of the project, including the estimated size of fleet of vehicles operated with renewable fuels blend available within the geographic region of the corridor, measured as a total quantity and a percentage;

(cc) an estimate of the potential petroleum displaced as a result of the project (measured as a total quantity and a percentage), and a plan to collect and disseminate petroleum displacement and other relevant data relating to the project to be funded under the grant, over the expected life of the project;

(dd) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(ee) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project; and

(ff) a description of which costs of the project will be supported by Federal assistance under this subsection.

(B) PARTNERS.—An applicant under subparagraph (A) may carry out a project under the pilot program in partnership with public and private entities.

(4) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(A) consider the experience of each applicant with previous, similar projects; and

(B) give priority consideration to applications that—

(i) are most likely to maximize displacement of petroleum consumption, measured as a total quantity and a percentage;

(ii) are best able to incorporate existing infrastructure while maximizing, to the extent practicable, the use of advanced biofuels;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subsection is completed;

(iv) represent a partnership of public and private entities; and

(v) exceed the minimum requirements of paragraph (3)(A)(ii).

(5) PILOT PROJECT REQUIREMENTS.—

(A) MAXIMUM AMOUNT.—The Secretary shall provide not more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(B) COST SHARING.—The non-Federal share of the cost of any activity relating to renewable fuel blend infrastructure development carried out using funds from a grant under this subsection shall be not less than 20 percent.

(C) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not provide funds to any applicant under the pilot program for more than 2 years.

(D) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of project sites funded by grants under this subsection.

(E) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(6) SCHEDULE.—

(A) INITIAL GRANTS.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and such other publications as the Secretary considers to be appropriate, a notice and request for applications to carry out projects under the pilot program.

(ii) DEADLINE.—An application described in clause (i) shall be submitted to the Secretary by not later than 180 days after the date of publication of the notice under that clause.

(iii) INITIAL SELECTION.—Not later than 90 days after the date by which applications for grants are due under clause (ii), the Secretary shall select by competitive, peer-reviewed proposal up to 5 applications for projects to be awarded a grant under the pilot program.

(B) ADDITIONAL GRANTS.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and such other publications as the Secretary considers to be appropriate, a notice and request for additional applications to carry out projects under the pilot program that incorporate the information and knowledge obtained through the implementation of the first round of projects authorized under the pilot program.

(ii) DEADLINE.—An application described in clause (i) shall be submitted to the Secretary by not later than 180 days after the date of publication of the notice under that clause.

(iii) INITIAL SELECTION.—Not later than 90 days after the date by which applications for grants are due under clause (ii), the Secretary shall select by competitive, peer-reviewed proposal such additional applications for projects to be awarded a grant under the pilot program as the Secretary determines to be appropriate.

(7) REPORTS TO CONGRESS.—

(A) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this subsection, the Secretary shall submit to Congress a report containing—

(i) an identification of the grant recipients and a description of the projects to be funded under the pilot program;

(ii) an identification of other applicants that submitted applications for the pilot program but to which funding was not provided; and

(iii) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(B) EVALUATION.—Not later than 2 years after the date of enactment of this Act, and annually thereafter until the termination of the pilot program, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the petroleum displacement and benefits to the environment derived from the projects included in the pilot program.

(e) RESTRICTION.—No grant shall be provided under subsection (b) or (c) to a large, vertically integrated oil company.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $200,000,000 for each of the fiscal years 2008 through 2014.

SEC. 245. STUDY OF THE ADEQUACY OF TRANSPORTATION OF DOMESTICALLY-PRODUCED RENEWABLE FUEL BY RAILROADS AND OTHER MODES OF TRANSPORTATION.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Transportation, shall jointly conduct a study of the adequacy of transportation of domestically-produced renewable fuels by railroad and other modes of transportation as designated by the Secretaries.

(2) COMPONENTS.—In conducting the study under paragraph (1), the Secretaries shall—

(A) consider the adequacy of existing railroad and other transportation and distribution infrastructure, equipment, service and capacity to move the necessary quantities of domestically-produced renewable fuel within the timeframes;

(B)(i) consider the projected costs of moving the domestically-produced renewable fuel by railroad and other modes transportation; and

(ii) consider the impact of the projected costs on the marketability of the domestically-produced renewable fuel;

(C) identify current and potential impediments to the reliable transportation and distribution of adequate supplies of domestically-produced renewable fuel at reasonable prices, including practices currently utilized by domestic producers, shippers, and receivers of renewable fuels;

(D) consider whether adequate competition exists within and between modes of transportation for the transportation and distribution of domestically-produced renewable fuel and, whether inadequate competition leads to an unfair price for the transportation and distribution of domestically-produced renewable fuel or unacceptable service for transportation of domestically-produced renewable fuel;

(E) consider whether Federal agencies have adequate legal authority to address instances of inadequate competition when inadequate competition is found to prevent domestic producers for renewable fuels from obtaining a fair and reasonable transportation price or acceptable service for the transportation and distribution of domestically-produced renewable fuels;

(F) consider whether Federal agencies have adequate legal authority to address railroad and transportation service problems that may be resulting in inadequate supplies of domestically-produced renewable fuel in any area of the United States;

(G) consider what transportation infrastructure capital expenditures may be necessary to ensure the reliable transportation of adequate supplies of domestically-produced renewable fuel at reasonable prices within the United States and which public and private entities should be responsible for making such expenditures; and

(H) provide recommendations on ways to facilitate the reliable transportation of adequate supplies of domestically-produced renewable fuel at reasonable prices.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretaries shall jointly submit to the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the study conducted under subsection (a).

SEC. 246. FEDERAL FLEET FUELING CENTERS.

(a) IN GENERAL.—Not later than January 1, 2010, the head of each Federal agency shall install at least 1 renewable fuel pump at each Federal fleet fueling center in the United States under the jurisdiction of the head of the Federal agency.

(b) REPORT.—Not later than October 31 of the first calendar year beginning after the date of the enactment of this Act, and each October 31 thereafter, the President shall submit to Congress a report that describes the progress toward complying with subsection (a), including identifying—

(1) the number of Federal fleet fueling centers that contain at least 1 renewable fuel pump; and

(2) the number of Federal fleet fueling centers that do not contain any renewable fuel pumps.

(c) DEPARTMENT OF DEFENSE FACILITY.—This section shall not apply to a Department of Defense fueling center with a fuel turnover rate of less than 100,000 gallons of fuel per year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 247. STANDARD SPECIFICATIONS FOR BIODIESEL.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by redesignating subsection (s) as subsection (t), redesignating subsection (r) (relating to conversion assistance for cellulosic biomass, waste-derived ethanol, approved renewable fuels) as subsection (s) and by adding the following new subsection at the end thereof:

''(u) STANDARD SPECIFICATIONS FOR BIODIESEL.—(1) Unless the American Society for Testing and Materials has adopted a standard for diesel fuel containing 20 percent biodiesel (commonly known as 'B20') within 1 year after the date of enactment of this subsection, the Administrator shall initiate a rulemaking to establish a uniform per gallon fuel standard for such fuel and designate an identification number so that vehicle manufacturers are able to design engines to use fuel meeting such standard.

''(2) Unless the American Society for Testing and Materials has adopted a standard for diesel fuel containing 5 percent biodiesel (commonly known as 'B5') within 1 year after the date of enactment of this subsection, the Administrator shall initiate a rulemaking to establish a uniform per gallon fuel standard for such fuel and designate an identification so that vehicle manufacturers are able to design engines to use fuel meeting such standard.

''(3) Whenever the Administrator is required to initiate a rulemaking under paragraph (1) or (2), the Administrator shall promulgate a final rule within 18 months after the date of the enactment of this subsection.

''(4) Not later than 180 days after the enactment of this subsection, the Administrator shall establish an annual inspection and enforcement program to ensure that diesel fuel containing biodiesel sold or distributed in interstate commerce meets the standards established under regulations under this section, including testing and certification for compliance with applicable standards of the American Society for Testing and Materials. There are authorized to be appropriated to carry out the inspection and enforcement program under this paragraph $3,000,000 for each of fiscal years 2008 through 2010.

''(5) For purposes of this subsection, the term 'biodiesel' has the meaning provided by section 312(f) of Energy Policy Act of 1992 (42 U.S.C. 13220(f)).''.

SEC. 248. BIOFUELS DISTRIBUTION AND ADVANCED BIOFUELS INFRASTRUCTURE.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Transportation and in consultation with the Administrator of the Environmental Protection Agency, shall carry out a program of research, development, and demonstration relating to existing transportation fuel distribution infrastructure and new alternative distribution infrastructure.

(b) FOCUS.—The program described in subsection (a) shall focus on the physical and chemical properties of biofuels and efforts to prevent or mitigate against adverse impacts of those properties in the areas of—

(1) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(2) dissolving of storage tank sediments;

(3) clogging of filters;

(4) contamination from water or other adulterants or pollutants;

(5) poor flow properties related to low temperatures;

(6) oxidative and thermal instability in long-term storage and uses;

(7) microbial contamination;

(8) problems associated with electrical conductivity; and

(9) such other areas as the Secretary considers appropriate.

Subtitle D—Environmental Safeguards

SEC. 251. WAIVER FOR FUEL OR FUEL ADDITIVES.

Section 211(f)(4) of the Clean Air Act (42 U.S.C. 7545(f)) is amended to read as follows:

''(4) The Administrator, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under paragraph (1) or (3) of this subsection or the limitation specified in paragraph (2) of this subsection, if he determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or fuel additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards with respect to which it has been certified pursuant to sections 206 and 213(a). The Administrator shall take final action to grant or deny an application submitted under this paragraph, after public notice and comment, within 270 days of the receipt of such an application.''.

TITLE III—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCE AND LIGHTING

Subtitle A—Appliance Energy Efficiency

SEC. 301. EXTERNAL POWER SUPPLY EFFICIENCY STANDARDS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (36)—

(A) by striking ''(36) The'' and inserting the following:

''(36) EXTERNAL POWER SUPPLY.—

''(A) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(B) ACTIVE MODE.—The term 'active mode' means the mode of operation when an external power supply is connected to the main electricity supply and the output is connected to a load.

''(C) CLASS A EXTERNAL POWER SUPPLY.—

''(i) IN GENERAL.—The term 'class A external power supply' means a device that—

''(I) is designed to convert line voltage AC input into lower voltage AC or DC output;

''(II) is able to convert to only 1 AC or DC output voltage at a time;

''(III) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;

''(IV) is contained in a separate physical enclosure from the end-use product;

''(V) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and

''(VI) has nameplate output power that is less than or equal to 250 watts.

''(ii) EXCLUSIONS.—The term 'class A external power supply' does not include any device that—

''(I) requires Federal Food and Drug Administration listing and approval as a medical device in accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c); or

''(II) powers the charger of a detachable battery pack or charges the battery of a product that is fully or primarily motor operated.

''(D) NO-LOAD MODE.—The term 'no-load mode' means the mode of operation when an external power supply is connected to the main electricity supply and the output is not connected to a load.''; and

(2) by adding at the end the following:

''(52) DETACHABLE BATTERY.—The term 'detachable battery' means a battery that is—

''(A) contained in a separate enclosure from the product; and

''(B) intended to be removed or disconnected from the product for recharging.''.

(b) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

''(17) CLASS A EXTERNAL POWER SUPPLIES.—Test procedures for class A external power supplies shall be based on the 'Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies' published by the Environmental Protection Agency on August 11, 2004, except that the test voltage specified in section 4(d) of that test method shall be only 115 volts, 60 Hz.''.

(c) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) is amended by adding at the end the following:

''(6) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a class A external power supply manufactured on or after the later of July 1, 2008, or the date of enactment of this paragraph shall meet the following standards:

"Active Mode	
"Nameplate Output	**Required Efficiency (decimal equivalent of a percentage)**
Less than 1 watt	0.5 times the Nameplate Output
From 1 watt to not more than 51 watts	The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5
Greater than 51 watts	0.85
"No-Load Mode	
"Nameplate Output	**Maximum Consumption**
Not more than 250 watts	0.5 watts

''(B) NONCOVERED SUPPLIES.—A class A external power supply shall not be subject to subparagraph (A) if the class A external power supply is—

''(i) manufactured during the period beginning on July 1, 2008, and ending on June 30, 2015; and

''(ii) made available by the manufacturer as a service part or a spare part for an end-use product—

''(I) that constitutes the primary load; and

''(II) was manufactured before July 1, 2008.

''(C) MARKING.—Any class A external power supply manufactured on or after the later of July 1, 2008 or the date of enactment of this paragraph shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the 'Energy Star Program Requirements for Single Voltage External AC–DC and AC–AC Power Supplies, version 1.1' published by the Environmental Protection Agency.

''(D) AMENDMENT OF STANDARDS.—

''(i) FINAL RULE BY JULY 1, 2011.—

''(I) IN GENERAL.—Not later than July 1, 2011, the Secretary shall publish a final rule to determine whether the standards established under subparagraph (A) should be amended.

''(II) ADMINISTRATION.—The final rule shall—

''(aa) contain any amended standards; and

''(bb) apply to products manufactured on or after July 1, 2013.

''(ii) FINAL RULE BY JULY 1, 2015.—

''(I) IN GENERAL.—Not later than July 1, 2015 the Secretary shall publish a final rule to determine whether the standards then in effect should be amended.

''(II) ADMINISTRATION.—The final rule shall—

''(aa) contain any amended standards; and

''(bb) apply to products manufactured on or after July 1, 2017.

''(7) END-USE PRODUCTS.—An energy conservation standard for external power supplies shall not constitute an energy conservation standard for the separate end-use product to which the external power supplies is connected.''.

SEC. 302. UPDATING APPLIANCE TEST PROCEDURES.

(a) CONSUMER APPLIANCES.—Section 323(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)(1)) is amended by striking ''(1)'' and all that follows through the end of the paragraph and inserting the following:

''(1) TEST PROCEDURES.—

''(A) AMENDMENT.—At least once every 7 years, the Secretary shall review test procedures for all covered products and—

''(i) amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3); or

''(ii) publish notice in the Federal Register of any determination not to amend a test procedure.''.

(b) INDUSTRIAL EQUIPMENT.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended by striking ''(a)'' and all that follows through the end of paragraph (1) and inserting the following:

''(a) PRESCRIPTION BY SECRETARY; REQUIREMENTS.—

''(1) TEST PROCEDURES.—

''(A) AMENDMENT.—At least once every 7 years, the Secretary shall conduct an evaluation of each class of covered equipment and—

''(i) if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraphs (2) and (3), shall prescribe test procedures for the class in accordance with this section; or

''(ii) shall publish notice in the Federal Register of any determination not to amend a test procedure.''.

SEC. 303. RESIDENTIAL BOILERS.

Section 325(f) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)) is amended—

(1) in the subsection heading, by inserting ''AND BOILERS'' after ''FURNACES'';

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

''(3) BOILERS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), boilers manufactured on or after September 1, 2012, shall meet the following requirements:

Boiler Type	Minimum Annual Fuel Utilization Efficiency	Design Requirements
Gas Hot Water	82%	No Constant Burning Pilot, Automatic Means for Adjusting Water Temperature
Gas Steam	80%	No Constant Burning Pilot
Oil Hot Water	84%	Automatic Means for Adjusting Temperature
Oil Steam	82%	None
Electric Hot Water	None	Automatic Means for Adjusting Temperature
Electric Steam	None	None

''(B) AUTOMATIC MEANS FOR ADJUSTING WATER TEMPERATURE.—

''(i) IN GENERAL.—The manufacturer shall equip each gas, oil, and electric hot water boiler (other than a boiler equipped with a tankless domestic water heating coil) with automatic means for adjusting the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied.

''(ii) SINGLE INPUT RATE.—For a boiler that fires at 1 input rate, the requirements of this subparagraph may be satisfied by providing an automatic means that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

''(iii) NO INFERRED HEAT LOAD.—When there is no inferred heat load with respect to a hot water boiler, the automatic means described in clause (i) and (ii) shall limit the temperature of the water in the boiler to not more than 140 degrees Fahrenheit.

''(iv) OPERATION.—A boiler described in clause (i) or (ii) shall be operable only when the automatic means described in clauses (i), (ii), and (iii) is installed.

''(C) EXCEPTION.—A boiler that is manufactured to operate without any need for electricity or any electric connection, electric gauges, electric pumps, electric wires, or electric devices shall not be required to meet the requirements of this paragraph.''.

SEC. 304. FURNACE FAN STANDARD PROCESS.

Paragraph (4)(D) of section 325(f) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)) (as redesignated by section 303(4)) is amended by striking ''the Secretary may'' and inserting ''not later than December 31, 2013, the Secretary shall''.

SEC. 305. IMPROVING SCHEDULE FOR STANDARDS UPDATING AND CLARIFYING STATE AUTHORITY.

(a) CONSUMER APPLIANCES.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by striking subsection (m) and inserting the following:

''(m) AMENDMENT OF STANDARDS.—

''(1) IN GENERAL.—Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

''(A) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subsection (n)(2); or

''(B) a notice of proposed rulemaking including new proposed standards based on the criteria established under subsection (o) and the procedures established under subsection (p).

''(2) NOTICE.—If the Secretary publishes a notice under paragraph (1), the Secretary shall—

''(A) publish a notice stating that the analysis of the Department is publicly available; and

''(B) provide an opportunity for written comment.

''(3) AMENDMENT OF STANDARD; NEW DETERMINATION.—

''(A) AMENDMENT OF STANDARD.—Not later than 2 years after a notice is issued under paragraph (1)(B), the Secretary shall publish a final rule amending the standard for the product.

''(B) NEW DETERMINATION.—Not later than 3 years after a determination under paragraph (1)(A), the Secretary shall make a new determination and publication under subparagraph (A) or (B) of paragraph (1).

''(4) APPLICATION TO PRODUCTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an amendment prescribed under this subsection shall apply to—

''(i) with respect to refrigerators, refrigerator-freezers, freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, fluorescent lamp ballasts, and kitchen ranges and ovens, such a product that is manufactured after the date that is 3 years after publication of the final rule establishing an applicable standard; and

''(ii) with respect to central air conditioners, heat pumps, water heaters, pool heaters, direct heating equipment, and furnaces, such a product that is manufactured after the date that is 5 years after publication of the final rule establishing an applicable standard.

''(B) OTHER NEW STANDARDS.—A manufacturer shall not be required to apply new standards to a product with respect to which other new standards have been required during the prior 6-year period.

''(5) REPORTS.—The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

''(A) a progress report every 180 days on compliance with this section, including a specific plan to remedy any failures to comply with deadlines for action established under this section; and

''(B) all required reports to the Court or to any party to the Consent Decree in State of New York v Bodman, Consolidated Civil Actions No.05 Civ. 7807 and No.05 Civ. 7808.''.

(b) INDUSTRIAL EQUIPMENT.—Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking ''(6)(A)(i)'' and all that follows through the end of subparagraph (B) and inserting the following:

''(6) AMENDED ENERGY EFFICIENCY STANDARDS.—

''(A) IN GENERAL.—

''(i) ANALYSIS OF POTENTIAL ENERGY SAVINGS.—If ASHRAE/IES Standard 90.1 is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, not later than 180 days after the amendment of the standard, the Secretary shall publish in the Federal Register for public comment an analysis of the energy savings potential of amended energy efficiency standards.

''(ii) AMENDED UNIFORM NATIONAL STANDARD FOR PRODUCTS.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than 18 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for a product described in clause (i), the Secretary shall establish an amended uniform national standard for the product at the minimum level specified in the amended ASHRAE/IES Standard 90.1.

''(II) MORE STRINGENT STANDARD.—Subclause (I) shall not apply if the Secretary determines, by rule published in the Federal Register, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE/IES Standard 90.1 for the product would result in significant additional conservation of energy and is technologically feasible and economically justified.

''(B) RULE.—If the Secretary makes a determination described in clause (ii)(II) for a product described in clause (i), not later than 30 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for the product, the Secretary shall issue the rule establishing the amended standard.

''(C) AMENDMENT OF STANDARD.—

''(i) IN GENERAL.—Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

''(I) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subparagraph (A); or

''(II) a notice of proposed rulemaking including new proposed standards based on the criteria and procedures established under subparagraph (B).

''(ii) NOTICE.—If the Secretary publishes a notice under clause (i), the Secretary shall—

''(I) publish a notice stating that the analysis of the Department is publicly available; and

''(II) provide an opportunity for written comment.

''(iii) AMENDMENT OF STANDARD; NEW DETERMINATION.—

''(I) AMENDMENT OF STANDARD.—Not later than 2 years after a notice is issued under clause (i)(II), the Secretary shall publish a final rule amending the standard for the product.

''(II) NEW DETERMINATION.—Not later than 3 years after a determination under clause (i)(I), the Secretary shall make a new determination and publication under subclause (I) or (II) of clause (i).

''(iv) APPLICATION TO PRODUCTS.—An amendment prescribed under this subsection shall apply to products manufactured after a date that is the later of—

''(I) the date that is 3 years after publication of the final rule establishing a new standard; or

''(II) the date that is 6 years after the effective date of the current standard for a covered product.

''(v) REPORTS.—The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a progress report every 180 days on compliance with this subparagraph, including a specific plan to remedy any failures to comply with deadlines for action established under this subparagraph.''.

SEC. 306. REGIONAL STANDARDS FOR FURNACES, CENTRAL AIR CONDITIONERS, AND HEAT PUMPS.

(a) IN GENERAL.—Section 325(o) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)) is amended by adding at the end the following:

''(6) REGIONAL STANDARDS FOR FURNACES, CENTRAL AIR CONDITIONERS, AND HEAT PUMPS.—

''(A) IN GENERAL.—In any rulemaking to establish a new or amended standard, the Secretary may consider the establishment of separate standards by geographic region for furnaces (except boilers), central air conditioners, and heat pumps.

''(B) NATIONAL AND REGIONAL STANDARDS.—

''(i) NATIONAL STANDARD.—If the Secretary establishes a regional standard for a product, the Secretary shall establish a base national standard for the product.

''(ii) REGIONAL STANDARDS.—If the Secretary establishes a regional standard for a product, the Secretary may establish more restrictive standards for the product by geographic region as follows:

''(I) For furnaces, the Secretary may establish 1 additional standard that is applicable in a geographic region defined by the Secretary.

''(II) For any cooling product, the Secretary may establish 1 or 2 additional standards that are applicable in 1 or 2 geographic regions as may be defined by the Secretary.

''(C) BOUNDARIES OF GEOGRAPHIC REGIONS.—

''(i) IN GENERAL.—Subject to clause (ii), the boundaries of additional geographic regions established by the Secretary under this paragraph shall include only contiguous States.

''(ii) ALASKA AND HAWAII.—The States of Alaska and Hawaii may be included under this paragraph in a geographic region that the States are not contiguous to.

''(iii) INDIVIDUAL STATES.—Individual States shall be placed only into a single region under this paragraph.

''(D) PREREQUISITES.—In establishing additional regional standards under this paragraph, the Secretary shall—

''(i) establish additional regional standards only if the Secretary determines that—

''(I) the establishment of additional regional standards will produce significant energy savings in comparison to establishing only a single national standard; and

''(II) the additional regional standards are economically justified under this paragraph; and

''(ii) consider the impact of the additional regional standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers.

''(E) APPLICATION; EFFECTIVE DATE.—

''(i) BASE NATIONAL STANDARD.—Any base national standard established for a product under this paragraph shall—

''(I) be the minimum standard for the product; and

''(II) apply to all products manufactured or imported into the United States on and after the effective date for the standard.

''(ii) REGIONAL STANDARDS.—Any additional and more restrictive regional standard established for a product under this paragraph shall apply to any such product installed on or after the effective date of the standard in States in which the Secretary has designated the standard to apply.

''(F) CONTINUATION OF REGIONAL STANDARDS.—

''(i) IN GENERAL.—In any subsequent rulemaking for any product for which a regional standard has been previously established, the Secretary shall determine whether to continue the establishment of separate regional standards for the product.

''(ii) REGIONAL STANDARD NO LONGER APPROPRIATE.—Except as provided in clause (iii), if the Secretary determines that regional standards are no longer appropriate for a product, beginning on the effective date of the amended standard for the product—

''(I) there shall be 1 base national standard for the product with Federal enforcement; and

''(II) State authority for enforcing a regional standard for the product shall terminate.

''(iii) REGIONAL STANDARD APPROPRIATE BUT STANDARD OR REGION CHANGED.—

''(I) STATE NO LONGER CONTAINED IN REGION.—Subject to subclause (III), if a State is no longer contained in a region in which a regional standard that is more stringent than the base national standard applies, the authority of the State to enforce the regional standard shall terminate.

''(II) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that an existing regional standard for a State is equal to the revised base national standard—

''(aa) the authority of the State to enforce the regional standard shall terminate on the effective date of the revised base national standard; and

''(bb) the State shall be subject to the revised base national standard.

''(III) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that the standard for a State is lower than the previously approved regional standard, the State may continue to enforce the previously approved standard level.

''(iv) WAIVER OF FEDERAL PREEMPTION.—Nothing in this paragraph diminishes the authority of a State to enforce a State regulation for which a waiver of Federal preemption has been granted under section 327(d).

''(G) ENFORCEMENT.—

''(i) BASE NATIONAL STANDARD.—

''(I) IN GENERAL.—The Secretary shall enforce any base national standard.

''(II) TRADE ASSOCIATION CERTIFICATION PROGRAMS.—In enforcing the base national standard, the Secretary shall use, to the maximum extent practicable, national standard nationally recognized certification programs of trade associations.

''(ii) REGIONAL STANDARDS.—

''(I) ENFORCEMENT PLAN.—Not later than 90 days after the date of the issuance of a final rule that establishes a regional standard, the Secretary shall initiate a rulemaking to develop and implement an effective enforcement plan for regional standards for the products that are covered by the final rule.

''(II) RESPONSIBLE ENTITIES.—Any rules regarding enforcement of a regional standard shall clearly specify which entities are legally responsible for compliance with the standards and for making any required information or labeling disclosures.

''(III) FINAL RULE.—Not later than 15 months after the date of the issuance of a final rule that establishes a regional standard for a product, the Secretary shall promulgate a final rule covering enforcement of regional standards for the product.

''(IV) INCORPORATION BY STATES AND LOCALITIES.—A State or locality may incorporate any Federal regional standard into State or local building codes or State appliance standards.

''(V) STATE ENFORCEMENT.—A State agency may seek enforcement of a Federal regional standard in a Federal court of competent jurisdiction.

''(H) INFORMATION DISCLOSURE.—

''(i) IN GENERAL.—Not later than 90 days after the date of the publication of a final rule that establishes a regional standard for a product, the Federal Trade Commission shall undertake a rulemaking to determine the appropriate 1 or more methods for disclosing information so that consumers, distributors, contractors, and installers can easily determine whether a specific piece of equipment that is installed in a specific building is in conformance with the regional standard that applies to the building.

''(ii) METHODS.—A method of disclosing information under clause (i) may include—

''(I) modifications to the Energy Guide label; or

''(II) other methods that make it easy for consumers and installers to use and understand at the point of installation.

''(iii) COMPLETION OF RULEMAKING.—The rulemaking shall be completed not later 15 months after the date of the publication of a final rule that establishes a regional standard for a product.''.

(b) PROHIBITED ACTS.—Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraph (4), by striking ''or'' after the semicolon at the end;

(2) in paragraph (5), by striking ''part.'' and inserting ''part, except to the extent that the new covered product is covered by a regional standard that is more stringent than the base national standard; or''; and

(3) by adding at the end the following:

''(6) for any manufacturer or private labeler to knowingly sell a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product.''.

(c) CONSIDERATION OF PRICES AND OPERATING PATTERNS.—Section 342(a)(6)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)(B)) is amended by adding at the end the following:

''(iii) CONSIDERATION OF PRICES AND OPERATING PATTERNS.—If the Secretary is considering revised standards for air-cooled 3-phase central air conditioners and central air conditioning heat pumps with less 65,000 Btu per hour (cooling capacity), the Secretary shall use commercial energy prices and operating patterns in all analyses conducted by the Secretary.''.

SEC. 307. PROCEDURE FOR PRESCRIBING NEW OR AMENDED STANDARDS.

Section 325(p) of the Energy Policy and Conservation Act (42 U.S.C. 6925(p)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

SEC. 308. EXPEDITED RULEMAKINGS.

(a) PROCEDURE FOR PRESCRIBING NEW OR AMENDED STANDARDS.—Section 325(p) of the Energy Policy and Conservation Act (42 U.S.C. 6295(p)) (as amended by section 307) is amended by adding at the end the following:

''(4) DIRECT FINAL RULES.—

''(A) IN GENERAL.—On receipt of a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to an energy or water conservation standard—

''(i) if the Secretary determines that the recommended standard contained in the statement is in accordance with subsection (o) or section 342(a)(6)(B), as applicable, the Secretary may issue a final rule that establishes an energy or water conservation standard and is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation standard that is identical to the standard established in the final rule to establish the recommended standard (referred to in this paragraph as a 'direct final rule'); or

''(ii) if the Secretary determines that a direct final rule cannot be issued based on the statement, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.

''(B) PUBLIC COMMENT.—The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(i).

''(C) WITHDRAWAL OF DIRECT FINAL RULES.—

''(i) IN GENERAL.—Not later than 120 days after the date on which a direct final rule issued under subparagraph (A)(i) is published in the Federal Register, the Secretary shall withdraw the direct final rule if—

''(I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B)(i) or any alternative joint recommendation; and

''(II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under subsection (o), section 342(a)(6)(B), or any other applicable law.

''(ii) ACTION ON WITHDRAWAL.—On withdrawal of a direct final rule under clause (i), the Secretary shall—

''(I) proceed with the notice of proposed rulemaking published simultaneously with the direct final rule as described in subparagraph (A)(i); and

''(II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

''(iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES.—A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (o).

''(D) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended standards relating to the direct final rule.''.

(b) CONFORMING AMENDMENT.—Section 345(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6316(b)(1)) is amended in the first sentence by inserting ''section 325(p)(5),'' after ''The provisions of''.

SEC. 309. BATTERY CHARGERS.

Section 325(u)(1)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)(1)(E)) is amended—

(1) by striking ''(E)(i) Not'' and inserting the following:

''(E) EXTERNAL POWER SUPPLIES AND BATTERY CHARGERS.—

''(i) ENERGY CONSERVATION STANDARDS.—

''(I) EXTERNAL POWER SUPPLIES.—Not'';

(2) by striking ''3 years'' and inserting ''2 years'';

(3) by striking ''battery chargers and'' each place it appears; and

(4) by adding at the end the following :

''(II) BATTERY CHARGERS.—Not later than July 1, 2011, the Secretary shall issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or determine that no energy conservation standard is technically feasible and economically justified.''.

SEC. 310. STANDBY MODE.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (u)—

(A) by striking paragraphs (2), (3), and (4); and

(B) by redesignating paragraph (5) and (6) as paragraphs (2) and (3), respectively;

(2) by redesignating subsection (gg) as subsection (hh);

(3) by inserting after subsection (ff) the following:

''(gg) STANDBY MODE ENERGY USE.—

''(1) DEFINITIONS.—

''(A) IN GENERAL.—Unless the Secretary determines otherwise pursuant to subparagraph (B), in this subsection:

''(i) ACTIVE MODE.—The term 'active mode' means the condition in which an energy-using product—

''(I) is connected to a main power source;

''(II) has been activated; and

''(III) provides 1 or more main functions.

''(ii) OFF MODE.—The term 'off mode' means the condition in which an energy-using product—

''(I) is connected to a main power source; and

''(II) is not providing any standby or active mode function.

''(iii) STANDBY MODE.—The term 'standby mode' means the condition in which an energy-using product—

''(I) is connected to a main power source; and

''(II) offers 1 or more of the following user-oriented or protective functions:

''(aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

''(bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

''(B) AMENDED DEFINITIONS.—The Secretary may, by rule, amend the definitions under subparagraph (A), taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission.

''(2) TEST PROCEDURES.—

''(A) IN GENERAL.—Test procedures for all covered products shall be amended pursuant to section 323 to include standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission, with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—

''(i) the current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the covered product; or

''(ii) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible.

''(B) DEADLINES.—The test procedure amendments required by subparagraph (A) shall be prescribed in a final rule no later than the following dates:

''(i) December 31, 2008, for battery chargers and external power supplies.

''(ii) March 31, 2009, for clothes dryers, room air conditioners, and fluorescent lamp ballasts.

''(iii) June 30, 2009, for residential clothes washers.

''(iv) September 30, 2009, for residential furnaces and boilers.

''(v) March 31, 2010, for residential water heaters, direct heating equipment, and pool heaters.

''(vi) March 31, 2011, for residential dishwashers, ranges and ovens, microwave ovens, and dehumidifiers.

''(C) PRIOR PRODUCT STANDARDS.—The test procedure amendments adopted pursuant to subparagraph (B) shall not be used to determine compliance with product standards established prior to the adoption of the amended test procedures.

''(3) INCORPORATION INTO STANDARD.—

''(A) IN GENERAL.—Subject to subparagraph (B), based on the test procedures required under paragraph (2), any final rule establishing or revising a standard for a covered product, adopted after July 1, 2010, shall incorporate standby mode and off mode energy use into a single amended or new standard, pursuant to subsection (o), if feasible.

''(B) SEPARATE STANDARDS.—If not feasible, the Secretary shall prescribe within the final rule a separate standard for standby mode and off mode energy consumption, if justified under subsection (o).''; and

(4) in paragraph (2) of subsection (hh) (as redesignated by paragraph (2)) , by striking ''(ff)'' each place it appears and inserting ''(gg)''.

SEC. 311. ENERGY STANDARDS FOR HOME APPLIANCES.

(a) APPLIANCES.—

(1) DEHUMIDIFIERS.—Section 325(cc) of the Energy Policy and Conservation Act (42 U.S.C. 6295(cc)) is amended by striking paragraph (2) and inserting the following:

''(2) DEHUMIDIFIERS MANUFACTURED ON OR AFTER OCTOBER 1, 2012.—Dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

"Product Capacity (pints/day):	Minimum Energy Factor (liters/KWh)
Up to 35.00	1.35
35.01-45.00	1.50

"Product Capacity (pints/day):	Minimum Energy Factor (liters/KWh)
45.01-54.00	1.60
54.01-75.00	1.70
Greater than 75.00	2.5.''.

(2) RESIDENTIAL CLOTHES WASHERS AND RESIDENTIAL DISHWASHERS.—Section 325(g) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)) is amended by adding at the end the following:

''(9) RESIDENTIAL CLOTHES WASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2011.—

''(A) IN GENERAL.—A top-loading or front-loading standard-size residential clothes washer manufactured on or after January 1, 2011, shall have—

''(i) a Modified Energy Factor of at least 1.26; and

''(ii) a water factor of not more than 9.5.

''(B) AMENDMENT OF STANDARDS.—

''(i) IN GENERAL.—Not later than December 31, 2011, the Secretary shall publish a final rule determining whether to amend the standards in effect for clothes washers manufactured on or after January 1, 2015.

''(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.

''(10) RESIDENTIAL DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2010.—

''(A) IN GENERAL.—A dishwasher manufactured on or after January 1, 2010, shall—

''(i) for a standard size dishwasher not exceed 355 kwh/year and 6.5 gallon per cycle; and

''(ii) for a compact size dishwasher not exceed 260 kwh/year and 4.5 gallons per cycle.

''(B) AMENDMENT OF STANDARDS.—

''(i) IN GENERAL.—Not later than January 1, 2015, the Secretary shall publish a final rule determining whether to amend the standards for dishwashers manufactured on or after January 1, 2018.

''(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.''.

(3) REFRIGERATORS AND FREEZERS.—Section 325(b) of the Energy Policy and Conservation Act (42 U.S.C. 6295(b)) is amended by adding at the end the following:

''(4) REFRIGERATORS AND FREEZERS MANUFACTURED ON OR AFTER JANUARY 1, 2014.—

''(A) IN GENERAL.—Not later than December 31, 2010, the Secretary shall publish a final rule determining whether to amend the standards in effect for refrigerators, refrigerator-freezers, and freezers manufactured on or after January 1, 2014.

''(B) AMENDED STANDARDS.—The final rule shall contain any amended standards.''.

(b) ENERGY STAR.—Section 324A(d)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294a(d)(2)) is amended by striking ''January 1, 2010'' and inserting ''July 1, 2009''.

SEC. 312. WALK-IN COOLERS AND WALK-IN FREEZERS.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (G) through (K) as subparagraphs (H) through (L), respectively; and

(B) by inserting after subparagraph (F) the following:

''(G) Walk-in coolers and walk-in freezers.'';

(2) by redesignating paragraphs (20) and (21) as paragraphs (21) and (22), respectively; and

(3) by inserting after paragraph (19) the following:

''(20) WALK-IN COOLER; WALK-IN FREEZER.—

''(A) IN GENERAL.—The terms 'walk-in cooler' and 'walk-in freezer' mean an enclosed storage space refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet.

''(B) EXCLUSION.—The terms 'walk-in cooler' and 'walk-in freezer' do not include products designed and marketed exclusively for medical, scientific, or research purposes.''.

(b) STANDARDS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

''(f) WALK-IN COOLERS AND WALK-IN FREEZERS.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), each walk-in cooler or walk-in freezer manufactured on or after January 1, 2009, shall—

''(A) have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, except that this subparagraph shall not apply to doors wider than 3 feet 9 inches or taller than 7 feet;

''(B) have strip doors, spring hinged doors, or other method of minimizing infiltration when doors are open;

''(C) contain wall, ceiling, and door insulation of at least R–25 for coolers and R–32 for freezers, except that this subparagraph shall not apply to glazed portions of doors nor to structural members;

''(D) contain floor insulation of at least R–28 for freezers;

''(E) for evaporator fan motors of under 1 horsepower and less than 460 volts, use—

''(i) electronically commutated motors (brushless direct current motors); or

''(ii) 3-phase motors;

''(F) for condenser fan motors of under 1 horsepower, use—

''(i) electronically commutated motors;

''(ii) permanent split capacitor-type motors; or

''(iii) 3-phase motors; and

''(G) for all interior lights, use light sources with an efficacy of 40 lumens per watt or more, including ballast losses (if any), except that light sources with an efficacy of 40 lumens per watt or less, including ballast losses (if any), may be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in cooler or walk-in freezer is not occupied by people.

''(2) ELECTRONICALLY COMMUTATED MOTORS.—

''(A) IN GENERAL.—The requirements of paragraph (1)(E)(i) for electronically commutated motors shall take effect January 1, 2009, unless, prior to that date, the Secretary determines that such motors are only available from 1 manufacturer.

''(B) OTHER TYPES OF MOTORS.—In carrying out paragraph (1)(E)(i) and subparagraph (A), the Secretary may allow other types of motors if the Secretary determines that, on average, those other motors use no more energy in evaporator fan applications than electronically commutated motors.

''(C) MAXIMUM ENERGY CONSUMPTION LEVEL.—The Secretary shall establish the maximum energy consumption level under subparagraph (B) not later than January 1, 2010.

''(3) ADDITIONAL SPECIFICATIONS.—Each walk-in cooler or walk-in freezer with transparent reach-in doors manufactured on or after January 1, 2009, shall also meet the following specifications:

''(A) Transparent reach-in doors for walk-in freezers and windows in walk-in freezer doors shall be of triple-pane glass with either heat-reflective treated glass or gas fill.

''(B) Transparent reach-in doors for walk-in coolers and windows in walk-in cooler doors shall be—

''(i) double-pane glass with heat-reflective treated glass and gas fill; or

''(ii) triple-pane glass with either heat-reflective treated glass or gas fill.

''(C) If the appliance has an antisweat heater without antisweat heat controls, the appliance shall have a total door rail, glass, and frame heater power draw of not more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers).

''(D) If the appliance has an antisweat heater with antisweat heat controls, and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers), the antisweat heat controls shall reduce the energy use of the antisweat heater in a quantity corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

''(4) PERFORMANCE-BASED STANDARDS.—

''(A) IN GENERAL.—Not later than January 1, 2012, the Secretary shall publish performance-based standards for walk-in coolers and walk-in freezers that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified.

''(B) APPLICATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the standards shall apply to products described in subparagraph (A) that are manufactured beginning on the date that is 3 years after the final rule is published.

''(ii) DELAYED EFFECTIVE DATE.—If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.

''(5) AMENDMENT OF STANDARDS.—

''(A) IN GENERAL.—Not later than January 1, 2020, the Secretary shall publish a final rule to determine if the standards established under paragraph (4) should be amended.

''(B) APPLICATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the rule shall provide that the standards shall apply to products manufactured beginning on the date that is 3 years after the final rule is published.

''(ii) DELAYED EFFECTIVE DATE.—If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.''.

(c) TEST PROCEDURES.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by adding at the end the following:

''(9) WALK-IN COOLERS AND WALK-IN FREEZERS.—

''(A) IN GENERAL.—For the purpose of test procedures for walk-in coolers and walk-in freezers:

''(i) The R value shall be the 1/K factor multiplied by the thickness of the panel.

''(ii) The K factor shall be based on ASTM test procedure C518-2004.

''(iii) For calculating the R value for freezers, the K factor of the foam at 20°F (average foam temperature) shall be used.

''(iv) For calculating the R value for coolers, the K factor of the foam at 55°F (average foam temperature) shall be used.

''(B) TEST PROCEDURE.—

''(i) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a test procedure to measure the energy-use of walk-in coolers and walk-in freezers.

''(ii) COMPUTER MODELING.—The test procedure may be based on computer modeling, if the computer model or models have been verified using the results of laboratory tests on a significant sample of walk-in coolers and walk-in freezers.''.

(d) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting ''walk-in coolers and walk-in freezers,'' after ''commercial clothes washers,'' each place it appears.

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) by striking ''subparagraphs (B), (C), (D), (E), and (F)'' each place it appears and inserting ''subparagraphs (B) through (G)''; and

(2) by adding at the end the following:

''(h) WALK-IN COOLERS AND WALK-IN FREEZERS.—

''(1) COVERED TYPES.—

''(A) RELATIONSHIP TO OTHER LAW.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection, section 327 shall apply to walk-in coolers and walk-in freezers for which standards have been established under paragraphs (1), (2), and (3) of section 342(f) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection.

''(ii) STATE STANDARDS.—Any State standard prescribed before the date of enactment of this subsection shall not be preempted until the standards established under paragraphs (1) and (2) of section 342(f) take effect.

''(B) ADMINISTRATION.—In applying section 327 to equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(2) FINAL RULE NOT TIMELY.—

''(A) IN GENERAL.—If the Secretary does not issue a final rule for a specific type of walk-in cooler or walk-in freezer within the time frame established under paragraph (4) or (5) of section 342(f), subsections (b) and (c) of section 327 shall no longer apply to the specific type of walk-in cooler or walk-in freezer during the period—

''(i) beginning on the day after the scheduled date for a final rule; and

''(ii) ending on the date on which the Secretary publishes a final rule covering the specific type of walk-in cooler or walk-in freezer.

''(B) STATE STANDARDS.—Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

''(3) CALIFORNIA.—Any standard issued in the State of California before January 1, 2011, under title 20 of the California Code of Regulations, that refers to walk-in coolers and walk-in freezers, for which standards have been established under paragraphs (1), (2), and (3) of section 342(f), shall not be preempted until the standards established under section 342(f)(3) take effect.''.

SEC. 313. ELECTRIC MOTOR EFFICIENCY STANDARDS.

(a) DEFINITIONS.—Section 340(13) of the Energy Policy and Conservation Act (42 U.S.C. 6311(13)) is amended—

(1) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(2) by striking ''(13)(A)'' and all that follows through the end of subparagraph (A) and inserting the following:

''(13) ELECTRIC MOTOR.—

''(A) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE I).—The term 'general purpose electric motor (subtype I)' means any motor that meets the definition of 'General Purpose' as established in the final rule issued by the Department of Energy entitled 'Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors' (10 C.F.R. 431), as in effect on the date of enactment of the Energy Independence and Security Act of 2007.

''(B) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE II).—The term 'general purpose electric motor (subtype II)' means motors incorporating the design elements of a general purpose electric motor (subtype I) that are configured as 1 of the following:

''(i) A U-Frame Motor.

''(ii) A Design C Motor.

''(iii) A close-coupled pump motor.

''(iv) A Footless motor.

''(v) A vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

''(vi) An 8-pole motor (900 rpm).

''(vii) A poly-phase motor with voltage of not more than 600 volts (other than 230 or 460 volts.''.

(b) STANDARDS.—

(1) AMENDMENT.—Section 342(b) of the Energy Policy and Conservation Act (42 U.S.C. 6313(b)) is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

''(2) ELECTRIC MOTORS.—

''(A) GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I).—Except as provided in subparagraph (B), each general purpose electric motor (subtype I) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–12.

''(B) FIRE PUMP MOTORS.—Each fire pump motor manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007 shall have nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–11.

''(C) GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE II).—Each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–11.

''(D) NEMA DESIGN B, GENERAL PURPOSE ELECTRIC MOTORS.—Each NEMA Design B, general purpose electric motor with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–11.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on the date that is 3 years after the date of enactment of this Act.

SEC. 314. STANDARDS FOR SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND HEAT PUMPS.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by adding at the end the following:

''(22) SINGLE PACKAGE VERTICAL AIR CONDITIONER.—The term 'single package vertical air conditioner' means air-cooled commercial package air conditioning and heating equipment that—

''(A) is factory-assembled as a single package that—

''(i) has major components that are arranged vertically;

''(ii) is an encased combination of cooling and optional heating components; and

''(iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall;

''(B) is powered by a single- or 3-phase current;

''(C) may contain 1 or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and

''(D) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means.

''(23) SINGLE PACKAGE VERTICAL HEAT PUMP.—The term 'single package vertical heat pump' means a single package vertical air conditioner that—

''(A) uses reverse cycle refrigeration as its primary heat source; and

''(B) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas.''.

(b) STANDARDS.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the first sentence of each of paragraphs (1) and (2), by inserting ''(including single package vertical air conditioners and single package vertical heat pumps)'' after ''heating equipment'' each place it appears;

(2) in paragraph (1), by striking ''but before January 1, 2010,'';

(3) in the first sentence of each of paragraphs (7), (8), and (9), by inserting ''(other than single package vertical air conditioners and single package vertical heat pumps)'' after ''heating equipment'' each place it appears;

(4) in paragraph (7)—

(A) by striking ''manufactured on or after January 1, 2010,'';

(B) in each of subparagraphs (A), (B), and (C), by striking ''The'' and inserting ''For equipment manufactured on or after January 1, 2010, the''; and

(C) by adding at the end the following:

''(D) For equipment manufactured on or after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007—

''(i) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 13.0;

''(ii) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 13.0;

''(iii) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less

than 65,000 Btu per hour (cooling capacity), split systems, shall be 7.7; and

''(iv) the minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 7.7.''; and

(5) by adding at the end the following:

''(10) SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS.—

''(A) IN GENERAL.—Single package vertical air conditioners and single package vertical heat pumps manufactured on or after January 1, 2010, shall meet the following standards:

''(i) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0.

''(ii) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), three-phase, shall be 9.0.

''(iii) The minimum energy efficiency ratio of single package vertical air conditioners at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9.

''(iv) The minimum energy efficiency ratio of single package vertical air conditioners at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6.

''(v) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

''(vi) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), three-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

''(vii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9 and the minimum coefficient of performance in the heating mode shall be 3.0.

''(viii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6 and the minimum coefficient of performance in the heating mode shall be 2.9.

''(B) REVIEW.—Not later than 3 years after the date of enactment of this paragraph, the Secretary shall review the most recently published ASHRAE/IES Standard 90.1 with respect to single package vertical air conditioners and single package vertical heat pumps in accordance with the procedures established under paragraph (6).''.

SEC. 315. IMPROVED ENERGY EFFICIENCY FOR APPLIANCES AND BUILDINGS IN COLD CLIMATES.

(a) RESEARCH.—Section 911(a)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16191(a)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) technologies to improve the energy efficiency of appliances and mechanical systems for buildings in cold climates, including combined heat and power units and increased use of renewable resources, including fuel.''.

(b) REBATES.—Section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) is amended—

(1) in subsection (b)(1), by inserting '', or products with improved energy efficiency in cold climates,'' after ''residential Energy Star products''; and

(2) in subsection (e), by inserting ''or product with improved energy efficiency in a cold climate'' after ''residential Energy Star product'' each place it appears.

SEC. 316. TECHNICAL CORRECTIONS.

(a) DEFINITION OF F96T12 LAMP.—

(1) IN GENERAL.—Section 135(a)(1)(A)(ii) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 624) is amended by striking ''C78.1–1978(R1984)'' and inserting ''C78.3–1978(R1984)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on August 8, 2005.

(b) DEFINITION OF FLUORESCENT LAMP.—Section 321(30)(B)(viii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(B)(viii)) is amended by striking ''82'' and inserting ''87''.

(c) MERCURY VAPOR LAMP BALLASTS.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 301(a)(2)) is amended—

(A) by striking paragraphs (46) through (48) and inserting the following:

''(46) HIGH INTENSITY DISCHARGE LAMP.—

''(A) IN GENERAL.—The term 'high intensity discharge lamp' means an electric-discharge lamp in which—

''(i) the light-producing arc is stabilized by the arc tube wall temperature; and

''(ii) the arc tube wall loading is in excess of 3 Watts/cm^2.

''(B) INCLUSIONS.—The term 'high intensity discharge lamp' includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

''(47) MERCURY VAPOR LAMP.—

''(A) IN GENERAL.—The term 'mercury vapor lamp' means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 Pa (approximately 1 atm).

''(B) INCLUSIONS.—The term 'mercury vapor lamp' includes clear, phosphor-coated, and self-ballasted screw base lamps described in subparagraph (A).

''(48) MERCURY VAPOR LAMP BALLAST.—The term 'mercury vapor lamp ballast' means a device that is designed and marketed to start and operate mercury vapor lamps intended for general illumination by providing the necessary voltage and current.''; and

(B) by adding at the end the following:

''(53) SPECIALTY APPLICATION MERCURY VAPOR LAMP BALLAST.—The term 'specialty application mercury vapor lamp ballast' means a mercury vapor lamp ballast that—

''(A) is designed and marketed for operation of mercury vapor lamps used in quality inspection, industrial processing, or scientific use, including fluorescent microscopy and ultraviolet curing; and

''(B) in the case of a specialty application mercury vapor lamp ballast, the label of which—

''(i) provides that the specialty application mercury vapor lamp ballast is 'For specialty applications only, not for general illumination'; and

''(ii) specifies the specific applications for which the ballast is designed.''.

(2) STANDARD SETTING AUTHORITY.—Section 325(ee) of the Energy Policy and Conservation Act (42 U.S.C. 6295(ee)) is amended by inserting ''(other than specialty application mercury vapor lamp ballasts)'' after ''ballasts''.

(d) ENERGY CONSERVATION STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (v)—

(A) in the subsection heading, by striking ''CEILING FANS AND'';

(B) by striking paragraph (1); and

(C) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(2) in subsection (ff)—

(A) in paragraph (1)(A)—

(i) by striking clause (iii);

(ii) by redesignating clause (iv) as clause (iii); and

(iii) in clause (iii)(II) (as so redesignated), by inserting ''fans sold for'' before ''outdoor''; and

(B) in paragraph (4)(C)—

(i) in the matter preceding clause (i), by striking ''subparagraph (B)'' and inserting ''subparagraph (A)''; and

(ii) by striking clause (ii) and inserting the following:

''(ii) shall be packaged with lamps to fill all sockets.'';

(C) in paragraph (6), by redesignating subparagraphs (C) and (D) as clauses (i) and (ii), respectively, of subparagraph (B); and

(D) in paragraph (7), by striking ''327'' the second place it appears and inserting ''324''.

Subtitle B—Lighting Energy Efficiency

SEC. 321. EFFICIENT LIGHT BULBS.

(a) ENERGY EFFICIENCY STANDARDS FOR GENERAL SERVICE INCANDESCENT LAMPS.—

(1) DEFINITION OF GENERAL SERVICE INCANDESCENT LAMP.—Section 321(30) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)) is amended—

(A) by striking subparagraph (D) and inserting the following:

''(D) GENERAL SERVICE INCANDESCENT LAMP.—

''(i) IN GENERAL.—The term 'general service incandescent lamp' means a standard incandescent or halogen type lamp that—

''(I) is intended for general service applications;

''(II) has a medium screw base;

''(III) has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

''(IV) is capable of being operated at a voltage range at least partially within 110 and 130 volts.

''(ii) EXCLUSIONS.—The term 'general service incandescent lamp' does not include the following incandescent lamps:

''(I) An appliance lamp.

''(II) A black light lamp.

''(III) A bug lamp.

''(IV) A colored lamp.

''(V) An infrared lamp.

''(VI) A left-hand thread lamp.

''(VII) A marine lamp.

''(VIII) A marine signal service lamp.

''(IX) A mine service lamp.

''(X) A plant light lamp.

''(XI) A reflector lamp.

''(XII) A rough service lamp.

''(XIII) A shatter-resistant lamp (including a shatter-proof lamp and a shatter-protected lamp).

''(XIV) A sign service lamp.

''(XV) A silver bowl lamp.

''(XVI) A showcase lamp.

''(XVII) A 3-way incandescent lamp.

''(XVIII) A traffic signal lamp.

''(XIX) A vibration service lamp.

''(XX) A G shape lamp (as defined in ANSI C78.20 -2003 andC79.1-2002with a diameter of 5 inches or more.

''(XXI) A T shape lamp (as defined in ANSIC78.20-2003 and C79.1-2002) and that uses not more than 40 watts or has a length of more than 10 inches.

''(XXII) A B, BA, CA, F, G16–1/2,G–25,G30, S, or M–14 lamp (as defined in ANSI C79.1-2002 and ANSI C78.20-2003) of 40 watts or less.''; and

(B) by adding at the end the following:

''(T) APPLIANCE LAMP.—The term 'appliance lamp' means any lamp that—

''(i) is specifically designed to operate in a household appliance, has a maximum wattage of 40 watts, and is sold at retail, including an oven lamp, refrigerator lamp, and vacuum cleaner lamp; and

''(ii) is designated and marketed for the intended application, with—

''(I) the designation on the lamp packaging; and

''(II) marketing materials that identify the lamp as being for appliance use.

''(U) CANDELABRA BASE INCANDESCENT LAMP.—The term 'candelabra base incandescent lamp' means a lamp that uses candelabra screw base as described in ANSI C81.61–2006, Specifications for Electric Bases, common designations E11 and E12.

''(V) INTERMEDIATE BASE INCANDESCENT LAMP.—The term 'intermediate base incandescent lamp' means a lamp that uses an intermediate screw base as described in ANSI C81.61–2006, Specifications for Electric Bases, common designation E17.

''(W) MODIFIED SPECTRUM.—The term 'modified spectrum' means, with respect to an incandescent lamp, an incandescent lamp that—

''(i) is not a colored incandescent lamp; and

''(ii) when operated at the rated voltage and wattage of the incandescent lamp—

''(I) has a color point with (x,y) chromaticity coordinates on the Commission Internationale de l'Eclairage (C.I.E.) 1931 chromaticity diagram that lies below the blackbody locus; and

''(II) has a color point with (x,y) chromaticity coordinates on the C.I.E. 1931 chromaticity diagram that lies at least 4 MacAdam steps (as referenced in IESNA LM16) distant from the color point of a clear lamp with the same filament and bulb shape, operated at the same rated voltage and wattage.

''(X) ROUGH SERVICE LAMP.—The term 'rough service lamp' means a lamp that—

''(i) has a minimum of 5 supports with filament configurations that are C–7A, C–11, C–17, and C–22 as listed in Figure 6–12 of the 9th edition of the IESNA Lighting handbook, or similar configurations where lead wires are not counted as supports; and

''(ii) is designated and marketed specifically for 'rough service' applications, with—

''(I) the designation appearing on the lamp packaging; and

''(II) marketing materials that identify the lamp as being for rough service.

''(Y) 3-WAY INCANDESCENT LAMP.—The term '3-way incandescent lamp' includes an incandescent lamp that—

''(i) employs 2 filaments, operated separately and in combination, to provide 3 light levels; and

''(ii) is designated on the lamp packaging and marketing materials as being a 3-way incandescent lamp.

''(Z) SHATTER-RESISTANT LAMP, SHATTERPROOF LAMP, OR SHATTER-PROTECTED LAMP.—The terms 'shatter-resistant lamp', 'shatterproof lamp', and 'shatter-protected lamp' mean a lamp that—

''(i) has a coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

''(ii) is designated and marketed for the intended application, with—

''(I) the designation on the lamp packaging; and

''(II) marketing materials that identify the lamp as being shatter-resistant, shatterproof, or shatter-protected.

''(AA) VIBRATION SERVICE LAMP.—The term 'vibration service lamp' means a lamp that—

''(i) has filament configurations that are C–5, C–7A, or C–9, as listed in Figure 6–12 of the 9th Edition of the IESNA Lighting Handbook or similar configurations;

''(ii) has a maximum wattage of 60 watts;

''(iii) is sold at retail in packages of 2 lamps or less; and

''(iv) is designated and marketed specifically for vibration service or vibration-resistant applications, with—

''(I) the designation appearing on the lamp packaging; and

''(II) marketing materials that identify the lamp as being vibration service only.

''(BB) GENERAL SERVICE LAMP.—

''(i) IN GENERAL.—The term 'general service lamp' includes—

''(I) general service incandescent lamps;

''(II) compact fluorescent lamps;

''(III) general service light-emitting diode (LED or OLED) lamps; and

''(IV) any other lamps that the Secretary determines are used to satisfy lighting applications traditionally served by general service incandescent lamps.

''(ii) EXCLUSIONS.—The term 'general service lamp' does not include—

''(I) any lighting application or bulb shape described in any of subclauses (I) through (XXII) of subparagraph (D)(ii); or

''(II) any general service fluorescent lamp or incandescent reflector lamp.

''(CC) LIGHT-EMITTING DIODE; LED.—

''(i) IN GENERAL.—The terms 'light-emitting diode' and 'LED' means a p–n junction solid state device the radiated output of which is a function of the physical construction, material used, and exciting current of the device.

''(ii) OUTPUT.—The output of a light-emitting diode may be in—

''(I) the infrared region;

''(II) the visible region; or

''(III) the ultraviolet region.

''(DD) ORGANIC LIGHT-EMITTING DIODE; OLED.—The terms 'organic light-emitting diode' and 'OLED' mean a thin-film light-emitting device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

''(EE) COLORED INCANDESCENT LAMP.—The term 'colored incandescent lamp' means an incandescent lamp designated and marketed as a colored lamp that has—

''(i) a color rendering index of less than 50, as determined according to the test method given in C.I.E. publication 13.3–1995; or

''(ii) a correlated color temperature of less than 2,500K, or greater than 4,600K, where correlated temperature is computed according to the Journal of Optical Society of America, Vol. 58, pages 1528–1595 (1986).''.

(2) COVERAGE.—Section 322(a)(14) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)(14)) is amended by inserting '', general service incandescent lamps,'' after ''fluorescent lamps''.

(3) ENERGY CONSERVATION STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(A) in subsection (i)—

(i) in the section heading, by inserting '', GENERAL SERVICE INCANDESCENT LAMPS, INTERMEDIATE BASE INCANDESCENT LAMPS, CANDELABRA BASE INCANDESCENT LAMPS,'' after ''FLUORESCENT LAMPS'';

(ii) in paragraph (1)—

(I) in subparagraph (A)—

(aa) by inserting '', general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps,'' after ''fluorescent lamps'';

(bb) by inserting '', new maximum wattage,'' after ''lamp efficacy''; and

(cc) by inserting after the table entitled ''INCANDESCENT REFLECTOR LAMPS'' the following:

''GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rate Wattage	Minimum Rate Lifetime	Effective Date
1490–2600	72	1,000 hrs	1/1/2012
1050–1489	53	1,000 hrs	1/1/2013
750–1049	43	1,000 hrs	1/1/2014
310–749	29	1,000 hrs	1/1/2014

''MODIFIED SPECTRUM GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rate Wattage	Minimum Rate Lifetime	Effective Date
1118–1950	72	1,000 hrs	1/1/2012
788–1117	53	1,000 hrs	1/1/2013
563–787	43	1,000 hrs	1/1/2014
232–562	29	1,000 hrs	1/1/2014'';

and

(II) by striking subparagraph (B) and inserting the following:

''(B) APPLICATION.—

''(i) APPLICATION CRITERIA.—This subparagraph applies to each lamp that—

''(I) is intended for a general service or general illumination application (whether incandescent or not);

''(II) has a medium screw base or any other screw base not defined in ANSI C81.61–2006;

''(III) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

''(IV) is manufactured or imported after December 31, 2011.

''(ii) REQUIREMENT.—For purposes of this paragraph, each lamp described in clause (i) shall have a color rendering index that is greater than or equal to—

''(I) 80 for nonmodified spectrum lamps; or

''(II) 75 for modified spectrum lamps.

''(C) CANDELABRA INCANDESCENT LAMPS AND INTERMEDIATE BASE INCANDESCENT LAMPS.—

''(i) CANDELABRA BASE INCANDESCENT LAMPS.—A candelabra base incandescent lamp shall not exceed 60 rated watts.

''(ii) INTERMEDIATE BASE INCANDESCENT LAMPS.—An intermediate base incandescent lamp shall not exceed 40 rated watts.

''(D) EXEMPTIONS.—

''(i) PETITION.—Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subsection.

''(ii) CRITERIA.—The Secretary may grant an exemption under clause (i) only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety, or certified historic lighting application) using a lamp that meets the requirements of this subsection.

''(iii) ADDITIONAL CRITERION.—To grant an exemption for a product under this subparagraph, the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

''(E) EXTENSION OF COVERAGE.—

''(i) PETITION.—Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps.

''(ii) INCREASED SALES OF EXEMPTED LAMPS.—The petition shall include evidence that the availability or sales of exempted incandescent lamps have increased significantly since the date on which the standards on general service incandescent lamps were established.

''(iii) CRITERIA.—The Secretary shall grant a petition under clause (i) if the Secretary finds that—

''(I) the petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since the standards on general service lamps were established and likely are being widely used in general lighting applications; and

''(II) significant energy savings could be achieved by covering exempted products, as determined by the Secretary based on sales data provided to the Secretary from manufacturers and importers.

''(iv) NO PRESUMPTION.—The grant of a petition under this subparagraph shall create no presumption with respect to the determination of the Secretary with respect to any criteria under a rulemaking conducted under this section.

''(v) EXPEDITED PROCEEDING.—If the Secretary grants a petition for a lamp shape or base under this subparagraph, the Secretary shall—

''(I) conduct a rulemaking to determine standards for the exempted lamp shape or base; and

''(II) complete the rulemaking not later than 18 months after the date on which notice is provided granting the petition.

''(F) DEFINITION OF EFFECTIVE DATE.—In this paragraph, except as otherwise provided in a table contained in subparagraph (A), the term 'effective date' means the last day of the month specified in the table that follows October 24, 1992.'';

(iii) in paragraph (5), in the first sentence, by striking ''and general service incandescent lamps'';

(iv) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(v) by inserting after paragraph (5) the following:

''(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

''(A) RULEMAKING BEFORE JANUARY 1, 2014.—

''(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended to establish more stringent standards than the standards specified in paragraph (1)(A); and

''(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking—

''(I) shall not be limited to incandescent lamp technologies; and

''(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the sale of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

''(vi) STATE PREEMPTION.—Neither section 327(b) nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

''(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

''(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

''(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of the date of enactment of the Energy Independence and Security Act of 2007.

''(B) RULEMAKING BEFORE JANUARY 1, 2020.—

''(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service incandescent lamps should be amended to reflect lumen ranges with more stringent maximum wattage than the standards specified in paragraph (1)(A); and

''(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales data collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.''; and

(B) in subsection (l), by adding at the end the following:

''(4) ENERGY EFFICIENCY STANDARDS FOR CERTAIN LAMPS.—

''(A) IN GENERAL.—The Secretary shall prescribe an energy efficiency standard for rough service lamps, vibration service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps only in accordance with this paragraph.

''(B) BENCHMARKS.—Not later than 1 year after the date of enactment of this paragraph, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

''(i) collect actual data for United States unit sales for each of calendar years 1990 through 2006 for each of the 5 types of lamps described in subparagraph (A) to determine the historical growth rate of the type of lamp; and

''(ii) construct a model for each type of lamp based on coincident economic indicators that closely match the historical annual growth rate of the type of lamp to provide a neutral comparison benchmark to model future unit sales after calendar year 2006.

''(C) ACTUAL SALES DATA.—

''(i) IN GENERAL.—Effective for each of calendar years 2010 through 2025, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

''(I) collect actual United States unit sales data for each of 5 types of lamps described in subparagraph (A); and

''(II) not later than 90 days after the end of each calendar year, compare the lamp sales in that year with the sales predicted by the comparison benchmark for each of the 5 types of lamps described in subparagraph (A).

''(ii) CONTINUATION OF TRACKING.—

''(I) DETERMINATION.—Not later than January 1, 2023, the Secretary shall determine if actual sales data should be tracked for the lamp types described in subparagraph (A) after calendar year 2025.

''(II) CONTINUATION.—If the Secretary finds that the market share of a lamp type described in subparagraph (A) could significantly erode the market share for general service lamps, the Secretary shall continue to track the actual sales data for the lamp type.

''(D) ROUGH SERVICE LAMPS.—

''(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for rough service lamps demonstrates actual unit sales of rough service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

''(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

''(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for rough service lamps.

''(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require rough service lamps to—

''(I) have a shatter-proof coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp;

''(II) have a maximum 40-watt limitation; and

''(III) be sold at retail only in a package containing 1 lamp.

''(E) VIBRATION SERVICE LAMPS.—

''(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for vibration service lamps demonstrates actual unit sales of vibration service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

''(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

''(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for vibration service lamps.

''(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require vibration service lamps to—

''(I) have a maximum 40-watt limitation; and

''(II) be sold at retail only in a package containing 1 lamp.

''(F) 3-WAY INCANDESCENT LAMPS.—

''(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for 3-way incandescent lamps demonstrates actual unit sales of 3-way incandescent lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

''(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

''(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for 3-way incandescent lamps.

''(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall require that—

''(I) each filament in a 3-way incandescent lamp meet the new maximum wattage requirements for the respective lumen range established under subsection (i)(1)(A); and

''(II) 3-way lamps be sold at retail only in a package containing 1 lamp.

''(G) 2,601–3,300 LUMEN GENERAL SERVICE INCANDESCENT LAMPS.—Effective beginning with the first year that the reported annual sales rate demonstrates actual unit sales of 2,601–3,300 lumen general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens (or, in the case of a modified spectrum, in the lumen range of 1,951 through 2,475 lumens) that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall impose—

''(i) a maximum 95-watt limitation on general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens; and

''(ii) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

''(H) SHATTER-RESISTANT LAMPS.—

''(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for shatter-resistant lamps demonstrates actual unit sales of shatter-resistant lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

''(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

''(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for shatter-resistant lamps.

''(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall impose—

''(I) a maximum wattage limitation of 40 watts on shatter resistant lamps; and

''(II) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

''(I) RULEMAKINGS BEFORE JANUARY 1, 2025.—

''(i) IN GENERAL.—Except as provided in clause (ii), if the Secretary issues a final rule prior to January 1, 2025, establishing an energy conservation standard for any of the 5 types of lamps for which data collection is required under any of subparagraphs (D) through (G), the requirement to collect and model data for that type of lamp shall terminate unless, as part of the rulemaking, the Secretary determines that continued tracking is necessary.

''(ii) BACKSTOP REQUIREMENT.—If the Secretary imposes a backstop requirement as a result of a failure to complete an accelerated rulemaking in accordance with clause (i)(II) of any of subparagraphs (D) through (G), the requirement to collect and model data for the applicable type of lamp shall continue for an additional 2 years after the effective date of the backstop requirement.''.

(b) CONSUMER EDUCATION AND LAMP LABELING.—Section 324(a)(2)(C) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)(C)) is amended by adding at the end the following:

''(iii) RULEMAKING TO CONSIDER EFFECTIVENESS OF LAMP LABELING.—

''(I) IN GENERAL.—Not later than 1 year after the date of enactment of this clause, the Commission shall initiate a rulemaking to consider—

''(aa) the effectiveness of current lamp labeling for power levels or watts, light output or lumens, and lamp lifetime; and

''(bb) alternative labeling approaches that will help consumers to understand new high-efficiency lamp products and to base the purchase decisions of the consumers on the most appropriate source that meets the requirements of the consumers for lighting level, light quality, lamp lifetime, and total lifecycle cost.

''(II) COMPLETION.—The Commission shall—

''(aa) complete the rulemaking not later than the date that is 30 months after the date of enactment of this clause; and

''(bb) consider reopening the rulemaking not later than 180 days before the effective dates of the standards for general service incandescent lamps established under section 325(i)(1)(A), if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.''.

(c) MARKET ASSESSMENTS AND CONSUMER AWARENESS PROGRAM.—

(1) IN GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Federal Trade Commission, lighting and retail industry associations, energy efficiency organizations, and any other entities that the Secretary of Energy determines to be appropriate, the Secretary of Energy shall—

(A) conduct an annual assessment of the market for general service lamps and compact fluorescent lamps—

(i) to identify trends in the market shares of lamp types, efficiencies, and light output levels purchased by residential and nonresidential consumers; and

(ii) to better understand the degree to which consumer decisionmaking is based on lamp power levels or watts, light output or lumens, lamp lifetime, and other factors, including information required on labels mandated by the Federal Trade Commission;

(B) provide the results of the market assessment to the Federal Trade Commission for consideration in the rulemaking described in section 324(a)(2)(C)(iii) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)(C)(iii)); and

(C) in cooperation with industry trade associations, lighting industry members, utilities, and other interested parties, carry out a proactive national program of consumer awareness, information, and education that broadly uses the media and other effective communication techniques over an extended period of time to help consumers understand the lamp labels and make energy-efficient lighting choices that meet the needs of consumers.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2009 through 2012.

(d) GENERAL RULE OF PREEMPTION FOR ENERGY CONSERVATION STANDARDS BEFORE FEDERAL STANDARD BECOMES EFFECTIVE FOR A PRODUCT.—Section 327(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by inserting ''or'' after the semicolon at the end; and

(3) by adding at the end the following:

''(B) in the case of any portion of any regulation that establishes requirements for general service incandescent lamps, intermediate base incandescent lamps, or candelabra base lamps, was enacted or adopted by the States of California or Nevada before December 4, 2007, except that—

''(i) the regulation adopted by the California Energy Commission with an effective date of January 1, 2008, shall only be effective until the effective date of the Federal standard for the applicable lamp category under subparagraphs (A), (B), and (C) of section 325(i)(1);

''(ii) the States of California and Nevada may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards with effective dates no earlier than 12 months prior to the Federal effective dates prescribed under subparagraphs (A), (B), and (C) of section 325(i)(1), at which time any prior regulations adopted by the States of California or Nevada shall no longer be effective; and

''(iii) all other States may, at any time, modify or adopt a State standard for general

service lamps to conform with Federal standards and effective dates.''.

(e) PROHIBITED ACTS.—Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(6) for any manufacturer, distributor, retailer, or private labeler to distribute in commerce an adapter that—

''(A) is designed to allow an incandescent lamp that does not have a medium screw base to be installed into a fixture or lampholder with a medium screw base socket; and

''(B) is capable of being operated at a voltage range at least partially within 110 and 130 volts.''.

(f) ENFORCEMENT.—Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304) is amended by inserting after the second sentence the following: ''Any such action to restrain any person from distributing in commerce a general service incandescent lamp that does not comply with the applicable standard established under section 325(i) or an adapter prohibited under section 332(a)(6) may also be brought by the attorney general of a State in the name of the State.''.

(g) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary may carry out a lighting technology research and development program—

(A) to support the research, development, demonstration, and commercial application of lamps and related technologies sold, offered for sale, or otherwise made available in the United States; and

(B) to assist manufacturers of general service lamps in the manufacturing of general service lamps that, at a minimum, achieve the wattage requirements imposed as a result of the amendments made by subsection (a).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2008 through 2013.

(3) TERMINATION OF AUTHORITY.—The program under this subsection shall terminate on September 30, 2015.

(h) REPORTS TO CONGRESS.—

(1) REPORT ON MERCURY USE AND RELEASE.—Not later than 1 year after the date of enactment of this Act, the Secretary , in cooperation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report describing recommendations relating to the means by which the Federal Government may reduce or prevent the release of mercury during the manufacture, transportation, storage, or disposal of light bulbs.

(2) REPORT ON RULEMAKING SCHEDULE.—Beginning on July 1, 2013 and semiannually through July 1, 2016, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on—

(A) whether the Secretary will meet the deadlines for the rulemakings required under this section;

(B) a description of any impediments to meeting the deadlines; and

(C) a specific plan to remedy any failures, including recommendations for additional legislation or resources.

(3) NATIONAL ACADEMY REVIEW.—

(A) IN GENERAL.—Not later than December 31, 2009, the Secretary shall enter into an arrangement with the National Academy of Sciences to provide a report by December 31, 2013, and an updated report by July 31, 2015. The report should include—

(i) the status of advanced solid state lighting research, development, demonstration and commercialization;

(ii) the impact on the types of lighting available to consumers of an energy conservation standard requiring a minimum of 45 lumens per watt for general service lighting effective in 2020; and

(iii) the time frame for the commercialization of lighting that could replace current incandescent and halogen incandescent lamp technology and any other new technologies developed to meet the minimum standards required under subsection (a) (3) of this section.

(B) REPORTS.—The reports shall be transmitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 322. INCANDESCENT REFLECTOR LAMP EFFICIENCY STANDARDS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 316(c)(1)(D)) is amended—

(1) in paragraph (30)(C)(ii)—

(A) in the matter preceding subclause (I)—

(i) by striking ''or similar bulb shapes (excluding ER or BR)'' and inserting ''ER, BR, BPAR, or similar bulb shapes''; and

(ii) by striking ''2.75'' and inserting ''2.25''; and

(B) by striking ''is either—'' and all that follows through subclause (II) and inserting ''has a rated wattage that is 40 watts or higher''; and

(2) by adding at the end the following:

''(54) BPAR INCANDESCENT REFLECTOR LAMP.—The term 'BPAR incandescent reflector lamp' means a reflector lamp as shown in figure C78.21–278 on page 32 of ANSI C78.21–2003.

''(55) BR INCANDESCENT REFLECTOR LAMP; BR30; BR40.—

''(A) BR INCANDESCENT REFLECTOR LAMP.—The term 'BR incandescent reflector lamp' means a reflector lamp that has—

''(i) a bulged section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RB) on page 7 of ANSI C79.1–1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph); and

''(ii) a finished size and shape shown in ANSI C78.21–1989, including the referenced reflective characteristics in part 7 of ANSI C78.21–1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

''(B) BR30.—The term 'BR30' means a BR incandescent reflector lamp with a diameter of 30/8ths of an inch.

''(C) BR40.—The term 'BR40' means a BR incandescent reflector lamp with a diameter of 40/8ths of an inch.

''(56) ER INCANDESCENT REFLECTOR LAMP; ER30; ER40.—

''(A) ER INCANDESCENT REFLECTOR LAMP.—The term 'ER incandescent reflector lamp' means a reflector lamp that has—

''(i) an elliptical section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RE) on page 7 of ANSI C79.1–1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph); and

''(ii) a finished size and shape shown in ANSI C78.21–1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

''(B) ER30.—The term 'ER30' means an ER incandescent reflector lamp with a diameter of 30/8ths of an inch.

''(C) ER40.—The term 'ER40' means an ER incandescent reflector lamp with a diameter of 40/8ths of an inch.

''(57) R20 INCANDESCENT REFLECTOR LAMP.—The term 'R20 incandescent reflector lamp' means a reflector lamp that has a face diameter of approximately 2.5 inches, as shown in figure 1(R) on page 7 of ANSI C79.1–1994.''.

(b) STANDARDS FOR FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6995(i)) is amended by striking paragraph (1) and inserting the following:

''(1) STANDARDS.—

''(A) DEFINITION OF EFFECTIVE DATE.—In this paragraph (other than subparagraph (D)), the term 'effective date' means, with respect to each type of lamp specified in a table contained in subparagraph (B), the last day of the period of months corresponding to that type of lamp (as specified in the table) that follows October 24, 1992.

''(B) MINIMUM STANDARDS.—Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables contained in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

''FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

''INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

''(C) EXEMPTIONS.—The standards specified in subparagraph (B) shall not apply to the following types of incandescent reflector lamps:

''(i) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

''(ii) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

''(iii) R20 incandescent reflector lamps rated 45 watts or less.

''(D) EFFECTIVE DATES.—

''(i) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (B) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008.

''(ii) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (B) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.''.

SEC. 323. PUBLIC BUILDING ENERGY EFFICIENT AND RENEWABLE ENERGY SYSTEMS.

(a) ESTIMATE OF ENERGY PERFORMANCE IN PROSPECTUS.—Section 3307(b) of title 40, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project.''.

(b) MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.—Section 3307 of such of title is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f) MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.—With respect to space to be leased, the Administrator shall include, to the maximum extent practicable, minimum performance requirements requiring energy efficiency and the use of renewable energy.''.

(c) USE OF ENERGY EFFICIENT LIGHTING FIXTURES AND BULBS.—

(1) IN GENERAL.—Chapter 33 of such title is amended—

(A) by redesignating sections 3313, 3314, and 3315 as sections 3314, 3315, and 3316, respectively; and

(B) by inserting after section 3312 the following:

''§ 3313. Use of energy efficient lighting fixtures and bulbs

''(a) CONSTRUCTION, ALTERATION, AND ACQUISITION OF PUBLIC BUILDINGS.—Each public building constructed, altered, or acquired by the Administrator of General Services shall be equipped, to the maximum extent feasible as determined by the Administrator, with lighting fixtures and bulbs that are energy efficient.

''(b) MAINTENANCE OF PUBLIC BUILDINGS.—Each lighting fixture or bulb that is replaced by the Administrator in the normal course of maintenance of public buildings shall be replaced, to the maximum extent feasible, with a lighting fixture or bulb that is energy efficient.

''(c) CONSIDERATIONS.—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Administrator shall consider—

''(1) the life-cycle cost effectiveness of the fixture or bulb;

''(2) the compatibility of the fixture or bulb with existing equipment;

''(3) whether use of the fixture or bulb could result in interference with productivity;

''(4) the aesthetics relating to use of the fixture or bulb; and

''(5) such other factors as the Administrator determines appropriate.

''(d) ENERGY STAR.—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

''(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

''(2) in the case of all light-emitting diode (LED) luminaires, lamps, and systems whose efficacy (lumens per watt) and Color Rendering Index (CRI) meet the Department of Energy requirements for minimum luminaire efficacy and CRI for the Energy Star certification, as verified by an independent third-party testing laboratory that the Administrator and the Secretary of Energy determine conducts its tests according to the procedures and recommendations of the Illuminating Engineering Society of North America, even if the luminaires, lamps, and systems have not received such certification; or

''(3) the Administrator and the Secretary of Energy have otherwise determined that the fixture or bulb is energy efficient.

''(e) ADDITIONAL ENERGY EFFICIENT LIGHTING DESIGNATIONS.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall give priority to establishing Energy Star performance criteria or Federal Energy Management Program designations for additional lighting product categories that are appropriate for use in public buildings.

''(f) GUIDELINES.—The Administrator shall develop guidelines for the use of energy efficient lighting technologies that contain mercury in child care centers in public buildings.

''(g) APPLICABILITY OF BUY AMERICAN ACT.—Acquisitions carried out pursuant to this section shall be subject to the requirements of the Buy American Act (41 U.S.C. 10c et seq.).

''(h) EFFECTIVE DATE.—The requirements of subsections (a) and (b) shall take effect one year after the date of enactment of this subsection.''.

(2) CLERICAL AMENDMENT.—The analysis for such chapter is amended by striking the items relating to sections 3313, 3314, and 3315 and inserting the following:

''3313. Use of energy efficient lighting fixtures and bulbs.
''3314. Delegation.
''3315. Report to Congress.
''3316. Certain authority not affected.''.

(d) EVALUATION FACTOR.—Section 3310 of such title is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) shall include in the solicitation for any lease requiring a prospectus under section 3307 an evaluation factor considering the extent to which the offeror will promote energy efficiency and the use of renewable energy;''.

SEC. 324. METAL HALIDE LAMP FIXTURES.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 322(a)(2)) is amended by adding at the end the following:

''(58) BALLAST.—The term 'ballast' means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating.

''(59) BALLAST EFFICIENCY.—

''(A) IN GENERAL.—The term 'ballast efficiency' means, in the case of a high intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = P_{out}/P_{in}.

''(B) EFFICIENCY FORMULA.—For the purpose of subparagraph (A)—

''(i) P_{out} shall equal the measured operating lamp wattage;

''(ii) P_{in} shall equal the measured operating input wattage;

''(iii) the lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI Standard C78.43-2004;

''(iv) for ballasts with a frequency of 60 Hz, P_{in} and P_{out} shall be measured after lamps have been stabilized according to section 4.4 of ANSI Standard C82.6-2005 using a wattmeter with accuracy specified in section 4.5 of ANSI Standard C82.6-2005; and

''(v) for ballasts with a frequency greater than 60 Hz, P_{in} and P_{out} shall have a basic accuracy of ± 0.5 percent at the higher of—

''(I) 3 times the output operating frequency of the ballast; or

''(II) 2 kHz for ballast with a frequency greater than 60 Hz.

''(C) MODIFICATION.—The Secretary may, by rule, modify the definition of 'ballast efficiency' if the Secretary determines that the modification is necessary or appropriate to carry out the purposes of this Act.

''(60) ELECTRONIC BALLAST.—The term 'electronic ballast' means a device that uses semiconductors as the primary means to control lamp starting and operation.

''(61) GENERAL LIGHTING APPLICATION.—The term 'general lighting application' means lighting that provides an interior or exterior area with overall illumination.

''(62) METAL HALIDE BALLAST.—The term 'metal halide ballast' means a ballast used to start and operate metal halide lamps.

''(63) METAL HALIDE LAMP.—The term 'metal halide lamp' means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

''(64) METAL HALIDE LAMP FIXTURE.—The term 'metal halide lamp fixture' means a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

''(65) PROBE-START METAL HALIDE BALLAST.—The term 'probe-start metal halide ballast' means a ballast that—

''(A) starts a probe-start metal halide lamp that contains a third starting electrode (probe) in the arc tube; and

''(B) does not generally contain an igniter but instead starts lamps with high ballast open circuit voltage.

''(66) PULSE-START METAL HALIDE BALLAST.—

''(A) IN GENERAL.—The term 'pulse-start metal halide ballast' means an electronic or electromagnetic ballast that starts a pulse-start metal halide lamp with high voltage pulses.

''(B) STARTING PROCESS.—For the purpose of subparagraph (A)—

''(i) lamps shall be started by first providing a high voltage pulse for ionization of the gas to produce a glow discharge; and

''(ii) to complete the starting process, power shall be provided by the ballast to sustain the discharge through the glow-to-arc transition.''.

(b) COVERAGE.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (19) as paragraph (20); and

(2) by inserting after paragraph (18) the following:

''(19) Metal halide lamp fixtures.''.

(c) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 301(b)) is amended by adding at the end the following:

''(18) METAL HALIDE LAMP BALLASTS.—Test procedures for metal halide lamp ballasts shall be based on ANSI Standard C82.6-2005, entitled 'Ballasts for High Intensity Discharge Lamps—Method of Measurement'.''.

(d) LABELING.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended—

(1) by redesignating subparagraphs (C) through (G) as subparagraphs (D) through (H), respectively; and

(2) by inserting after subparagraph (B) the following:

''(C) METAL HALIDE LAMP FIXTURES.—

''(i) IN GENERAL.—The Commission shall issue labeling rules under this section applicable to the covered product specified in section 322(a)(19) and to which standards are applicable under section 325.

''(ii) LABELING.—The rules shall provide that the labeling of any metal halide lamp fixture manufactured on or after the later of January 1, 2009, or the date that is 270 days after the date of enactment of this subparagraph, shall indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 2008, a capital letter 'E' printed within a circle on the packaging of the fixture, and on the ballast contained in the fixture.''.

(e) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by section 310) is amended—

(1) by redesignating subsection (hh) as subsection (ii);

(2) by inserting after subsection (gg) the following:

''(hh) METAL HALIDE LAMP FIXTURES.—

''(1) STANDARDS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall contain—

''(i) a pulse-start metal halide ballast with a minimum ballast efficiency of 88 percent;

''(ii) a magnetic probe-start ballast with a minimum ballast efficiency of 94 percent; or

''(iii) a nonpulse-start electronic ballast with—

''(I) a minimum ballast efficiency of 92 percent for wattages greater than 250 watts; and

''(II) a minimum ballast efficiency of 90 percent for wattages less than or equal to 250 watts.

''(B) EXCLUSIONS.—The standards established under subparagraph (A) shall not apply to—

''(i) fixtures with regulated lag ballasts;

''(ii) fixtures that use electronic ballasts that operate at 480 volts; or

''(iii) fixtures that—

''(I) are rated only for 150 watt lamps;

''(II) are rated for use in wet locations, as specified by the National Electrical Code 2002, section 410.4(A); and

''(III) contain a ballast that is rated to operate at ambient air temperatures above 50C, as specified by UL 1029–2001.

''(C) APPLICATION.—The standards established under subparagraph (A) shall apply to metal halide lamp fixtures manufactured on or after the later of—

''(i) January 1, 2009; or

''(ii) the date that is 270 days after the date of enactment of this subsection.

''(2) FINAL RULE BY JANUARY 1, 2012.—

''(A) IN GENERAL.—Not later than January 1, 2012, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

''(B) ADMINISTRATION.—The final rule shall—

''(i) contain any amended standard; and

''(ii) apply to products manufactured on or after January 1, 2015.

''(3) FINAL RULE BY JANUARY 1, 2019.—

''(A) IN GENERAL.—Not later than January 1, 2019, the Secretary shall publish a final rule to determine whether the standards then in effect should be amended.

''(B) ADMINISTRATION.—The final rule shall—

''(i) contain any amended standards; and

''(ii) apply to products manufactured after January 1, 2022.

''(4) DESIGN AND PERFORMANCE REQUIREMENTS.—Notwithstanding any other provision of law, any standard established pursuant to this subsection may contain both design and performance requirements.''; and

(3) in paragraph (2) of subsection (ii) (as redesignated by paragraph (2)), by striking ''(gg)'' each place it appears and inserting ''(hh)''.

(f) EFFECT ON OTHER LAW.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended—

(1) in paragraph (8)(B), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(9) is a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission on or before January 1, 2011, except that—

''(A) if the Secretary fails to issue a final rule within 180 days after the deadlines for rulemakings in section 325(hh), notwithstanding any other provision of this section, preemption shall not apply to a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission—

''(i) on or before July 1, 2015, if the Secretary fails to meet the deadline specified in section 325(hh)(2); or

''(ii) on or before July 1, 2022, if the Secretary fails to meet the deadline specified in section 325(hh)(3).''.

SEC. 325. ENERGY EFFICIENCY LABELING FOR CONSUMER ELECTRONIC PRODUCTS.

(a) IN GENERAL.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) (as amended by section 324(d)) is amended—

(1) in paragraph (2), by adding at the end the following:

''(I) LABELING REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clauses (ii) through (iv), not later than 18 months after the date of issuance of applicable Department of Energy testing procedures, the Commission, in consultation with the Secretary and the Administrator of the Environmental Protection Agency (acting through the Energy Star program), shall, by regulation, prescribe labeling or other disclosure requirements for the energy use of—

''(I) televisions;

''(II) personal computers;

''(III) cable or satellite set-top boxes;

''(IV) stand-alone digital video recorder boxes; and

''(V) personal computer monitors.

''(ii) ALTERNATE TESTING PROCEDURES.—In the absence of applicable testing procedures described in clause (i) for products described in subclauses (I) through (V) of that clause, the Commission may, by regulation, prescribe labeling or other disclosure requirements for a consumer product category described in clause (i) if the Commission—

''(I) identifies adequate non-Department of Energy testing procedures for those products; and

''(II) determines that labeling of, or other disclosures relating to, those products is likely to assist consumers in making purchasing decisions.

''(iii) DEADLINE AND REQUIREMENTS FOR LABELING.—

''(I) DEADLINE.—Not later than 18 months after the date of promulgation of any requirements under clause (i) or (ii), the Commission shall require labeling of, or other disclosure requirements for, electronic products described in clause (i).

''(II) REQUIREMENTS.—The requirements prescribed under clause (i) or (ii) may include specific requirements for each electronic product to be labeled with respect to the placement, size, and content of Energy Guide labels.

''(iv) DETERMINATION OF FEASIBILITY.—Clause (i) or (ii) shall not apply in any case in which the Commission determines that labeling in accordance with this subsection—

''(I) is not technologically or economically feasible; or

''(II) is not likely to assist consumers in making purchasing decisions.''; and

(2) by adding at the end the following:

''(6) AUTHORITY TO INCLUDE ADDITIONAL PRODUCT CATEGORIES.—The Commission may, by regulation, require labeling or other disclosures in accordance with this subsection for any consumer product not specified in this subsection or section 322 if the Commission determines that labeling for the product is likely to assist consumers in making purchasing decisions.''.

(b) CONTENT OF LABEL.—Section 324(c) of the Energy Policy and Conservation Act (42 U.S.C. 6924(c)) is amended by adding at the end the following:

''(9) DISCRETIONARY APPLICATION.—The Commission may apply paragraphs (1), (2), (3), (5), and (6) of this subsection to the labeling of any product covered by paragraph (2)(I) or (6) of subsection (a).''.

TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

SEC. 401. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Green Building Advisory Committee established under section 484.

(3) COMMERCIAL DIRECTOR.—The term ''Commercial Director'' means the individual appointed to the position established under section 421.

(4) CONSORTIUM.—The term ''Consortium'' means the High-Performance Green Building Partnership Consortium created in response to section 436(c)(1) to represent the private sector in a public-private partnership to promote high-performance green buildings and zero-net-energy commercial buildings.

(5) COST-EFFECTIVE LIGHTING TECHNOLOGY.—

(A) IN GENERAL.—The term ''cost-effective lighting technology'' means a lighting technology that—

(i) will result in substantial operational cost savings by ensuring an installed consumption of not more than 1 watt per square foot; or

(ii) is contained in a list under—

(I) section 553 of Public Law 95–619 (42 U.S.C. 8259b);

(II) Federal acquisition regulation 23–203; and

(III) is at least as energy-conserving as required by other provisions of this Act, including the requirements of this title and title III which shall be applicable to the extent that they would achieve greater energy savings than provided under clause (i) or this clause.

(B) INCLUSIONS.—The term ''cost-effective lighting technology'' includes—

(i) lamps;

(ii) ballasts;

(iii) luminaires;

(iv) lighting controls;

(v) daylighting; and

(vi) early use of other highly cost-effective lighting technologies.

(6) COST-EFFECTIVE TECHNOLOGIES AND PRACTICES.—The term ''cost-effective technologies and practices'' means a technology or practice that—

(A) will result in substantial operational cost savings by reducing electricity or fossil fuel consumption, water, or other utility costs, including use of geothermal heat pumps;

(B) complies with the provisions of section 553 of Public Law 95–619 (42 U.S.C. 8259b) and Federal acquisition regulation 23–203; and

(C) is at least as energy and water conserving as required under this title, including sections 431 through 435, and title V, including section 511 through 525, which shall be applicable to the extent that they are more stringent or require greater energy or water savings than required by this section.

(7) FEDERAL DIRECTOR.—The term ''Federal Director'' means the individual appointed to the position established under section 436(a).

(8) FEDERAL FACILITY.—The term ''Federal facility'' means any building that is constructed, renovated, leased, or purchased in part or in whole for use by the Federal Government.

(9) OPERATIONAL COST SAVINGS.—

(A) IN GENERAL.—The term ''operational cost savings'' means a reduction in end-use operational costs through the application of cost-effective technologies and practices or geothermal heat pumps, including a reduction in electricity consumption relative to consumption by the same customer or at the same facility in a given year, as defined in guidelines promulgated by the Administrator pursuant to section 329(b) of the Clean Air Act, that achieves cost savings sufficient to pay the incremental additional costs of using cost-effective technologies and practices including geothermal heat pumps by not later than the later of the date established under sections 431 through 434, or—

(i) for cost-effective technologies and practices, the date that is 5 years after the date of installation; and

(ii) for geothermal heat pumps, as soon as practical after the date of installation of the applicable geothermal heat pump.

(B) INCLUSIONS.—The term ''operational cost savings'' includes savings achieved at a facility as a result of—

(i) the installation or use of cost-effective technologies and practices; or

(ii) the planting of vegetation that shades the facility and reduces the heating, cooling, or lighting needs of the facility.

(C) EXCLUSION.—The term ''operational cost savings'' does not include savings from measures that would likely be adopted in the absence of cost-effective technology and practices programs, as determined by the Administrator.

(10) GEOTHERMAL HEAT PUMP.—The term ''geothermal heat pump'' means any heating or air conditioning technology that—

(A) uses the ground or ground water as a thermal energy source to heat, or as a thermal energy sink to cool, a building; and

(B) meets the requirements of the Energy Star program of the Environmental Protection Agency applicable to geothermal heat pumps on the date of purchase of the technology.

(11) GSA FACILITY.—

(A) IN GENERAL.—The term ''GSA facility'' means any building, structure, or facility, in whole or in part (including the associated support systems of the building, structure, or facility) that—

(i) is constructed (including facilities constructed for lease), renovated, or purchased, in whole or in part, by the Administrator for use by the Federal Government; or

(ii) is leased, in whole or in part, by the Administrator for use by the Federal Government—

(I) except as provided in subclause (II), for a term of not less than 5 years; or

(II) for a term of less than 5 years, if the Administrator determines that use of cost-effective technologies and practices would result in the payback of expenses.

(B) INCLUSION.—The term ''GSA facility'' includes any group of buildings, structures, or facilities described in subparagraph (A) (including the associated energy-consuming support systems of the buildings, structures, and facilities).

(C) EXEMPTION.—The Administrator may exempt from the definition of ''GSA facility'' under this paragraph a building, structure, or facility that meets the requirements of section 543(c) of Public Law 95–619 (42 U.S.C. 8253(c)).

(12) HIGH-PERFORMANCE BUILDING.—The term ''high performance building'' means a building that integrates and optimizes on a life cycle basis all major high performance attributes, including energy conservation, environment, safety, security, durability, accessibility, cost-benefit, productivity, sustainability, functionality, and operational considerations.

(13) HIGH-PERFORMANCE GREEN BUILDING.—The term ''high-performance green building'' means a high-performance building that, during its life-cycle, as compared with similar buildings (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency)—

(A) reduces energy, water, and material resource use;

(B) improves indoor environmental quality, including reducing indoor pollution, improving thermal comfort, and improving lighting and acoustic environments that affect occupant health and productivity;

(C) reduces negative impacts on the environment throughout the life-cycle of the building, including air and water pollution and waste generation;

(D) increases the use of environmentally preferable products, including biobased, recycled content, and nontoxic products with lower life-cycle impacts;

(E) increases reuse and recycling opportunities;

(F) integrates systems in the building;

(G) reduces the environmental and energy impacts of transportation through building location and site design that support a full range of transportation choices for users of the building; and

(H) considers indoor and outdoor effects of the building on human health and the environment, including—

(i) improvements in worker productivity;

(ii) the life-cycle impacts of building materials and operations; and

(iii) other factors that the Federal Director or the Commercial Director consider to be appropriate.

(14) LIFE-CYCLE.—The term ''life-cycle'', with respect to a high-performance green building, means all stages of the useful life of the building (including components, equipment, systems, and controls of the building) beginning at conception of a high-performance green building project and continuing through site selection, design, construction, landscaping, commissioning, operation, maintenance, renovation, deconstruction or demolition, removal, and recycling of the high-performance green building.

(15) LIFE-CYCLE ASSESSMENT.—The term ''life-cycle assessment'' means a comprehensive system approach for measuring the environmental performance of a product or service over the life of the product or service, beginning at raw materials acquisition and continuing through manufacturing, transportation, installation, use, reuse, and end-of-life waste management.

(16) LIFE-CYCLE COSTING.—The term ''life-cycle costing'', with respect to a high-performance green building, means a technique of economic evaluation that—

(A) sums, over a given study period, the costs of initial investment (less resale value), replacements, operations (including energy use), and maintenance and repair of an investment decision; and

(B) is expressed—

(i) in present value terms, in the case of a study period equivalent to the longest useful life of the building, determined by taking into consideration the typical life of such a building in the area in which the building is to be located; or

(ii) in annual value terms, in the case of any other study period.

(17) OFFICE OF COMMERCIAL HIGH-PERFORMANCE GREEN BUILDINGS.—The term ''Office of Commercial High-Performance Green Buildings'' means the Office of Commercial High-Performance Green Buildings established under section 421(a).

(18) OFFICE OF FEDERAL HIGH-PERFORMANCE GREEN BUILDINGS.—The term ''Office of Federal High-Performance Green Buildings'' means the Office of Federal High-Performance Green Buildings established under section 436(a).

(19) PRACTICES.—The term ''practices'' means design, financing, permitting, construction, commissioning, operation and maintenance, and other practices that contribute to achieving zero-net-energy buildings or facilities.

(20) ZERO-NET-ENERGY COMMERCIAL BUILDING.—The term ''zero-net-energy commercial building'' means a commercial building that is designed, constructed, and operated to—

(A) require a greatly reduced quantity of energy to operate;

(B) meet the balance of energy needs from sources of energy that do not produce greenhouse gases;

(C) therefore result in no net emissions of greenhouse gases; and

(D) be economically viable.

Subtitle A—Residential Building Efficiency

SEC. 411. REAUTHORIZATION OF WEATHERIZATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking '' appropriated $500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and $700,000,000 for fiscal year 2008'' and inserting ''appropriated—

''(1) $750,000,000 for fiscal year 2008;
''(2) $900,000,000 for fiscal year 2009;
''(3) $1,050,000,000 for fiscal year 2010;
''(4) $1,200,000,000 for fiscal year 2011; and
''(5) $1,400,000,000 for fiscal year 2012.''.

(b) SUSTAINABLE ENERGY RESOURCES FOR CONSUMERS GRANTS.—

(1) IN GENERAL.—The Secretary may make funding available to local weatherization agencies from amounts authorized under the amendment made by subsection (a) to expand the weatherization assistance program for residential buildings to include materials, benefits, and renewable and domestic energy technologies not covered by the program (as of the date of enactment of this Act), if the State weatherization grantee certifies that the applicant has the capacity to carry out the proposed activities and that the grantee will include the project in the financial oversight of the grantee of the weatherization assistance program.

(2) PRIORITY.—In selecting grant recipients under this subsection, the Secretary shall give priority to—

(A) the expected effectiveness and benefits of the proposed project to low- and moderate-income energy consumers;

(B) the potential for replication of successful results;

(C) the impact on the health and safety and energy costs of consumers served; and

(D) the extent of partnerships with other public and private entities that contribute to the resources and implementation of the program, including financial partnerships.

(3) FUNDING.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amount of funds used for projects described in paragraph (1) may equal up to 2 percent of the amount of funds made available for any fiscal year under section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872).

(B) EXCEPTION.—No funds may be used for sustainable energy resources for consumers grants for a fiscal year under this subsection if the amount of funds made available for the fiscal year to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) is less than $275,000,000.

(c) DEFINITION OF STATE.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended by striking paragraph (8) and inserting the following:

''(8) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia;

''(C) the Commonwealth of Puerto Rico; and

''(D) any other territory or possession of the United States.''.

SEC. 412. STUDY OF RENEWABLE ENERGY REBATE PROGRAMS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall conduct, and submit to Congress a report on, a study regarding the rebate programs established under sections 124 and 206(c) of the Energy Policy Act of 2005 (42 U.S.C. 15821, 15853).

(b) COMPONENTS.—In conducting the study, the Secretary shall—

(1) develop a plan for how the rebate programs would be carried out if the programs were funded; and

(2) determine the minimum amount of funding the program would need to receive in order to accomplish the goals of the programs.

SEC. 413. ENERGY CODE IMPROVEMENTS APPLICABLE TO MANUFACTURED HOUSING.

(a) ESTABLISHMENT OF STANDARDS.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall by regulation establish standards for energy efficiency in manufactured housing.

(2) NOTICE, COMMENT, AND CONSULTATION.—Standards described in paragraph (1) shall be established after—

(A) notice and an opportunity for comment by manufacturers of manufactured housing and other interested parties; and

(B) consultation with the Secretary of Housing and Urban Development, who may seek further counsel from the Manufactured Housing Consensus Committee.

(b) REQUIREMENTS.—

(1) INTERNATIONAL ENERGY CONSERVATION CODE.—The energy conservation standards established under this section shall be based on the most recent version of the International Energy Conservation Code (including supplements), except in cases in which the Secretary finds that the code is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the code on the purchase price of manufactured housing and on total life-cycle construction and operating costs.

(2) CONSIDERATIONS.—The energy conservation standards established under this section may—

(A) take into consideration the design and factory construction techniques of manufactured homes;

(B) be based on the climate zones established by the Department of Housing and Urban Development rather than the climate zones under the International Energy Conservation Code; and

(C) provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

(3) UPDATING.—The energy conservation standards established under this section shall be updated not later than—

(A) 1 year after the date of enactment of this Act; and

(B) 1 year after any revision to the International Energy Conservation Code.

(c) ENFORCEMENT.—Any manufacturer of manufactured housing that violates a provision of the regulations under subsection (a) is liable to the United States for a civil penalty in an amount not exceeding 1 percent of the manufacturer's retail list price of the manufactured housing.

Subtitle B—High-Performance Commercial Buildings

SEC. 421. COMMERCIAL HIGH-PERFORMANCE GREEN BUILDINGS.

(a) DIRECTOR OF COMMERCIAL HIGH-PERFORMANCE GREEN BUILDINGS.—Notwithstanding any other provision of law, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall appoint a Director of Commercial High-Performance Green Buildings to a position in the career-reserved Senior Executive service, with the principal responsibility to—

(1) establish and manage the Office of Commercial High-Performance Green Buildings; and

(2) carry out other duties as required under this subtitle.

(b) QUALIFICATIONS.—The Commercial Director shall be an individual, who by reason of professional background and experience, is specifically qualified to carry out the duties required under this subtitle.

(c) DUTIES.—The Commercial Director shall, with respect to development of high-performance green buildings and zero-energy commercial buildings nationwide—

(1) coordinate the activities of the Office of Commercial High-Performance Green Buildings with the activities of the Office of Federal High-Performance Green Buildings;

(2) develop the legal predicates and agreements for, negotiate, and establish one or more public-private partnerships with the Consortium, members of the Consortium, and other capable parties meeting the qualifications of the Consortium, to further such development;

(3) represent the public and the Department in negotiating and performing in accord with such public-private partnerships;

(4) use appropriated funds in an effective manner to encourage the maximum investment of private funds to achieve such development;

(5) promote research and development of high performance green buildings, consistent with section 423; and

(6) jointly establish with the Federal Director a national high-performance green building clearinghouse in accordance with section 423(1), which shall provide high-performance green building information and disseminate research results through—

(A) outreach;

(B) education; and

(C) the provision of technical assistance.

(d) REPORTING.—The Commercial Director shall report directly to the Assistant Secretary for Energy Efficiency and Renewable Energy, or to other senior officials in a way that facilitates the integrated program of this subtitle for both energy efficiency and renewable energy and both technology development and technology deployment.

(e) COORDINATION.—The Commercial Director shall ensure full coordination of high-performance green building information and activities, including activities under this subtitle, within the Federal Government by working with the General Services Administration and all relevant agencies, including, at a minimum—

(1) the Environmental Protection Agency;

(2) the Office of the Federal Environmental Executive;

(3) the Office of Federal Procurement Policy;

(4) the Department of Energy, particularly the Federal Energy Management Program;

(5) the Department of Health and Human Services;

(6) the Department of Housing and Urban Development;

(7) the Department of Defense;

(8) the National Institute of Standards and Technology;

(9) the Department of Transportation;

(10) the Office of Science Technology and Policy; and

(11) such nonprofit high-performance green building rating and analysis entities as the Commercial Director determines can offer support, expertise, and review services.

(f) HIGH-PERFORMANCE GREEN BUILDING PARTNERSHIP CONSORTIUM.—

(1) RECOGNITION.—Not later than 90 days after the date of enactment of this Act, the Commercial Director shall formally recognize one or more groups that qualify as a high-performance green building partnership consortium.

(2) REPRESENTATION TO QUALIFY.—To qualify under this section, any consortium shall include representation from—

(A) the design professions, including national associations of architects and of professional engineers;

(B) the development, construction, financial, and real estate industries;

(C) building owners and operators from the public and private sectors;

(D) academic and research organizations, including at least one national laboratory with extensive commercial building energy expertise;

(E) building code agencies and organizations, including a model energy code-setting organization;

(F) independent high-performance green building associations or councils;

(G) experts in indoor air quality and environmental factors;

(H) experts in intelligent buildings and integrated building information systems;

(I) utility energy efficiency programs;

(J) manufacturers and providers of equipment and techniques used in high performance green buildings;

(K) public transportation industry experts; and

(L) nongovernmental energy efficiency organizations.

(3) FUNDING.—The Secretary may make payments to the Consortium pursuant to the terms of a public-private partnership for such activities of the Consortium undertaken under such a partnership as described in this subtitle directly to the Consortium or through one or more of its members.

(g) REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Commercial Director, in consultation with the Consortium, shall submit to Congress a report that—

(1) describes the status of the high-performance green building initiatives under this subtitle and other Federal programs affecting commercial high-performance green buildings in effect as of the date of the report, including—

(A) the extent to which the programs are being carried out in accordance with this subtitle; and

(B) the status of funding requests and appropriations for those programs; and

(2) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives).

SEC. 422. ZERO NET ENERGY COMMERCIAL BUILDINGS INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) CONSORTIUM.—The term ''consortium'' means a High-Performance Green Building Consortium selected by the Commercial Director.

(2) INITIATIVE.—The term ''initiative'' means the Zero-Net-Energy Commercial Buildings Initiative established under subsection (b)(1).

(3) ZERO-NET-ENERGY COMMERCIAL BUILDING.—The term ''zero-net-energy commercial building'' means a high-performance commercial building that is designed, constructed, and operated—

(A) to require a greatly reduced quantity of energy to operate;

(B) to meet the balance of energy needs from sources of energy that do not produce greenhouse gases;

(C) in a manner that will result in no net emissions of greenhouse gases; and

(D) to be economically viable.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Commercial Director shall establish an initiative, to be known as the ''Zero-Net-Energy Commercial Buildings Initiative''—

(A) to reduce the quantity of energy consumed by commercial buildings located in the United States; and

(B) to achieve the development of zero net energy commercial buildings in the United States.

(2) CONSORTIUM.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commercial Director shall competitively select, and enter into an agreement with, a consortium to develop and carry out the initiative.

(B) AGREEMENTS.—In entering into an agreement with a consortium under subparagraph (A), the Commercial Director shall use the authority described in section 646(g) of the Department of Energy Organization Act (42 U.S.C. 7256(g)), to the maximum extent practicable.

(c) GOAL OF INITIATIVE.—The goal of the initiative shall be to develop and disseminate technologies, practices, and policies for the development and establishment of zero net energy commercial buildings for—

(1) any commercial building newly constructed in the United States by 2030;

(2) 50 percent of the commercial building stock of the United States by 2040; and

(3) all commercial buildings in the United States by 2050.

(d) COMPONENTS.—In carrying out the initiative, the Commercial Director, in consultation with the consortium, may—

(1) conduct research and development on building science, design, materials, components, equipment and controls, operation and other practices, integration, energy use measurement, and benchmarking;

(2) conduct pilot programs and demonstration projects to evaluate replicable approaches to achieving energy efficient commercial buildings for a variety of building types in a variety of climate zones;

(3) conduct deployment, dissemination, and technical assistance activities to encourage widespread adoption of technologies, practices, and policies to achieve energy efficient commercial buildings;

(4) conduct other research, development, demonstration, and deployment activities necessary to achieve each goal of the initiative, as determined by the Commercial Director, in consultation with the consortium;

(5) develop training materials and courses for building professionals and trades on achieving cost-effective high-performance energy efficient buildings;

(6) develop and disseminate public education materials to share information on the benefits and cost-effectiveness of high-performance energy efficient buildings;

(7) support code-setting organizations and State and local governments in developing minimum performance standards in building codes that recognize the ready availability of many technologies utilized in high-performance energy efficient buildings;

(8) develop strategies for overcoming the split incentives between builders and purchasers, and landlords and tenants, to ensure that energy efficiency and high-performance investments are made that are cost-effective on a lifecycle basis; and

(9) develop improved means of measurement and verification of energy savings and performance for public dissemination.

(e) COST SHARING.—In carrying out this section, the Commercial Director shall require cost sharing in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2008;

(2) $50,000,000 for each of fiscal years 2009 and 2010;

(3) $100,000,000 for each of fiscal years 2011 and 2012; and

(4) $200,000,000 for each of fiscal years 2013 through 2018.

SEC. 423. PUBLIC OUTREACH.

The Commercial Director and Federal Director, in coordination with the Consortium, shall carry out public outreach to inform individuals and entities of the information and services available Governmentwide by—

(1) establishing and maintaining a national high-performance green building clearinghouse, including on the internet, that—

(A) identifies existing similar efforts and coordinates activities of common interest; and

(B) provides information relating to high-performance green buildings, including hyperlinks to internet sites that describe the activities, information, and resources of—

(i) the Federal Government;

(ii) State and local governments;

(iii) the private sector (including nongovernmental and nonprofit entities and organizations); and

(iv) international organizations;

(2) identifying and recommending educational resources for implementing high-performance green building practices, including security and emergency benefits and practices;

(3) providing access to technical assistance, tools, and resources for constructing high-performance green buildings, particularly tools to conduct life-cycle costing and life-cycle assessment;

(4) providing information on application processes for certifying a high-performance green building, including certification and commissioning;

(5) providing to the public, through the Commercial Director, technical and research information or other forms of assistance or advice that would be useful in planning and constructing high-performance green buildings;

(6) using such additional methods as are determined by the Commercial Director to be appropriate to conduct public outreach;

(7) surveying existing research and studies relating to high-performance green buildings; and

(8) coordinating activities of common interest.

Subtitle C—High-Performance Federal Buildings

SEC. 431. ENERGY REDUCTION GOALS FOR FEDERAL BUILDINGS.

Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking the table and inserting the following:

''Fiscal Year	Percentage reduction
2006	2
2007	4
2008	9
2009	12
2010	15
2011	18
2012	21
2013	24
2014	27
2015	30.''

SEC. 432. MANAGEMENT OF ENERGY AND WATER EFFICIENCY IN FEDERAL BUILDINGS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(f) USE OF ENERGY AND WATER EFFICIENCY MEASURES IN FEDERAL BUILDINGS.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMISSIONING.—The term 'commissioning', with respect to a facility, means a systematic process—

''(i) of ensuring, using appropriate verification and documentation, during the period beginning on the initial day of the design phase of the facility and ending not earlier than 1 year after the date of completion of construction of the facility, that all facility systems perform interactively in accordance with—

''(I) the design documentation and intent of the facility; and

''(II) the operational needs of the owner of the facility, including preparation of operation personnel; and

''(ii) the primary goal of which is to ensure fully functional systems that can be properly operated and maintained during the useful life of the facility.

''(B) ENERGY MANAGER.—

''(i) IN GENERAL.—The term 'energy manager', with respect to a facility, means the individual who is responsible for—

''(I) ensuring compliance with this subsection by the facility; and

''(II) reducing energy use at the facility.

''(ii) INCLUSIONS.—The term 'energy manager' may include—

''(I) a contractor of a facility;

''(II) a part-time employee of a facility; and

''(III) an individual who is responsible for multiple facilities.

''(C) FACILITY.—

''(i) IN GENERAL.—The term 'facility' means any building, installation, structure, or other property (including any applicable fixtures) owned or operated by, or constructed or manufactured and leased to, the Federal Government.

''(ii) INCLUSIONS.—The term 'facility' includes—

''(I) a group of facilities at a single location or multiple locations managed as an integrated operation; and

''(II) contractor-operated facilities owned by the Federal Government.

''(iii) EXCLUSIONS.—The term 'facility' does not include any land or site for which the cost of utilities is not paid by the Federal Government.

''(D) LIFE CYCLE COST-EFFECTIVE.—The term 'life cycle cost-effective', with respect to a measure, means a measure the estimated savings of which exceed the estimated costs over the lifespan of the measure, as determined in accordance with section 544.

''(E) PAYBACK PERIOD.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'payback period', with respect to a measure, means a value equal to the quotient obtained by dividing—

''(I) the estimated initial implementation cost of the measure (other than financing costs); by

''(II) the annual cost savings resulting from the measure, including—

''(aa) net savings in estimated energy and water costs; and

''(bb) operations, maintenance, repair, replacement, and other direct costs.

''(ii) MODIFICATIONS AND EXCEPTIONS.—The Secretary, in guidelines issued pursuant to paragraph (6), may make such modifications and provide such exceptions to the calculation of the payback period of a measure as the Secretary determines to be appropriate to achieve the purposes of this Act.

''(F) RECOMMISSIONING.—The term 'recommissioning' means a process—

''(i) of commissioning a facility or system beyond the project development and warranty phases of the facility or system; and

''(ii) the primary goal of which is to ensure optimum performance of a facility, in accordance with design or current operating needs, over the useful life of the facility, while meeting building occupancy requirements.

''(G) RETROCOMMISSIONING.—The term 'retrocommissioning' means a process of commissioning a facility or system that was not commissioned at time of construction of the facility or system.

''(2) FACILITY ENERGY MANAGERS.—

''(A) IN GENERAL.—Each Federal agency shall designate an energy manager responsible for implementing this subsection and reducing energy use at each facility that meets criteria under subparagraph (B).

''(B) COVERED FACILITIES.—The Secretary shall develop criteria, after consultation with affected agencies, energy efficiency advocates, and energy and utility service providers, that cover, at a minimum, Federal facilities, including central utility plants and distribution systems and other energy intensive operations, that constitute at least 75 percent of facility energy use at each agency.

''(3) ENERGY AND WATER EVALUATIONS.—

''(A) EVALUATIONS.—Effective beginning on the date that is 180 days after the date of enactment of this subsection and annually thereafter, energy managers shall complete, for each calendar year, a comprehensive energy and water evaluation for approximately 25 percent of the facilities of each agency that meet the criteria under paragraph (2)(B) in a manner that ensures that an evaluation of each such facility is completed at least once every 4 years.

''(B) RECOMMISSIONING AND RETROCOMMISSIONING.—As part of the evaluation under subparagraph (A), the energy manager shall identify and assess recommissioning measures (or, if the facility has never been commissioned, retrocommissioning measures) for each such facility.

''(4) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—Not later than 2 years after the completion of each evaluation under paragraph (3), each energy manager may—

''(A) implement any energy- or water-saving measure that the Federal agency identified in the evaluation conducted under paragraph (3) that is life cycle cost-effective; and

''(B) bundle individual measures of varying paybacks together into combined projects.

''(5) FOLLOW-UP ON IMPLEMENTED MEASURES.—For each measure implemented under paragraph (4), each energy manager shall ensure that—

''(A) equipment, including building and equipment controls, is fully commissioned at acceptance to be operating at design specifications;

''(B) a plan for appropriate operations, maintenance, and repair of the equipment is in place at acceptance and is followed;

''(C) equipment and system performance is measured during its entire life to ensure proper operations, maintenance, and repair; and

''(D) energy and water savings are measured and verified.

''(6) GUIDELINES.—

''(A) IN GENERAL.—The Secretary shall issue guidelines and necessary criteria that each Federal agency shall follow for implementation of—

''(i) paragraphs (2) and (3) not later than 180 days after the date of enactment of this subsection; and

''(ii) paragraphs (4) and (5) not later than 1 year after the date of enactment of this subsection.

''(B) RELATIONSHIP TO FUNDING SOURCE.—The guidelines issued by the Secretary under subparagraph (A) shall be appropriate and uniform for measures funded with each type of funding made available under paragraph (10), but may distinguish between different types of measures project size, and other criteria the Secretary determines are relevant.

''(7) WEB-BASED CERTIFICATION.—

''(A) IN GENERAL.—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B) to certify compliance with the requirements for—

''(i) energy and water evaluations under paragraph (3);

''(ii) implementation of identified energy and water measures under paragraph (4); and

''(iii) follow-up on implemented measures under paragraph (5).

''(B) DEPLOYMENT.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop and deploy a web-based tracking system required under this paragraph in a manner that tracks, at a minimum—

''(I) the covered facilities;

''(II) the status of meeting the requirements specified in subparagraph (A);

''(III) the estimated cost and savings for measures required to be implemented in a facility;

''(IV) the measured savings and persistence of savings for implemented measures; and

''(V) the benchmarking information disclosed under paragraph (8)(C).

''(ii) EASE OF COMPLIANCE.—The Secretary shall ensure that energy manager compliance with the requirements in this paragraph, to the maximum extent practicable—

''(I) can be accomplished with the use of streamlined procedures and templates that minimize the time demands on Federal employees; and

''(II) is coordinated with other applicable energy reporting requirements.

''(C) AVAILABILITY.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall make the web-based tracking system required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

''(ii) EXEMPTIONS.—At the request of a Federal agency, the Secretary may exempt specific data for specific facilities from disclosure under clause (i) for national security purposes.

''(8) BENCHMARKING OF FEDERAL FACILITIES.—

''(A) IN GENERAL.—The energy manager shall enter energy use data for each metered building that is (or is a part of) a facility that meets the criteria established by the Secretary under paragraph (2)(B) into a building energy use benchmarking system, such as the Energy Star Portfolio Manager.

''(B) SYSTEM AND GUIDANCE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall—

''(i) select or develop the building energy use benchmarking system required under this paragraph for each type of building; and

''(ii) issue guidance for use of the system.

''(C) PUBLIC DISCLOSURE.—Each energy manager shall post the information entered into, or generated by, a benchmarking system under this subsections, on the web-based tracking system under paragraph (7)(B). The energy manager shall update such information each year, and shall include in such reporting previous years' information to allow changes in building performance to be tracked over time.

''(9) FEDERAL AGENCY SCORECARDS.—

''(A) IN GENERAL.—The Director of the Office of Management and Budget shall issue semiannual scorecards for energy management activities carried out by each Federal agency that includes—

''(i) summaries of the status of implementing the various requirements of the agency and its energy managers under this subsection; and

''(ii) any other means of measuring performance that the Director considers appropriate.

''(B) AVAILABILITY.—The Director shall make the scorecards required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

''(10) FUNDING AND IMPLEMENTATION.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

''(B) FUNDING OPTIONS.—

''(i) IN GENERAL.—To carry out this subsection, a Federal agency may use any combination of—

''(I) appropriated funds made available under subparagraph (A); and

''(II) private financing otherwise authorized under Federal law, including financing

available through energy savings performance contracts or utility energy service contracts.

''(ii) COMBINED FUNDING FOR SAME MEASURE.—A Federal agency may use any combination of appropriated funds and private financing described in clause (i) to carry out the same measure under this subsection.

''(C) IMPLEMENTATION.—Each Federal agency may implement the requirements under this subsection itself or may contract out performance of some or all of the requirements.

''(11) RULE OF CONSTRUCTION.—This subsection shall not be construed to require or to obviate any contractor savings guarantees.''.

SEC. 433. FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.

(a) STANDARDS.—Section 305(a)(3) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)) is amended by adding at the end the following new subparagraph:

''(D) Not later than 1 year after the date of enactment of the Energy Independence and Security Act of 2007, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that:

''(i) For new Federal buildings and Federal buildings undergoing major renovations, with respect to which the Administrator of General Services is required to transmit a prospectus to Congress under section 3307 of title 40, United States Code, in the case of public buildings (as defined in section 3301 of title 40, United States Code), or of at least $2,500,000 in costs adjusted annually for inflation for other buildings:

''(I) The buildings shall be designed so that the fossil fuel-generated energy consumption of the buildings is reduced, as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency), by the percentage specified in the following table:

''Fiscal Year	Percentage Reduction
2010	55
2015	65
2020	80
2025	90
2030	100.

''(II) Upon petition by an agency subject to this subparagraph, the Secretary may adjust the applicable numeric requirement under subclause (I) downward with respect to a specific building, if the head of the agency designing the building certifies in writing that meeting such requirement would be technically impracticable in light of the agency's specified functional needs for that building and the Secretary concurs with the agency's conclusion. This subclause shall not apply to the General Services Administration.

''(III) Sustainable design principles shall be applied to the siting, design, and construction of such buildings. Not later than 90 days after the date of enactment of the Energy Independence and Security Act of 2007, the Secretary, after reviewing the findings of the Federal Director under section 436(h) of that Act, in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense for considerations relating to those facilities under the custody and control of the Department of Defense, shall identify a certification system and level for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings. The identification of the certification system and level shall be based on a review of the Federal Director's findings under section 436(h) of the Energy Independence and Security Act of 2007 and the criteria specified in clause (iii), shall identify the highest level the Secretary determines is appropriate above the minimum level required for certification under the system selected, and shall achieve results at least comparable to the system used by and highest level referenced by the General Services Administration as of the date of enactment of the Energy Independence and Security Act of 2007. Within 90 days of the completion of each study required by clause (iv), the Secretary, in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense for considerations relating to those facilities under the custody and control of the Department of Defense, shall review and update the certification system and level, taking into account the conclusions of such study.

''(ii) In establishing criteria for identifying major renovations that are subject to the requirements of this subparagraph, the Secretary shall take into account the scope, degree, and types of renovations that are likely to provide significant opportunities for substantial improvements in energy efficiency.

''(iii) In identifying the green building certification system and level, the Secretary shall take into consideration—

''(I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subparagraph;

''(II) the ability of the applicable certification organization to collect and reflect public comment;

''(III) the ability of the standard to be developed and revised through a consensus-based process;

''(IV) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

''(aa) efficient and sustainable use of water, energy, and other natural resources;

''(bb) use of renewable energy sources;

''(cc) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls; and

''(dd) such other criteria as the Secretary determines to be appropriate; and

''(V) national recognition within the building industry.

''(iv) At least once every five years, and in accordance with section 436 of the Energy Independence and Security Act of 2007, the Administrator of General Services shall conduct a study to evaluate and compare available third-party green building certification systems and levels, taking into account the criteria listed in clause (iii).

''(v) The Secretary may by rule allow Federal agencies to develop internal certification processes, using certified professionals, in lieu of certification by the certification entity identified under clause (i)(III). The Secretary shall include in any such rule guidelines to ensure that the certification process results in buildings meeting the applicable certification system and level identified under clause (i)(III). An agency employing an internal certification process must continue to obtain external certification by the certification entity identified under clause (i)(III) for at least 5 percent of the total number of buildings certified annually by the agency.

''(vi) With respect to privatized military housing, the Secretary of Defense, after consultation with the Secretary may, through rulemaking, develop alternative criteria to those established by subclauses (I) and (III) of clause (i) that achieve an equivalent result in terms of energy savings, sustainable design, and green building performance.

''(vii) In addition to any use of water conservation technologies otherwise required by this section, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.''.

(b) DEFINITIONS.—Section 303(6) of the Energy Conservation and Production Act (42 U.S.C. 6832(6)) is amended by striking ''which is not legally subject to State or local building codes or similar requirements.'' and inserting ''. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.''.

(c) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 2 years after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require Federal officers and employees to comply with this section and the amendments made by this section in the acquisition, construction, or major renovation of any facility. The members of the Federal Acquisition Regulatory Council (established under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)) shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

(d) GUIDANCE.—Not later than 90 days after the date of promulgation of the revised regulations under subsection (c), the Administrator for Federal Procurement Policy shall issue guidance to all Federal procurement executives providing direction and instructions to renegotiate the design of proposed facilities and major renovations for existing facilities to incorporate improvements that are consistent with this section.

SEC. 434. MANAGEMENT OF FEDERAL BUILDING EFFICIENCY .

(a) LARGE CAPITAL ENERGY INVESTMENTS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(f) LARGE CAPITAL ENERGY INVESTMENTS.—

''(1) IN GENERAL.—Each Federal agency shall ensure that any large capital energy investment in an existing building that is not a major renovation but involves replacement of installed equipment (such as heating and cooling systems), or involves renovation, rehabilitation, expansion, or remodeling of existing space, employs the most energy efficient designs, systems, equipment, and controls that are life-cycle cost effective.

''(2) PROCESS FOR REVIEW OF INVESTMENT DECISIONS.—Not later than 180 days after the date of enactment of this subsection, each Federal agency shall—

''(A) develop a process for reviewing each decision made on a large capital energy investment described in paragraph (1) to ensure that the requirements of this subsection are met; and

''(B) report to the Director of the Office of Management and Budget on the process established.

''(3) COMPLIANCE REPORT.—Not later than 1 year after the date of enactment of this subsection, the Director of the Office of Management and Budget shall evaluate and report to Congress on the compliance of each agency with this subsection.''.

(b) METERING.—Section 543(e)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e)(1)) is amended by inserting after the second sentence the following: ''Not later than October 1, 2016, each agency shall provide for equivalent metering of natural gas and steam, in accordance with guidelines established by the Secretary under paragraph (2).''.

SEC. 435. LEASING.

(a) IN GENERAL.—Except as provided in subsection (b), effective beginning on the date that is 3 years after the date of enactment of this Act, no Federal agency shall enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year.

(b) EXCEPTION.—

(1) APPLICATION.—This subsection applies if—

(A) no space is available in a building described in subsection (a) that meets the functional requirements of an agency, including locational needs;

(B) the agency proposes to remain in a building that the agency has occupied previously;

(C) the agency proposes to lease a building of historical, architectural, or cultural significance (as defined in section 3306(a)(4) of title 40, United States Code) or space in such a building; or

(D) the lease is for not more than 10,000 gross square feet of space.

(2) BUILDINGS WITHOUT ENERGY STAR LABEL.—If 1 of the conditions described in paragraph (2) is met, the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy or, in the case of a contract described in paragraph (1)(B), not later than 1 year after signing the contract, the space will be renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

(c) REVISION OF FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Federal Acquisition Regulation described in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)) shall be revised to require Federal officers and employees to comply with this section in leasing buildings.

(2) CONSULTATION.—The members of the Federal Acquisition Regulatory Council established under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)) shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

SEC. 436. HIGH-PERFORMANCE GREEN FEDERAL BUILDINGS.

(a) ESTABLISHMENT OF OFFICE.—Not later than 60 days after the date of enactment of this Act, the Administrator shall establish within the General Services Administration an Office of Federal High-Performance Green Buildings, and appoint an individual to serve as Federal Director in, a position in the career-reserved Senior Executive service, to—

(1) establish and manage the Office of Federal High-Performance Green Buildings; and

(2) carry out other duties as required under this subtitle.

(b) COMPENSATION.—The compensation of the Federal Director shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

(c) DUTIES.—The Federal Director shall—

(1) coordinate the activities of the Office of Federal High-Performance Green Buildings with the activities of the Office of Commercial High-Performance Green Buildings, and the Secretary, in accordance with section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D));

(2) ensure full coordination of high-performance green building information and activities within the General Services Administration and all relevant agencies, including, at a minimum—

(A) the Environmental Protection Agency;

(B) the Office of the Federal Environmental Executive;

(C) the Office of Federal Procurement Policy;

(D) the Department of Energy;

(E) the Department of Health and Human Services;

(F) the Department of Defense;

(G) the Department of Transportation;

(H) the National Institute of Standards and Technology; and

(I) the Office of Science and Technology Policy;

(3) establish a senior-level Federal Green Building Advisory Committee under section 474, which shall provide advice and recommendations in accordance with that section and subsection (d);

(4) identify and every 5 years reassess improved or higher rating standards recommended by the Advisory Committee;

(5) ensure full coordination, dissemination of information regarding, and promotion of the results of research and development information relating to Federal high-performance green building initiatives;

(6) identify and develop Federal high-performance green building standards for all types of Federal facilities, consistent with the requirements of this subtitle and section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D));

(7) establish green practices that can be used throughout the life of a Federal facility;

(8) review and analyze current Federal budget practices and life-cycle costing issues, and make recommendations to Congress, in accordance with subsection (d); and

(9) identify opportunities to demonstrate innovative and emerging green building technologies and concepts.

(d) ADDITIONAL DUTIES.—The Federal Director, in consultation with the Commercial Director and the Advisory Committee, and consistent with the requirements of section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)) shall—

(1) identify, review, and analyze current budget and contracting practices that affect achievement of high-performance green buildings, including the identification of barriers to high-performance green building life-cycle costing and budgetary issues;

(2) develop guidance and conduct training sessions with budget specialists and contracting personnel from Federal agencies and budget examiners to apply life-cycle cost criteria to actual projects;

(3) identify tools to aid life-cycle cost decisionmaking; and

(4) explore the feasibility of incorporating the benefits of high-performance green buildings, such as security benefits, into a cost-budget analysis to aid in life-cycle costing for budget and decisionmaking processes.

(e) INCENTIVES.—Within 90 days after the date of enactment of this Act, the Federal Director shall identify incentives to encourage the expedited use of high-performance green buildings and related technology in the operations of the Federal Government, in accordance with the requirements of section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), including through—

(1) the provision of recognition awards; and

(2) the maximum feasible retention of financial savings in the annual budgets of Federal agencies for use in reinvesting in future high-performance green building initiatives.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Federal Director, in consultation with the Secretary, shall submit to Congress a report that—

(1) describes the status of compliance with this subtitle, the requirements of section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), and other Federal high-performance green building initiatives in effect as of the date of the report, including—

(A) the extent to which the programs are being carried out in accordance with this subtitle and the requirements of section 305(a)(3)(D) of that Act; and

(B) the status of funding requests and appropriations for those programs;

(2) identifies within the planning, budgeting, and construction process all types of Federal facility procedures that may affect the certification of new and existing Federal facilities as high-performance green buildings under the provisions of section 305(a)(3)(D) of that Act and the criteria established in subsection (h);

(3) identifies inconsistencies, as reported to the Advisory Committee, in Federal law with respect to product acquisition guidelines and high-performance product guidelines;

(4) recommends language for uniform standards for use by Federal agencies in environmentally responsible acquisition;

(5) in coordination with the Office of Management and Budget, reviews the budget process for capital programs with respect to alternatives for—

(A) restructuring of budgets to require the use of complete energy and environmental cost accounting;

(B) using operations expenditures in budget-related decisions while simultaneously incorporating productivity and health measures (as those measures can be quantified by the Office of Federal High-Performance Green Buildings, with the assistance of universities and national laboratories);

(C) streamlining measures for permitting Federal agencies to retain all identified savings accrued as a result of the use of life-cycle costing for future high-performance green building initiatives; and

(D) identifying short-term and long-term cost savings that accrue from high-performance green buildings, including those relating to health and productivity;

(6) identifies green, self-sustaining technologies to address the operational needs of Federal facilities in times of national security emergencies, natural disasters, or other dire emergencies;

(7) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives); and

(8) includes, for the 2-year period covered by the report, recommendations to address each of the matters, and a plan for implementation of each recommendation, described in paragraphs (1) through (7).

(g) IMPLEMENTATION.—The Office of Federal High-Performance Green Buildings shall carry out each plan for implementation of recommendations under subsection (f)(8).

(h) IDENTIFICATION OF CERTIFICATION SYSTEM.—

(1) IN GENERAL.—For the purpose of this section, not later than 60 days after the date of enactment of this Act, the Federal Director shall identify and shall provide to the Secretary pursuant to section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), a certification system that the Director determines to be the

most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings.

(2) BASIS.—The system identified under paragraph (1) shall be based on—

(A) a study completed every 5 years and provided to the Secretary pursuant to section 305(a)(3)(D) of that Act, which shall be carried out by the Federal Director to compare and evaluate standards;

(B) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subtitle;

(C) the ability of the applicable standard-setting organization to collect and reflect public comment;

(D) the ability of the standard to be developed and revised through a consensus-based process;

(E) an evaluation of the robustness of the criteria for a high performance green building, which shall give credit for promoting—

(i) efficient and sustainable use of water, energy, and other natural resources;

(ii) use of renewable energy sources;

(iii) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls;

(iv) reduced impacts from transportation through building location and site design that promote access by public transportation; and

(v) such other criteria as the Federal Director determines to be appropriate; and

(F) national recognition within the building industry.

SEC. 437. FEDERAL GREEN BUILDING PERFORMANCE.

(a) IN GENERAL.—Not later than October 31 of each of the 2 fiscal years following the fiscal year in which this Act is enacted, and at such times thereafter as the Comptroller General of the United States determines to be appropriate, the Comptroller General of the United States shall, with respect to the fiscal years that have passed since the preceding report—

(1) conduct an audit of the implementation of this subtitle, section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), and section 435; and

(2) submit to the Federal Director, the Advisory Committee, the Administrator, and Congress a report describing the results of the audit.

(b) CONTENTS.—An audit under subsection (a) shall include a review, with respect to the period covered by the report under subsection (a)(2), of—

(1) budget, life-cycle costing, and contracting issues, using best practices identified by the Comptroller General of the United States and heads of other agencies in accordance with section 436(d);

(2) the level of coordination among the Federal Director, the Office of Management and Budget, the Department of Energy, and relevant agencies;

(3) the performance of the Federal Director and other agencies in carrying out the implementation plan;

(4) the design stage of high-performance green building measures;

(5) high-performance building data that were collected and reported to the Office; and

(6) such other matters as the Comptroller General of the United States determines to be appropriate.

(c) ENVIRONMENTAL STEWARDSHIP SCORECARD.—The Federal Director shall consult with the Advisory Committee to enhance, and assist in the implementation of, the Office of Management and Budget government efficiency reports and scorecards under section 528 and the Environmental Stewardship Scorecard announced at the White House summit on Federal sustainable buildings in January 2006, to measure the implementation by each Federal agency of sustainable design and green building initiatives.

SEC. 438. STORM WATER RUNOFF REQUIREMENTS FOR FEDERAL DEVELOPMENT PROJECTS.

The sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow.

SEC. 439. COST-EFFECTIVE TECHNOLOGY ACCELERATION PROGRAM.

(a) DEFINITION OF ADMINISTRATOR.—In this section, the term ''Administrator'' means the Administrator of General Services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator shall establish a program to accelerate the use of more cost-effective technologies and practices at GSA facilities.

(2) REQUIREMENTS.—The program established under this subsection shall—

(A) ensure centralized responsibility for the coordination of cost reduction-related recommendations, practices, and activities of all relevant Federal agencies;

(B) provide technical assistance and operational guidance to applicable tenants to achieve the goal identified in subsection (c)(2)(B)(ii);

(C) establish methods to track the success of Federal departments and agencies with respect to that goal; and

(D) be fully coordinated with and no less stringent nor less energy-conserving or water-conserving than required by other provisions of this Act and other applicable law, including sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections.

(c) ACCELERATED USE OF TECHNOLOGIES.—

(1) REVIEW.—

(A) IN GENERAL.—As part of the program under this section, not later than 90 days after the date of enactment of this Act, the Administrator shall conduct a review of—

(i) current use of cost-effective lighting technologies and geothermal heat pumps in GSA facilities; and

(ii) the availability to managers of GSA facilities of cost-effective lighting technologies and geothermal heat pumps.

(B) REQUIREMENTS.—The review under subparagraph (A) shall—

(i) examine the use of cost-effective lighting technologies, geothermal heat pumps, and other cost-effective technologies and practices by Federal agencies in GSA facilities; and

(ii) as prepared in consultation with the Administrator of the Environmental Protection Agency, identify cost-effective lighting technology and geothermal heat pump technology standards that could be used for all types of GSA facilities.

(2) REPLACEMENT.—

(A) IN GENERAL.—As part of the program under this section, not later than 180 days after the date of enactment of this Act, the Administrator shall establish, using available appropriations and programs implementing sections 432 and 525 (and amendments made by those sections), a cost-effective lighting technology and geothermal heat pump technology acceleration program to achieve maximum feasible replacement of existing lighting, heating, cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies in each GSA facility. Such program shall fully comply with the requirements of sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections and any other provisions of law, which shall be applicable to the extent that they are more stringent or would achieve greater energy savings than required by this section.

(B) ACCELERATION PLAN TIMETABLE.—

(i) IN GENERAL.—To implement the program established under subparagraph (A), not later than 1 year after the date of enactment of this Act, the Administrator shall establish a timetable of actions to comply with the requirements of this section and sections 431 through 435, whichever achieves greater energy savings most expeditiously, including milestones for specific activities needed to replace existing lighting, heating, cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies, to the maximum extent feasible (including at the maximum rate feasible), at each GSA facility.

(ii) GOAL.—The goal of the timetable under clause (i) shall be to complete, using available appropriations and programs implementing sections 431 through 435 (and amendments made by those sections), maximum feasible replacement of existing lighting, heating, and cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies consistent with the requirements of this section and sections 431 through 435, whichever achieves greater energy savings most expeditiously. Notwithstanding any provision of this section, such program shall fully comply with the requirements of the Act including sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections and other provisions of law, which shall be applicable to the extent that they are more stringent or would achieve greater energy or water savings than required by this section.

(d) GSA FACILITY TECHNOLOGIES AND PRACTICES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Administrator shall—

(A) ensure that a manager responsible for implementing section 432 and for accelerating the use of cost-effective technologies and practices is designated for each GSA facility; and

(B) submit to Congress a plan to comply with section 432, this section, and other applicable provisions of this Act and applicable law with respect to energy and water conservation at GSA facilities.

(2) MEASURES.—The plan shall implement measures required by such other provisions of law in accordance with those provisions, and shall implement the measures required by this section to the maximum extent feasible (including at the maximum rate feasible) using available appropriations and programs implementing sections 431 through 435 and 525 (and amendments made by those sections), by not later than the date that is 5 years after the date of enactment of this Act.

(3) CONTENTS OF PLAN.—The plan shall—

(A) with respect to cost-effective technologies and practices—

(i) identify the specific activities needed to comply with sections 431 through 435;

(ii) identify the specific activities needed to achieve at least a 20-percent reduction in operational costs through the application of cost-effective technologies and practices from 2003 levels at GSA facilities by not

later than 5 years after the date of enactment of this Act;

(iii) describe activities required and carried out to estimate the funds necessary to achieve the reduction described in clauses (i) and (ii);

(B) include an estimate of the funds necessary to carry out this section;

(C) describe the status of the implementation of cost-effective technologies and practices at GSA facilities, including—

(i) the extent to which programs, including the program established under subsection (b), are being carried out in accordance with this subtitle; and

(ii) the status of funding requests and appropriations for those programs;

(D) identify within the planning, budgeting, and construction processes, all types of GSA facility-related procedures that inhibit new and existing GSA facilities from implementing cost-effective technologies;

(E) recommend language for uniform standards for use by Federal agencies in implementing cost-effective technologies and practices;

(F) in coordination with the Office of Management and Budget, review the budget process for capital programs with respect to alternatives for—

(i) implementing measures that will assure that Federal agencies retain all identified savings accrued as a result of the use of cost-effective technologies, consistent with section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1), and other applicable law; and

(ii) identifying short- and long-term cost savings that accrue from the use of cost-effective technologies and practices;

(G) with respect to cost-effective technologies and practices, achieve substantial operational cost savings through the application of the technologies; and

(H) include recommendations to address each of the matters, and a plan for implementation of each recommendation, described in subparagraphs (A) through (G).

(4) ADMINISTRATION.—Notwithstanding any provision of this section, the program required under this section shall fully comply with the requirements of sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections, which shall be applicable to the extent that they are more stringent or would achieve greater energy or water savings than required by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 440. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 434 through 439 and 482 $4,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

SEC. 441. PUBLIC BUILDING LIFE-CYCLE COSTS.

Section 544(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)(1)) is amended by striking ''25'' and inserting ''40''.

Subtitle D—Industrial Energy Efficiency

SEC. 451. INDUSTRIAL ENERGY EFFICIENCY.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by inserting after part D the following:

''PART E—INDUSTRIAL ENERGY EFFICIENCY

''SEC. 371. DEFINITIONS.

''In this part:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) COMBINED HEAT AND POWER.—The term 'combined heat and power system' means a facility that—

''(A) simultaneously and efficiently produces useful thermal energy and electricity; and

''(B) recovers not less than 60 percent of the energy value in the fuel (on a higher-heating-value basis) in the form of useful thermal energy and electricity.

''(3) NET EXCESS POWER.—The term 'net excess power' means, for any facility, recoverable waste energy recovered in the form of electricity in quantities exceeding the total consumption of electricity at the specific time of generation on the site at which the facility is located.

''(4) PROJECT.—The term 'project' means a recoverable waste energy project or a combined heat and power system project.

''(5) RECOVERABLE WASTE ENERGY.—The term 'recoverable waste energy' means waste energy from which electricity or useful thermal energy may be recovered through modification of an existing facility or addition of a new facility.

''(6) REGISTRY.—The term 'Registry' means the Registry of Recoverable Waste Energy Sources established under section 372(d).

''(7) USEFUL THERMAL ENERGY.—The term 'useful thermal energy' means energy—

''(A) in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end-use energy requirements; and

''(B) for which fuel or electricity would otherwise be consumed.

''(8) WASTE ENERGY.—The term 'waste energy' means—

''(A) exhaust heat or flared gas from any industrial process;

''(B) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented;

''(C) a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat; and

''(D) such other forms of waste energy as the Administrator may determine.

''(9) OTHER TERMS.—The terms 'electric utility', 'nonregulated electric utility', 'State regulated electric utility', and other terms have the meanings given those terms in title I of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2611 et seq.).

''SEC. 372. SURVEY AND REGISTRY.

''(a) RECOVERABLE WASTE ENERGY INVENTORY PROGRAM.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary and State energy offices, shall establish a recoverable waste energy inventory program.

''(2) SURVEY.—The program shall include—

''(A) an ongoing survey of all major industrial and large commercial combustion sources in the United States (as defined by the Administrator) and the sites at which the sources are located; and

''(B) a review of each source for the quantity and quality of waste energy produced at the source.

''(b) CRITERIA.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of the Energy Independence and Security Act of 2007, the Administrator shall publish a rule for establishing criteria for including sites in the Registry.

''(2) INCLUSIONS.—The criteria shall include—

''(A) a requirement that, to be included in the Registry, a project at the site shall be determined to be economically feasible by virtue of offering a payback of invested costs not later than 5 years after the date of first full project operation (including incentives offered under this part);

''(B) standards to ensure that projects proposed for inclusion in the Registry are not developed or used for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; and

''(C) procedures for contesting the listing of any source or site on the Registry by any State, utility, or other interested person.

''(c) TECHNICAL SUPPORT.—On the request of the owner or operator of a source or site included in the Registry, the Secretary shall—

''(1) provide to owners or operators of combustion sources technical support; and

''(2) offer partial funding (in an amount equal to not more than ½ of total costs) for feasibility studies to confirm whether or not investment in recovery of waste energy or combined heat and power at a source would offer a payback period of 5 years or less.

''(d) REGISTRY.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Energy Independence and Security Act of 2007, the Administrator shall establish a Registry of Recoverable Waste Energy Sources, and sites on which the sources are located, that meet the criteria established under subsection (b).

''(B) UPDATES; AVAILABILITY.—The Administrator shall—

''(i) update the Registry on a regular basis; and

''(ii) make the Registry available to the public on the website of the Environmental Protection Agency.

''(C) CONTESTING LISTING.—Any State, electric utility, or other interested person may contest the listing of any source or site by submitting a petition to the Administrator.

''(2) CONTENTS.—

''(A) IN GENERAL.—The Administrator shall register and include on the Registry all sites meeting the criteria established under subsection (b).

''(B) QUANTITY OF RECOVERABLE WASTE ENERGY.—The Administrator shall—

''(i) calculate the total quantities of potentially recoverable waste energy from sources at the sites, nationally and by State; and

''(ii) make public—

''(I) the total quantities described in clause (i); and

''(II) information on the criteria pollutant and greenhouse gas emissions savings that might be achieved with recovery of the waste energy from all sources and sites listed on the Registry.

''(3) AVAILABILITY OF INFORMATION.—

''(A) IN GENERAL.—The Administrator shall notify owners or operators of recoverable waste energy sources and sites listed on the Registry prior to publishing the listing.

''(B) DETAILED QUANTITATIVE INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the owner or operator of a source at a site may elect to have detailed quantitative information concerning the site not made public by notifying the Administrator of the election.

''(ii) LIMITED AVAILABILITY.—The information shall be made available to—

''(I) the applicable State energy office; and

''(II) any utility requested to support recovery of waste energy from the source pursuant to the incentives provided under section 374.

''(iii) STATE TOTALS.—Information concerning the site shall be included in the total quantity of recoverable waste energy for a State unless there are fewer than 3 sites in the State.

''(4) REMOVAL OF PROJECTS FROM REGISTRY.—

''(A) IN GENERAL.—Subject to subparagraph (B), as a project achieves successful recovery of waste energy, the Administrator shall—

''(i) remove the related sites or sources from the Registry; and

''(ii) designate the removed projects as eligible for incentives under section 374.

''(B) LIMITATION.—No project shall be removed from the Registry without the consent of the owner or operator of the project if—

''(i) the owner or operator has submitted a petition under section 374; and

''(ii) the petition has not been acted on or denied.

''(5) INELIGIBILITY OF CERTAIN SOURCES.—The Administrator shall not list any source constructed after the date of the enactment of the Energy Independence and Security Act of 2007 on the Registry if the Administrator determines that the source—

''(A) was developed for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; or

''(B) does not capture at least 60 percent of the total energy value of the fuels used (on a higher-heating-value basis) in the form of useful thermal energy, electricity, mechanical energy, chemical output, or any combination thereof.

''(e) SELF-CERTIFICATION.—

''(1) IN GENERAL.—Subject to any procedures that are established by the Administrator, an owner, operator, or third-party developer of a recoverable waste energy project that qualifies under standards established by the Administrator may self-certify the sites or sources of the owner, operator, or developer to the Administrator for inclusion in the Registry.

''(2) REVIEW AND APPROVAL.—To prevent a fraudulent listing, a site or source shall be included on the Registry only if the Administrator reviews and approves the self-certification.

''(f) NEW FACILITIES.—As a new energy-consuming industrial facility is developed after the date of enactment of the Energy Independence and Security Act of 2007, to the extent the facility may constitute a site with recoverable waste energy that may qualify for inclusion on the Registry, the Administrator may elect to include the facility on the Registry, at the request of the owner, operator, or developer of the facility, on a conditional basis with the site to be removed from the Registry if the development ceases or the site fails to qualify for listing under this part.

''(g) OPTIMUM MEANS OF RECOVERY.—For each site listed in the Registry, at the request of the owner or operator of the site, the Administrator shall offer, in cooperation with Clean Energy Application Centers operated by the Secretary of Energy, suggestions for optimum means of recovery of value from waste energy stream in the form of electricity, useful thermal energy, or other energy-related products.

''(h) REVISION.—Each annual report of a State under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)) shall include the results of the survey for the State under this section.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to—

''(1) the Administrator to create and maintain the Registry and services authorized by this section, $1,000,000 for each of fiscal years 2008 through 2012; and

''(2) the Secretary—

''(A) to assist site or source owners and operators in determining the feasibility of projects authorized by this section, $2,000,000 for each of fiscal years 2008 through 2012; and

''(B) to provide funding for State energy office functions under this section, $5,000,000.

''SEC. 373. WASTE ENERGY RECOVERY INCENTIVE GRANT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish in the Department of Energy a waste energy recovery incentive grant program to provide incentive grants to—

''(1) owners and operators of projects that successfully produce electricity or incremental useful thermal energy from waste energy recovery;

''(2) utilities purchasing or distributing the electricity; and

''(3) States that have achieved 80 percent or more of recoverable waste heat recovery opportunities.

''(b) GRANTS TO PROJECTS AND UTILITIES.—

''(1) IN GENERAL.—The Secretary shall make grants under this section—

''(A) to the owners or operators of waste energy recovery projects; and

''(B) in the case of excess power purchased or transmitted by a electric utility, to the utility.

''(2) PROOF.—Grants may only be made under this section on receipt of proof of waste energy recovery or excess electricity generation, or both, from the project in a form prescribed by the Secretary.

''(3) EXCESS ELECTRIC ENERGY.—

''(A) IN GENERAL.—In the case of waste energy recovery, a grant under this section shall be made at the rate of $10 per megawatt hour of documented electricity produced from recoverable waste energy (or by prevention of waste energy in the case of a new facility) by the project during the first 3 calendar years of production, beginning on or after the date of enactment of the Energy Independence and Security Act of 2007.

''(B) UTILITIES.—If the project produces net excess power and an electric utility purchases or transmits the excess power, 50 percent of so much of the grant as is attributable to the net excess power shall be paid to the electric utility purchasing or transporting the net excess power.

''(4) USEFUL THERMAL ENERGY.—In the case of waste energy recovery that produces useful thermal energy that is used for a purpose different from that for which the project is principally designed, a grant under this section shall be made to the owner or operator of the waste energy recovery project at the rate of $10 for each 3,412,000 Btus of the excess thermal energy used for the different purpose.

''(c) GRANTS TO STATES.—In the case of any State that has achieved 80 percent or more of waste heat recovery opportunities identified by the Secretary under this part, the Administrator shall make a 1-time grant to the State in an amount of not more than $1,000 per megawatt of waste-heat capacity recovered (or a thermal equivalent) to support State-level programs to identify and achieve additional energy efficiency.

''(d) ELIGIBILITY.—The Secretary shall—

''(1) establish rules and guidelines to establish eligibility for grants under subsection (b);

''(2) publicize the availability of the grant program known to owners or operators of recoverable waste energy sources and sites listed on the Registry; and

''(3) award grants under the program on the basis of the merits of each project in recovering or preventing waste energy throughout the United States on an impartial, objective, and not unduly discriminatory basis.

''(e) LIMITATION.—The Secretary shall not award grants to any person for a combined heat and power project or a waste heat recovery project that qualifies for specific Federal tax incentives for combined heat and power or for waste heat recovery.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

''(1) to make grants to projects and utilities under subsection (b)—

''(A) $100,000,000 for fiscal year 2008 and $200,000,000 for each of fiscal years 2009 through 2012; and

''(B) such additional amounts for fiscal year 2008 and each fiscal year thereafter as may be necessary for administration of the waste energy recovery incentive grant program; and

''(2) to make grants to States under subsection (b), $10,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

''SEC. 374. ADDITIONAL INCENTIVES FOR RECOVERY, USE, AND PREVENTION OF INDUSTRIAL WASTE ENERGY.

''(a) CONSIDERATION OF STANDARD.—

''(1) IN GENERAL.—Not later than 180 days after the receipt by a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), or nonregulated electric utility, of a request from a project sponsor or owner or operator, the State regulatory authority or nonregulated electric utility shall—

''(A) provide public notice and conduct a hearing respecting the standard established by subsection (b); and

''(B) on the basis of the hearing, consider and make a determination whether or not it is appropriate to implement the standard to carry out the purposes of this part.

''(2) RELATIONSHIP TO STATE LAW.—For purposes of any determination under paragraph (1) and any review of the determination in any court, the purposes of this section supplement otherwise applicable State law.

''(3) NONADOPTION OF STANDARD.—Nothing in this part prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any standard described in paragraph (1), pursuant to authority under otherwise applicable State law.

''(b) STANDARD FOR SALES OF EXCESS POWER.—For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).

''(c) OPTIONS.—The options referred to in subsection (b) are as follows:

''(1) SALE OF NET EXCESS POWER TO UTILITY.—The electric utility shall purchase the net excess power from the owner or operator of the eligible waste energy recovery project during the operation of the project under a contract entered into for that purpose.

''(2) TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTY.—The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to 3 separate locations on the system of the utility for direct sale by the owner or operator to third parties at those locations.

''(3) TRANSPORT OVER PRIVATE TRANSMISSION LINES.—The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned, and operated by the project owner or operator, to transport the power to up to 3 purchasers within a 3-mile radius of the project, allowing the wires to use or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according the wires the same treatment for safety, zoning, land use, and other legal privileges as apply or would apply to the wires of the utility, except that—

''(A) there shall be no grant of any power of eminent domain to take or cross private property for the wires; and

''(B) the wires shall be physically segregated and not interconnected with any portion of the system of the utility, except on the customer side of the revenue meter of the utility and in a manner that precludes any possible export of the electricity onto the utility system, or disruption of the system.

''(4) AGREED ON ALTERNATIVES.—The utility and the owner or operator of the project may reach agreement on any alternate arrangement and payments or rates associated with the arrangement that is mutually satisfactory and in accord with State law.

''(d) RATE CONDITIONS AND CRITERIA.—

''(1) DEFINITIONS.—In this subsection:

''(A) PER UNIT DISTRIBUTION COSTS.—The term 'per unit distribution costs' means (in kilowatt hours) the quotient obtained by dividing—

''(i) the depreciated book-value distribution system costs of a utility; by

''(ii) the volume of utility electricity sales or transmission during the previous year at the distribution level.

''(B) PER UNIT DISTRIBUTION MARGIN.—The term 'per unit distribution margin' means—

''(i) in the case of a State-regulated electric utility, a per-unit gross pretax profit equal to the product obtained by multiplying—

''(I) the State-approved percentage rate of return for the utility for distribution system assets; by

''(II) the per unit distribution costs; and

''(ii) in the case of a nonregulated utility, a per unit contribution to net revenues determined multiplying—

''(I) the percentage (but not less than 10 percent) obtained by dividing—

''(aa) the amount of any net revenue payment or contribution to the owners or subscribers of the nonregulated utility during the prior year; by

''(bb) the gross revenues of the utility during the prior year to obtain a percentage; by

''(II) the per unit distribution costs.

''(C) PER UNIT TRANSMISSION COSTS.—The term 'per unit transmission costs' means the total cost of those transmission services purchased or provided by a utility on a per-kilowatt-hour basis as included in the retail rate of the utility.

''(2) OPTIONS.—The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions that reflect the rate components defined under paragraph (1) as applicable under the circumstances described in paragraph (3).

''(3) APPLICABLE RATES.—

''(A) RATES APPLICABLE TO SALE OF NET EXCESS POWER.—

''(i) IN GENERAL.—Sales made by a project owner or operator of a facility under the option described in subsection (c)(1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by the facility minus per unit distribution costs, that applies to the type of utility purchasing the power.

''(ii) VOLTAGES EXCEEDING 25 KILOVOLTS.—If the net excess power is made available for purchase at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be available for resale by the utility, the purchase price shall further be reduced by per unit transmission costs.

''(B) RATES APPLICABLE TO TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTIES.—

''(i) IN GENERAL.—Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur a transportation rate that shall equal the per unit distribution costs and per unit distribution margin, that applies to the type of utility transporting the power.

''(ii) VOLTAGES EXCEEDING 25 KILOVOLTS.—If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, the transport rate shall further be increased by per unit transmission costs.

''(iii) STATES WITH COMPETITIVE RETAIL MARKETS FOR ELECTRICITY.—In a State with a competitive retail market for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

''(4) LIMITATIONS.—

''(A) IN GENERAL.—Any rate established for sale or transportation under this section shall—

''(i) be modified over time with changes in the underlying costs or rates of the electric utility; and

''(ii) reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.

''(B) LIMITATION.—No utility shall be required to purchase or transport a quantity of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project agrees to pay necessary and reasonable upgrade costs.

''(e) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.—

''(1) PUBLIC NOTICE AND HEARING.—

''(A) IN GENERAL.—The consideration referred to in subsection (a) shall be made after public notice and hearing.

''(B) ADMINISTRATION.—The determination referred to in subsection (a) shall be—

''(i) in writing;

''(ii) based on findings included in the determination and on the evidence presented at the hearing; and

''(iii) available to the public.

''(2) INTERVENTION BY ADMINISTRATOR.—The Administrator may intervene as a matter of right in a proceeding conducted under this section—

''(A) to calculate—

''(i) the energy and emissions likely to be saved by electing to adopt 1 or more of the options; and

''(ii) the costs and benefits to ratepayers and the utility; and

''(B) to advocate for the waste-energy recovery opportunity.

''(3) PROCEDURES.—

''(A) IN GENERAL.—Except as otherwise provided in paragraphs (1) and (2), the procedures for the consideration and determination referred to in subsection (a) shall be the procedures established by the State regulatory authority or the nonregulated electric utility.

''(B) MULTIPLE PROJECTS.—If there is more than 1 project seeking consideration simultaneously in connection with the same utility, the proceeding may encompass all such projects, if full attention is paid to individual circumstances and merits and an individual judgment is reached with respect to each project.

''(f) IMPLEMENTATION.—

''(1) IN GENERAL.—The State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

''(A) implement the standard determined under this section; or

''(B) decline to implement any such standard.

''(2) NONIMPLEMENTATION OF STANDARD.—

''(A) IN GENERAL.—If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement any standard established by this section, the authority or nonregulated electric utility shall state in writing the reasons for declining to implement the standard.

''(B) AVAILABILITY TO PUBLIC.—The statement of reasons shall be available to the public.

''(C) ANNUAL REPORT.—The Administrator shall include in an annual report submitted to Congress a description of the lost opportunities for waste-heat recovery from the project described in subparagraph (A), specifically identifying the utility and stating the quantity of lost energy and emissions savings calculated.

''(D) NEW PETITION.—If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement the standard established by this section, the project sponsor may submit a new petition under this section with respect to the project at any time after the date that is 2 years after the date on which the State regulatory authority or nonregulated utility declined to implement the standard.

''SEC. 375. CLEAN ENERGY APPLICATION CENTERS.

''(a) RENAMING.—

''(1) IN GENERAL.—The Combined Heat and Power Application Centers of the Department of Energy are redesignated as Clean Energy Application Centers.

''(2) REFERENCES.—Any reference in any law, rule, regulation, or publication to a Combined Heat and Power Application Center shall be treated as a reference to a Clean Energy Application Center.

''(b) RELOCATION.—

''(1) IN GENERAL.—In order to better coordinate efforts with the separate Industrial Assessment Centers and to ensure that the energy efficiency and, when applicable, the renewable nature of deploying mature clean energy technology is fully accounted for, the Secretary shall relocate the administration of the Clean Energy Application Centers to the Office of Energy Efficiency and Renewable Energy within the Department of Energy.

''(2) OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY.—The Office of Electricity Delivery and Energy Reliability shall—

''(A) continue to perform work on the role of technology described in paragraph (1) in support of the grid and the reliability and security of the technology; and

''(B) shall assist the Clean Energy Application Centers in the work of the Centers with regard to the grid and with electric utilities.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants to universities, research centers, and other appropriate institutions to ensure the continued operations and effectiveness of 8 Regional Clean Energy Application Centers in each of the following regions (as designated for such purposes as of the date of the enactment of the Energy Independence and Security Act of 2007):

''(A) Gulf Coast.

''(B) Intermountain.

''(C) Mid-Atlantic.

''(D) Midwest.

''(E) Northeast.

''(F) Northwest.

''(G) Pacific.

''(H) Southeast.

''(2) ESTABLISHMENT OF GOALS AND COMPLIANCE.—In making grants under this subsection, the Secretary shall ensure that sufficient goals are established and met by each Center throughout the program duration concerning outreach and technology deployment.

''(d) ACTIVITIES.—

''(1) IN GENERAL.—Each Clean Energy Application Center shall—

''(A) operate a program to encourage deployment of clean energy technologies through education and outreach to building and industrial professionals; and other individuals and organizations with an interest in efficient energy use; and

''(B) provide project specific support to building and industrial professionals through assessments and advisory activities.

''(2) TYPES OF ACTIVITIES.—Funds made available under this section may be used—

''(A) to develop and distribute informational materials on clean energy technologies, including continuation of the 8 websites in existence on the date of enactment of the Energy Independence and Security Act of 2007;

''(B) to develop and conduct target market workshops, seminars, internet programs, and other activities to educate end users, regulators, and stakeholders in a manner that leads to the deployment of clean energy technologies;

''(C) to provide or coordinate onsite assessments for sites and enterprises that may consider deployment of clean energy technology;

''(D) to perform market research to identify high profile candidates for clean energy deployment;

''(E) to provide consulting support to sites considering deployment of clean energy technologies;

''(F) to assist organizations developing clean energy technologies to overcome barriers to deployment; and

''(G) to assist companies and organizations with performance evaluations of any clean energy technology implemented.

''(e) DURATION.—

''(1) IN GENERAL.—A grant awarded under this section shall be for a period of 5 years

''(2) ANNUAL EVALUATIONS.—Each grant shall be evaluated annually for the continuation of the grant based on the activities and results of the grant.

''(f) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.''.

(b) TABLE OF CONTENTS.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the items relating to part D of title III the following:

''PART E—INDUSTRIAL ENERGY EFFICIENCY

''Sec. 371. Definitions.
''Sec. 372. Survey and Registry.
''Sec. 373.Waste energy recovery incentive grant program.
''Sec. 374. Additional incentives for recovery, utilization and prevention of industrial waste energy.
''Sec. 375. Clean Energy Application Centers.''.

SEC. 452. ENERGY-INTENSIVE INDUSTRIES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) an energy-intensive industry;

(B) a national trade association representing an energy-intensive industry; or

(C) a person acting on behalf of 1 or more energy-intensive industries or sectors, as determined by the Secretary.

(2) ENERGY-INTENSIVE INDUSTRY.—The term ''energy-intensive industry'' means an industry that uses significant quantities of energy as part of its primary economic activities, including—

(A) information technology, including data centers containing electrical equipment used in processing, storing, and transmitting digital information;

(B) consumer product manufacturing;

(C) food processing;

(D) materials manufacturers, including—

(i) aluminum;

(ii) chemicals;

(iii) forest and paper products;

(iv) metal casting;

(v) glass;

(vi) petroleum refining;

(vii) mining; and

(viii) steel;

(E) other energy-intensive industries, as determined by the Secretary.

(3) FEEDSTOCK.—The term ''feedstock'' means the raw material supplied for use in manufacturing, chemical, and biological processes.

(4) PARTNERSHIP.—The term ''partnership'' means an energy efficiency partnership established under subsection (c)(1)(A).

(5) PROGRAM.—The term ''program'' means the energy-intensive industries program established under subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which the Secretary, in cooperation with energy-intensive industries and national industry trade associations representing the energy-intensive industries, shall support, research, develop, and promote the use of new materials processes, technologies, and techniques to optimize energy efficiency and the economic competitiveness of the United States' industrial and commercial sectors.

(c) PARTNERSHIPS.—

(1) IN GENERAL.—As part of the program, the Secretary shall establish energy efficiency partnerships between the Secretary and eligible entities to conduct research on, develop, and demonstrate new processes, technologies, and operating practices and techniques to significantly improve the energy efficiency of equipment and processes used by energy-intensive industries, including the conduct of activities to—

(A) increase the energy efficiency of industrial processes and facilities;

(B) research, develop, and demonstrate advanced technologies capable of energy intensity reductions and increased environmental performance; and

(C) promote the use of the processes, technologies, and techniques described in subparagraphs (A) and (B).

(2) ELIGIBLE ACTIVITIES.—Partnership activities eligible for funding under this subsection include—

(A) feedstock and recycling research, development, and demonstration activities to identify and promote—

(i) opportunities for meeting industry feedstock requirements with more energy efficient and flexible sources of feedstock or energy supply;

(ii) strategies to develop and deploy technologies that improve the quality and quantity of feedstocks recovered from process and waste streams; and

(iii) other methods using recycling, reuse, and improved industrial materials;

(B) research to develop and demonstrate technologies and processes that utilize alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

(C) research to achieve energy efficiency in steam, power, control system, and process heat technologies, and in other manufacturing processes; and

(D) industrial and commercial energy efficiency and sustainability assessments to—

(i) assist individual industrial and commercial sectors in developing tools, techniques, and methodologies to assess—

(I) the unique processes and facilities of the sectors;

(II) the energy utilization requirements of the sectors; and

(III) the application of new, more energy efficient technologies; and

(ii) conduct energy savings assessments;

(E) the incorporation of technologies and innovations that would significantly improve the energy efficiency and utilization of energy-intensive commercial applications; and

(F) any other activities that the Secretary determines to be appropriate.

(3) PROPOSALS.—

(A) IN GENERAL.—To be eligible for funding under this subsection, a partnership shall submit to the Secretary a proposal that describes the proposed research, development, or demonstration activity to be conducted by the partnership.

(B) REVIEW.—After reviewing the scientific, technical, and commercial merit of a proposals submitted under subparagraph (A), the Secretary shall approve or disapprove the proposal.

(C) COMPETITIVE AWARDS.—The provision of funding under this subsection shall be on a competitive basis.

(4) COST-SHARING REQUIREMENT.—In carrying out this section, the Secretary shall require cost sharing in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(d) GRANTS.—The Secretary may award competitive grants for innovative technology research, development and demonstrations to universities, individual inventors, and small companies, based on energy savings potential, commercial viability, and technical merit.

(e) INSTITUTION OF HIGHER EDUCATION-BASED INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—The Secretary shall provide funding to institution of higher education-based industrial research and assessment centers, whose purpose shall be—

(1) to identify opportunities for optimizing energy efficiency and environmental performance;

(2) to promote applications of emerging concepts and technologies in small and medium-sized manufacturers;

(3) to promote research and development for the use of alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

(4) to coordinate with appropriate Federal and State research offices, and provide a clearinghouse for industrial process and energy efficiency technical assistance resources; and

(5) to coordinate with State-accredited technical training centers and community colleges, while ensuring appropriate services to all regions of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $184,000,000 for fiscal year 2008;

(B) $190,000,000 for fiscal year 2009;

(C) $196,000,000 for fiscal year 2010;

(D) $202,000,000 for fiscal year 2011;

(E) $208,000,000 for fiscal year 2012; and

(F) such sums as are necessary for fiscal year 2013 and each fiscal year thereafter.

(2) PARTNERSHIP ACTIVITIES.—Of the amounts made available under paragraph (1), not less than 50 percent shall be used to pay the Federal share of partnership activities under subsection (c).

(3) COORDINATION AND NONDUPLICATION.—The Secretary shall coordinate efforts under

this section with other programs of the Department and other Federal agencies to avoid duplication of effort.

SEC. 453. ENERGY EFFICIENCY FOR DATA CENTER BUILDINGS.

(a) DEFINITIONS.—In this section:

(1) DATA CENTER.—The term ''data center'' means any facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be—

(A) a free-standing structure; or

(B) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

(2) DATA CENTER OPERATOR.—The term ''data center operator'' means any person or government entity that builds or operates a data center or purchases data center services, equipment, and facilities.

(b) VOLUNTARY NATIONAL INFORMATION PROGRAM.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall, after consulting with information technology industry and other interested parties, initiate a voluntary national information program for those types of data centers and data center equipment and facilities that are widely used and for which there is a potential for significant data center energy savings as a result of the program.

(2) REQUIREMENTS.—The program described in paragraph (1) shall—

(A) address data center efficiency holistically, reflecting the total energy consumption of data centers as whole systems, including both equipment and facilities;

(B) consider prior work and studies undertaken in this area, including by the Environmental Protection Agency and the Department of Energy;

(C) consistent with the objectives described in paragraph (1), determine the type of data center and data center equipment and facilities to be covered under the program;

(D) produce specifications, measurements, best practices, and benchmarks that will enable data center operators to make more informed decisions about the energy efficiency and costs of data centers, and that take into account—

(i) the performance and use of servers, data storage devices, and other information technology equipment;

(ii) the efficiency of heating, ventilation, and air conditioning, cooling, and power conditioning systems, provided that no modification shall be required of a standard then in effect under the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) for any covered heating, ventilation, air-conditioning, cooling or power-conditioning product;

(iii) energy savings from the adoption of software and data management techniques; and

(iv) other factors determined by the organization described in subsection (c);

(E) allow for creation of separate specifications, measurements, and benchmarks based on data center size and function, as well as other appropriate characteristics;

(F) advance the design and implementation of efficiency technologies to the maximum extent economically practical;

(G) provide to data center operators in the private sector and the Federal Government information about best practices and purchasing decisions that reduce the energy consumption of data centers; and

(H) publish the information described in subparagraph (G), which may be disseminated through catalogs, trade publications, the Internet, or other mechanisms, that will allow data center operators to assess the energy consumption and potential cost savings of alternative data centers and data center equipment and facilities.

(3) PROCEDURES.—The program described in paragraph (1) shall be developed in consultation with and coordinated by the organization described in subsection (c) according to commonly accepted procedures for the development of specifications, measurements, and benchmarks.

(c) DATA CENTER EFFICIENCY ORGANIZATION.—

(1) IN GENERAL.—After the establishment of the program described in subsection (b), the Secretary and the Administrator shall jointly designate an information technology industry organization to consult with and to coordinate the program.

(2) REQUIREMENTS.—The organization designated under paragraph (1), whether preexisting or formed specifically for the purposes of subsection (b), shall—

(A) consist of interested parties that have expertise in energy efficiency and in the development, operation, and functionality of computer data centers, information technology equipment, and software, as well as representatives of hardware manufacturers, data center operators, and facility managers;

(B) obtain and address input from Department of Energy National Laboratories or any college, university, research institution, industry association, company, or public interest group with applicable expertise in any of the areas listed in paragraph (1);

(C) follow commonly accepted procedures for the development of specifications and accredited standards development processes;

(D) have a mission to develop and promote energy efficiency for data centers and information technology; and

(E) have the primary responsibility to consult in the development and publishing of the information, measurements, and benchmarks described in subsection (b) and transmission of the information to the Secretary and the Administrator for consideration under subsection (d).

(d) MEASUREMENTS AND SPECIFICATIONS.—

(1) IN GENERAL.—The Secretary and the Administrator shall consider the specifications, measurements, and benchmarks described in subsection (b) for use by the Federal Energy Management Program, the Energy Star Program, and other efficiency programs of the Department of Energy and Environmental Protection Agency, respectively.

(2) REJECTIONS.—If the Secretary or the Administrator rejects 1 or more specifications, measurements, or benchmarks described in subsection (b), the rejection shall be made consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; Public Law 104–113).

(3) DETERMINATION OF IMPRACTICABILITY.—A determination that a specification, measurement, or benchmark described in subsection (b) is impractical may include consideration of the maximum efficiency that is technologically feasible and economically justified.

(e) MONITORING.—The Secretary and the Administrator shall—

(1) monitor and evaluate the efforts to develop the program described in subsection (b); and

(2) not later than 3 years after the date of enactment of this Act, make a determination as to whether the program is consistent with the objectives of subsection (b).

(f) ALTERNATIVE SYSTEM.—If the Secretary and the Administrator make a determination under subsection (e) that a voluntary national information program for data centers consistent with the objectives of subsection (b) has not been developed, the Secretary and the Administrator shall, after consultation with the National Institute of Standards and Technology and not later than 2 years after the determination, develop and implement the program under subsection (b).

(g) PROTECTION OF PROPRIETARY INFORMATION.—The Secretary, the Administrator, or the data center efficiency organization shall not disclose any proprietary information or trade secrets provided by any individual or company for the purposes of carrying out this section or the program established under this section.

Subtitle E—Healthy High-Performance Schools

SEC. 461. HEALTHY HIGH-PERFORMANCE SCHOOLS.

(a) AMENDMENT.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following new title:

''TITLE V—HEALTHY HIGH-PERFORMANCE SCHOOLS

''SEC. 501. GRANTS FOR HEALTHY SCHOOL ENVIRONMENTS.

''(a) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, may provide grants to States for use in—

''(1) providing technical assistance for programs of the Environmental Protection Agency (including the Tools for Schools Program and the Healthy School Environmental Assessment Tool) to schools for use in addressing environmental issues; and

''(2) development and implementation of State school environmental health programs that include—

''(A) standards for school building design, construction, and renovation; and

''(B) identification of ongoing school building environmental problems, including contaminants, hazardous substances, and pollutant emissions, in the State and recommended solutions to address those problems, including assessment of information on the exposure of children to environmental hazards in school facilities.

''(b) SUNSET.—The authority of the Administrator to carry out this section shall expire 5 years after the date of enactment of this section.

''SEC. 502. MODEL GUIDELINES FOR SITING OF SCHOOL FACILITIES.

''Not later than 18 months after the date of enactment of this section, the Administrator, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall issue voluntary school site selection guidelines that account for—

''(1) the special vulnerability of children to hazardous substances or pollution exposures in any case in which the potential for contamination at a potential school site exists;

''(2) modes of transportation available to students and staff;

''(3) the efficient use of energy; and

''(4) the potential use of a school at the site as an emergency shelter.

''SEC. 503. PUBLIC OUTREACH.

''(a) REPORTS.—The Administrator shall publish and submit to Congress an annual report on all activities carried out under this title, until the expiration of authority described in section 501(b).

''(b) PUBLIC OUTREACH.—The Federal Director appointed under section 436(a) of the Energy Independence and Security Act of 2007 (in this title referred to as the 'Federal Director') shall ensure, to the maximum extent practicable, that the public clearinghouse established under section 423(1) of the Energy Independence and Security Act of 2007 receives and makes available information on

the exposure of children to environmental hazards in school facilities, as provided by the Administrator.

''SEC. 504. ENVIRONMENTAL HEALTH PROGRAM.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Education, the Secretary of Health and Human Services, and other relevant agencies, shall issue voluntary guidelines for use by the State in developing and implementing an environmental health program for schools that—

''(1) takes into account the status and findings of Federal initiatives established under this title or subtitle C of title IV of the Energy Independence and Security Act of 2007 and other relevant Federal law with respect to school facilities, including relevant updates on trends in the field, such as the impact of school facility environments on student and staff—

''(A) health, safety, and productivity; and

''(B) disabilities or special needs;

''(2) takes into account studies using relevant tools identified or developed in accordance with section 492 of the Energy Independence and Security Act of 2007;

''(3) takes into account, with respect to school facilities, each of—

''(A) environmental problems, contaminants, hazardous substances, and pollutant emissions, including—

''(i) lead from drinking water;

''(ii) lead from materials and products;

''(iii) asbestos;

''(iv) radon;

''(v) the presence of elemental mercury releases from products and containers;

''(vi) pollutant emissions from materials and products; and

''(vii) any other environmental problem, contaminant, hazardous substance, or pollutant emission that present or may present a risk to the health of occupants of the school facilities or environment;

''(B) natural day lighting;

''(C) ventilation choices and technologies;

''(D) heating and cooling choices and technologies;

''(E) moisture control and mold;

''(F) maintenance, cleaning, and pest control activities;

''(G) acoustics; and

''(H) other issues relating to the health, comfort, productivity, and performance of occupants of the school facilities;

''(4) provides technical assistance on siting, design, management, and operation of school facilities, including facilities used by students with disabilities or special needs;

''(5) collaborates with federally funded pediatric environmental health centers to assist in on-site school environmental investigations;

''(6) assists States and the public in better understanding and improving the environmental health of children; and

''(7) takes into account the special vulnerability of children in low-income and minority communities to exposures from contaminants, hazardous substances, and pollutant emissions.

''(b) PUBLIC OUTREACH.—The Federal Director and Commercial Director shall ensure, to the maximum extent practicable, that the public clearinghouse established under section 423 of the Energy Independence and Security Act of 2007 receives and makes available—

''(1) information from the Administrator that is contained in the report described in section 503(a); and

''(2) information on the exposure of children to environmental hazards in school facilities, as provided by the Administrator.

''SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $1,000,000 for fiscal year 2009, and $1,500,000 for each of fiscal years 2010 through 2013, to remain available until expended.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''TITLE V—HEALTHY HIGH-PERFORMANCE SCHOOLS

''Sec. 501. Grants for healthy school environments.
''Sec. 502. Model guidelines for siting of school facilities.
''Sec. 503. Public outreach.
''Sec. 504. Environmental health program.
''Sec. 505. Authorization of appropriations.''.

SEC. 462. STUDY ON INDOOR ENVIRONMENTAL QUALITY IN SCHOOLS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall enter into an arrangement with the Secretary of Education and the Secretary of Energy to conduct a detailed study of how sustainable building features such as energy efficiency affect multiple perceived indoor environmental quality stressors on students in K–12 schools.

(b) CONTENTS.—The study shall—

(1) investigate the combined effect building stressors such as heating, cooling, humidity, lighting, and acoustics have on building occupants' health, productivity, and overall well-being;

(2) identify how sustainable building features, such as energy efficiency, are influencing these human outcomes singly and in concert; and

(3) ensure that the impacts of the indoor environmental quality are evaluated as a whole.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section $200,000 for each of the fiscal years 2008 through 2012.

Subtitle F—Institutional Entities

SEC. 471. ENERGY SUSTAINABILITY AND EFFICIENCY GRANTS AND LOANS FOR INSTITUTIONS.

Part G of title III of the Energy Policy and Conservation Act is amended by inserting after section 399 (42 U.S.C. 6371h) the following:

''SEC. 399A. ENERGY SUSTAINABILITY AND EFFICIENCY GRANTS AND LOANS FOR INSTITUTIONS.

''(a) DEFINITIONS.—In this section:

''(1) COMBINED HEAT AND POWER.—The term 'combined heat and power' means the generation of electric energy and heat in a single, integrated system, with an overall thermal efficiency of 60 percent or greater on a higher-heating-value basis.

''(2) DISTRICT ENERGY SYSTEMS.—The term 'district energy systems' means systems providing thermal energy from a renewable energy source, thermal energy source, or highly efficient technology to more than 1 building or fixed energy-consuming use from 1 or more thermal-energy production facilities through pipes or other means to provide space heating, space conditioning, hot water, steam, compression, process energy, or other end uses for that energy.

''(3) ENERGY SUSTAINABILITY.—The term 'energy sustainability' includes using a renewable energy source, thermal energy source, or a highly efficient technology for transportation, electricity generation, heating, cooling, lighting, or other energy services in fixed installations.

''(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

''(5) INSTITUTIONAL ENTITY.—The term 'institutional entity' means an institution of higher education, a public school district, a local government, a municipal utility, or a designee of 1 of those entities.

''(6) RENEWABLE ENERGY SOURCE.—The term 'renewable energy source' has the meaning given the term in section 609 of the Public Utility Regulatory Policies Act of 1978 (7 U.S.C. 918c).

''(7) SUSTAINABLE ENERGY INFRASTRUCTURE.—The term 'sustainable energy infrastructure' means—

''(A) facilities for production of energy from renewable energy sources, thermal energy sources, or highly efficient technologies, including combined heat and power or other waste heat use; and

''(B) district energy systems.

''(8) THERMAL ENERGY SOURCE.—The term 'thermal energy source' means—

''(A) a natural source of cooling or heating from lake or ocean water; and

''(B) recovery of useful energy that would otherwise be wasted from ongoing energy uses.

''(b) TECHNICAL ASSISTANCE GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary shall implement a program of information dissemination and technical assistance to institutional entities to assist the institutional entities in identifying, evaluating, designing, and implementing sustainable energy infrastructure projects in energy sustainability.

''(2) ASSISTANCE.—The Secretary shall support institutional entities in—

''(A) identification of opportunities for sustainable energy infrastructure;

''(B) understanding the technical and economic characteristics of sustainable energy infrastructure;

''(C) utility interconnection and negotiation of power and fuel contracts;

''(D) understanding financing alternatives;

''(E) permitting and siting issues;

''(F) obtaining case studies of similar and successful sustainable energy infrastructure systems; and

''(G) reviewing and obtaining computer software for assessment, design, and operation and maintenance of sustainable energy infrastructure systems.

''(3) ELIGIBLE COSTS FOR TECHNICAL ASSISTANCE GRANTS.—On receipt of an application of an institutional entity, the Secretary may make grants to the institutional entity to fund a portion of the cost of—

''(A) feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

''(B) analysis and implementation of strategies to overcome barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

''(C) detailed engineering of sustainable energy infrastructure.

''(c) GRANTS FOR ENERGY EFFICIENCY IMPROVEMENT AND ENERGY SUSTAINABILITY.—

''(1) GRANTS.—

''(A) IN GENERAL.—The Secretary shall award grants to institutional entities to carry out projects to improve energy efficiency on the grounds and facilities of the institutional entity.

''(B) REQUIREMENT.—To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 1 grant each year to an institution of higher education in each State.

''(C) MINIMUM FUNDING.—Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

''(2) CRITERIA.—Evaluation of projects for grant funding shall be based on criteria established by the Secretary, including criteria relating to—

''(A) improvement in energy efficiency;

''(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

''(C) increased use of renewable energy sources or thermal energy sources;

''(D) reduction in consumption of fossil fuels;

''(E) active student participation; and

''(F) need for funding assistance.

''(3) CONDITION.—As a condition of receiving a grant under this subsection, an institutional entity shall agree—

''(A) to implement a public awareness campaign concerning the project in the community in which the institutional entity is located; and

''(B) to submit to the Secretary, and make available to the public, reports on any efficiency improvements, energy cost savings, and environmental benefits achieved as part of a project carried out under paragraph (1), including quantification of the results relative to the criteria described under paragraph (2).

''(d) GRANTS FOR INNOVATION IN ENERGY SUSTAINABILITY.—

''(1) GRANTS.—

''(A) IN GENERAL.—The Secretary shall award grants to institutional entities to engage in innovative energy sustainability projects.

''(B) REQUIREMENT.—To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 2 grants each year to institutions of higher education in each State.

''(C) MINIMUM FUNDING.—Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

''(2) INNOVATION PROJECTS.—An innovation project carried out with a grant under this subsection shall—

''(A) involve—

''(i) an innovative technology that is not yet commercially available; or

''(ii) available technology in an innovative application that maximizes energy efficiency and sustainability;

''(B) have the greatest potential for testing or demonstrating new technologies or processes; and

''(C) to the extent undertaken by an institution of higher education, ensure active student participation in the project, including the planning, implementation, evaluation, and other phases of projects.

''(3) CONDITION.—As a condition of receiving a grant under this subsection, an institutional entity shall agree to submit to the Secretary, and make available to the public, reports that describe the results of the projects carried out using grant funds.

''(e) ALLOCATION TO INSTITUTIONS OF HIGHER EDUCATION WITH SMALL ENDOWMENTS.—

''(1) IN GENERAL.—Of the total amount of grants provided to institutions of higher education for a fiscal year under this section, the Secretary shall provide not less than 50 percent of the amount to institutions of higher education that have an endowment of not more than $100,000,000.

''(2) REQUIREMENT.—To the extent that applications have been submitted, at least 50 percent of the amount described in paragraph (1) shall be provided to institutions of higher education that have an endowment of not more than $50,000,000.

''(f) GRANT AMOUNTS.—

''(1) IN GENERAL.—If the Secretary determines that cost sharing is appropriate, the amounts of grants provided under this section shall be limited as provided in this subsection.

''(2) TECHNICAL ASSISTANCE GRANTS.—In the case of grants for technical assistance under subsection (b), grant funds shall be available for not more than—

''(A) an amount equal to the lesser of—

''(i) $50,000; or

''(ii) 75 percent of the cost of feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

''(B) an amount equal to the lesser of—

''(i) $90,000; or

''(ii) 60 percent of the cost of guidance on overcoming barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

''(C) an amount equal to the lesser of—

''(i) $250,000; or

''(ii) 40 percent of the cost of detailed engineering and design of sustainable energy infrastructure.

''(3) GRANTS FOR EFFICIENCY IMPROVEMENT AND ENERGY SUSTAINABILITY.—In the case of grants for efficiency improvement and energy sustainability under subsection (c), grant funds shall be available for not more than an amount equal to the lesser of—

''(A) $1,000,000; or

''(B) 60 percent of the total cost.

''(4) GRANTS FOR INNOVATION IN ENERGY SUSTAINABILITY.—In the case of grants for innovation in energy sustainability under subsection (d), grant funds shall be available for not more than an amount equal to the lesser of—

''(A) $500,000; or

''(B) 75 percent of the total cost.

''(g) LOANS FOR ENERGY EFFICIENCY IMPROVEMENT AND ENERGY SUSTAINABILITY.—

''(1) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary shall provide loans to institutional entities for the purpose of implementing energy efficiency improvements and sustainable energy infrastructure.

''(2) TERMS AND CONDITIONS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, loans made under this subsection shall be on such terms and conditions as the Secretary may prescribe.

''(B) MATURITY.—The final maturity of loans made within a period shall be the lesser of, as determined by the Secretary—

''(i) 20 years; or

''(ii) 90 percent of the useful life of the principal physical asset to be financed by the loan.

''(C) DEFAULT.—No loan made under this subsection may be subordinated to another debt contracted by the institutional entity or to any other claims against the institutional entity in the case of default.

''(D) BENCHMARK INTEREST RATE.—

''(i) IN GENERAL.—Loans under this subsection shall be at an interest rate that is set by reference to a benchmark interest rate (yield) on marketable Treasury securities with a similar maturity to the direct loans being made.

''(ii) MINIMUM.—The minimum interest rate of loans under this subsection shall be at the interest rate of the benchmark financial instrument.

''(iii) NEW LOANS.—The minimum interest rate of new loans shall be adjusted each quarter to take account of changes in the interest rate of the benchmark financial instrument.

''(E) CREDIT RISK.—The Secretary shall—

''(i) prescribe explicit standards for use in periodically assessing the credit risk of making direct loans under this subsection; and

''(ii) find that there is a reasonable assurance of repayment before making a loan.

''(F) ADVANCE BUDGET AUTHORITY REQUIRED.—New direct loans may not be obligated under this subsection except to the extent that appropriations of budget authority to cover the costs of the new direct loans are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

''(3) CRITERIA.—Evaluation of projects for potential loan funding shall be based on criteria established by the Secretary, including criteria relating to—

''(A) improvement in energy efficiency;

''(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

''(C) increased use of renewable electric energy sources or renewable thermal energy sources;

''(D) reduction in consumption of fossil fuels; and

''(E) need for funding assistance, including consideration of the size of endowment or other financial resources available to the institutional entity.

''(4) LABOR STANDARDS.—

''(A) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code. The Secretary shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

''(B) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (1), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 Fed. Reg. 3176; 64 Stat. 1267) and section 3145 of title 40, United States Code.

''(h) PROGRAM PROCEDURES.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish procedures for the solicitation and evaluation of potential projects for grant and loan funding and administration of the grant and loan programs.

''(i) AUTHORIZATION.—

''(1) GRANTS.—There is authorized to be appropriated for the cost of grants authorized in subsections (b), (c), and (d) $250,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

''(2) LOANS.—There is authorized to be appropriated for the initial cost of direct loans authorized in subsection (g) $500,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.''.

Subtitle G—Public and Assisted Housing

SEC. 481. APPLICATION OF INTERNATIONAL ENERGY CONSERVATION CODE TO PUBLIC AND ASSISTED HOUSING.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(C), by striking '', where such standards are determined to be cost effective by the Secretary of Housing and Urban Development''; and

(B) in the first sentence of paragraph (2)—

(i) by striking ''Council of American Building Officials Model Energy Code, 1992'' and inserting ''2006 International Energy Conservation Code''; and

(ii) by striking '', and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the

United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'';

(2) in subsection (b)—

(A) in the heading, by striking ''**MODEL ENERGY CODE**.—'' and inserting ''**INTERNATIONAL ENERGY CONSERVATION CODE**.—'';

(B) by inserting ''and rehabilitation'' after ''all new construction''; and

(C) by striking '', and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'';

(3) in subsection (c)—

(A) in the heading, by striking ''**MODEL ENERGY CODE AND**''; and

(B) by striking '', or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'';

(4) by adding at the end the following:

''(d) FAILURE TO AMEND THE STANDARDS.—If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1–2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

''(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

''(2) the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised code or standard would improve energy efficiency.'';

(5) by striking ''CABO Model Energy Code, 1992'' each place it appears and inserting ''the 2006 IECC''; and

(6) by striking ''1989'' each place it appears and inserting ''2004''.

Subtitle H—General Provisions

SEC. 491. DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Federal Director and the Commercial Director shall establish guidelines to implement a demonstration project to contribute to the research goals of the Office of Commercial High-Performance Green Buildings and the Office of Federal High-Performance Green Buildings.

(b) PROJECTS.—In accordance with guidelines established by the Federal Director and the Commercial Director under subsection (a) and the duties of the Federal Director and the Commercial Director described in this title, the Federal Director or the Commercial Director shall carry out—

(1) for each of fiscal years 2009 through 2014, 1 demonstration project per year of green features in a Federal building selected by the Federal Director in accordance with relevant agencies and described in subsection (c)(1), that—

(A) provides for instrumentation, monitoring, and data collection related to the green features, for study of the impact of the features on overall enrgy use and operational costs, and for the evaluation of the information obtained through the conduct of projects and activities under this title; and

(B) achieves the highest rating offered by the high performance green building system identified pursuant to section 436(h);

(2) no fewer than 4 demonstration projects at 4 universities, that, as competitively selected by the Commercial Director in accordance with subsection (c)(2), have—

(A) appropriate research resources and relevant projects to meet the goals of the demonstration project established by the Office of Commercial High-Performance Green Buildings; and

(B) the ability—

(i) to serve as a model for high-performance green building initiatives, including research and education by achieving the highest rating offered by the high performance green building system identified pursuant to section 436(h);

(ii) to identify the most effective ways o use high-performance green building and landscape technologies to engage and educate undergraduate and graduate students;

(iii) to effectively implement a high-performance green building education program for students and occupants;

(iv) to demonstrate the effectiveness of various high-performance technologies, including their impacts on energy use and operational costs, in each of the 4 climatic regions of the United States described in subsection (c)(2)(B); and

(v) to explore quantifiable and nonquantifiable beneficial impacts on public health and employee and student performance;

(3) demonstration projects to evaluate replicable approaches of achieving high performance in actual building operation in various types of commercial buildings in various climates; and

(4) deployment activities to disseminate information on and encourage widespread adoption of technologies, practices, and policies to achieve zero-net-energy commercial buildings or low energy use and effective monitoring of energy use in commercial buildings.

(c) CRITERIA.—

(1) FEDERAL FACILITIES.—With respect to the existing or proposed Federal facility at which a demonstration project under this section is conducted, the Federal facility shall—

(A) be an appropriate model for a project relating to—

(i) the effectiveness of high-performance technologies;

(ii) analysis of materials, components, systems, and emergency operations in the building, and the impact of those materials, components, and systems, including the impact on the health of building occupants;

(iii) life-cycle costing and life-cycle assessment of building materials and systems; and

(iv) location and design that promote access to the Federal facility through walking, biking, and mass transit; and

(B) possess sufficient technological and organizational adaptability.

(2) UNIVERSITIES.—With respect to the 4 universities at which a demonstration project under this section is conducted—

(A) the universities should be selected, after careful review of all applications received containing the required information, as determined by the Commercial Director, based on—

(i) successful and established public-private research and development partnerships;

(ii) demonstrated capabilities to construct or renovate buildings that meet high indoor environmental quality standards;

(iii) organizational flexibility;

(iv) technological adaptability;

(v) the demonstrated capacity of at least 1 university to replicate lessons learned among nearby or sister universities, preferably by participation in groups or consortia that promote sustainability;

(vi) the demonstrated capacity of at least 1 university to have officially-adopted, institution-wide ''high-performance green building'' guidelines for all campus building projects; and

(vii) the demonstrated capacity of at least 1 university to have been recognized by similar institutions as a national leader in sustainability education and curriculum for students of the university; and

(B) each university shall be located in a different climatic region of the United States, each of which regions shall have, as determined by the Office of Commercial High-Performance Green Buildings—

(i) a hot, dry climate;

(ii) a hot, humid climate;

(iii) a cold climate; or

(iv) a temperate climate (including a climate with cold winters and humid summers).

(d) APPLICATIONS.—To receive a grant under subsection (b), an eligible applicant shall submit to the Federal Director or the Commercial Director an application at such time, in such manner, and containing such information as the Director may require, including a written assurance that all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code. The Secretary of Labor shall, with respect to the labor standards described in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter through September 30, 2014—

(1) the Federal Director and the Commercial Director shall submit to the Secretary a report that describes the status of the demonstration projects; and

(2) each University at which a demonstration project under this section is conducted shall submit to the Secretary a report that describes the status of the demonstration projects under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the demonstration project described in section (b)(1) $10,000,000 for the period of fiscal years 2008 through 2012, and to carry out the demonstration project described in section (b)(2), $10,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended.

SEC. 492. RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT.—The Federal Director and the Commercial Director, jointly and in coordination with the Advisory Committee, shall—

(1)(A) survey existing research and studies relating to high-performance green buildings; and

(B) coordinate activities of common interest;

(2) develop and recommend a high-performance green building research plan that—

(A) identifies information and research needs, including the relationships between human health, occupant productivity, safety, security, and accessibility and each of—

(i) emissions from materials and products in the building;

(ii) natural day lighting;

(iii) ventilation choices and technologies;
(iv) heating, cooling, and system control choices and technologies;
(v) moisture control and mold;
(vi) maintenance, cleaning, and pest control activities;
(vii) acoustics;
(viii) access to public transportation; and
(ix) other issues relating to the health, comfort, productivity, and performance of occupants of the building;
(B) promotes the development and dissemination of high-performance green building measurement tools that, at a minimum, may be used—
(i) to monitor and assess the life-cycle performance of facilities (including demonstration projects) built as high-performance green buildings; and
(ii) to perform life-cycle assessments; and
(C) identifies and tests new and emerging technologies for high performance green buildings;
(3) assist the budget and life-cycle costing functions of the Directors' Offices under section 436(d);
(4) study and identify potential benefits of green buildings relating to security, natural disaster, and emergency needs of the Federal Government; and
(5) support other research initiatives determined by the Directors' Offices.

(b) INDOOR AIR QUALITY.—The Federal Director, in consultation with the Administrator of the Environmental Protection Agency and the Advisory Committee, shall develop and carry out a comprehensive indoor air quality program for all Federal facilities to ensure the safety of Federal workers and facility occupants—
(1) during new construction and renovation of facilities; and
(2) in existing facilities.

SEC. 493. ENVIRONMENTAL PROTECTION AGENCY DEMONSTRATION GRANT PROGRAM FOR LOCAL GOVERNMENTS.

Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

''SEC. 329. DEMONSTRATION GRANT PROGRAM FOR LOCAL GOVERNMENTS.

''(a) GRANT PROGRAM.—
''(1) IN GENERAL.—The Administrator shall establish a demonstration program under which the Administrator shall provide competitive grants to assist local governments (such as municipalities and counties), with respect to local government buildings—
''(A) to deploy cost-effective technologies and practices; and
''(B) to achieve operational cost savings, through the application of cost-effective technologies and practices, as verified by the Administrator.
''(2) COST SHARING.—
''(A) IN GENERAL.—The Federal share of the cost of an activity carried out using a grant provided under this section shall be 40 percent.
''(B) WAIVER OF NON-FEDERAL SHARE.—The Administrator may waive up to 100 percent of the local share of the cost of any grant under this section should the Administrator determine that the community is economically distressed, pursuant to objective economic criteria established by the Administrator in published guidelines.
''(3) MAXIMUM AMOUNT.—The amount of a grant provided under this subsection shall not exceed $1,000,000.
''(b) GUIDELINES.—
''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue guidelines to implement the grant program established under subsection (a).
''(2) REQUIREMENTS.—The guidelines under paragraph (1) shall establish—
''(A) standards for monitoring and verification of operational cost savings through the application of cost-effective technologies and practices reported by grantees under this section;
''(B) standards for grantees to implement training programs, and to provide technical assistance and education, relating to the retrofit of buildings using cost-effective technologies and practices; and
''(C) a requirement that each local government that receives a grant under this section shall achieve facility-wide cost savings, through renovation of existing local government buildings using cost-effective technologies and practices, of at least 40 percent as compared to the baseline operational costs of the buildings before the renovation (as calculated assuming a 3-year, weather-normalized average).
''(c) COMPLIANCE WITH STATE AND LOCAL LAW.—Nothing in this section or any program carried out using a grant provided under this section supersedes or otherwise affects any State or local law, to the extent that the State or local law contains a requirement that is more stringent than the relevant requirement of this section.
''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2007 through 2012.
''(e) REPORTS.—
''(1) IN GENERAL.—The Administrator shall provide annual reports to Congress on cost savings achieved and actions taken and recommendations made under this section, and any recommendations for further action.
''(2) FINAL REPORT.—The Administrator shall issue a final report at the conclusion of the program, including findings, a summary of total cost savings achieved, and recommendations for further action.
''(f) TERMINATION.—The program under this section shall terminate on September 30, 2012.
''(g) DEFINITIONS.—In this section, the terms 'cost effective technologies and practices' and 'operating cost savings' shall have the meanings defined in section 401 of the Energy Independence and Security Act of 2007.''.

SEC. 494. GREEN BUILDING ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Federal Director, in coordination with the Commercial Director, shall establish an advisory committee, to be known as the ''Green Building Advisory Committee''.

(b) MEMBERSHIP.—
(1) IN GENERAL.—The Committee shall be composed of representatives of, at a minimum—
(A) each agency referred to in section 421(e); and
(B) other relevant agencies and entities, as determined by the Federal Director, including at least 1 representative of each of—
(i) State and local governmental green building programs;
(ii) independent green building associations or councils;
(iii) building experts, including architects, material suppliers, and construction contractors;
(iv) security advisors focusing on national security needs, natural disasters, and other dire emergency situations;
(v) public transportation industry experts; and
(vi) environmental health experts, including those with experience in children's health.
(2) NON-FEDERAL MEMBERS.—The total number of non-Federal members on the Committee at any time shall not exceed 15.

(c) MEETINGS.—The Federal Director shall establish a regular schedule of meetings for the Committee.

(d) DUTIES.—The Committee shall provide advice and expertise for use by the Federal Director in carrying out the duties under this subtitle, including such recommendations relating to Federal activities carried out under sections 434 through 436 as are agreed to by a majority of the members of the Committee.

(e) FACA EXEMPTION.—The Committee shall not be subject to section 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 495. ADVISORY COMMITTEE ON ENERGY EFFICIENCY FINANCE.

(a) ESTABLISHMENT.—The Secretary, acting through the Assistant Secretary of Energy for Energy Efficiency and Renewable Energy, shall establish an Advisory Committee on Energy Efficiency Finance to provide advice and recommendations to the Department on energy efficiency finance and investment issues, options, ideas, and trends, and to assist the energy community in identifying practical ways of lowering costs and increasing investments in energy efficiency technologies.

(b) MEMBERSHIP.—The advisory committee established under this section shall have a balanced membership that shall include members with expertise in—
(1) availability of seed capital;
(2) availability of venture capital;
(3) availability of other sources of private equity;
(4) investment banking with respect to corporate finance;
(5) investment banking with respect to mergers and acquisitions;
(6) equity capital markets;
(7) debt capital markets;
(8) research analysis;
(9) sales and trading;
(10) commercial lending; and
(11) residential lending.

(c) TERMINATION.—The Advisory Committee on Energy Efficiency Finance shall terminate on the date that is 10 years after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to the Secretary for carrying out this section.

TITLE V—ENERGY SAVINGS IN GOVERNMENT AND PUBLIC INSTITUTIONS

Subtitle A—United States Capitol Complex

SEC. 501. CAPITOL COMPLEX PHOTOVOLTAIC ROOF FEASIBILITY STUDIES.

(a) STUDIES.—The Architect of the Capitol may conduct feasibility studies regarding construction of photovoltaic roofs for the Rayburn House Office Building and the Hart Senate Office Building.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Architect of the Capitol shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Rules and Administration of the Senate a report on the results of the feasibility studies and recommendations regarding construction of photovoltaic roofs for the buildings referred to in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.

SEC. 502. CAPITOL COMPLEX E–85 REFUELING STATION.

(a) CONSTRUCTION.—The Architect of the Capitol may construct a fuel tank and pumping system for E–85 fuel at or within close proximity to the Capitol Grounds Fuel Station.

(b) USE.—The E–85 fuel tank and pumping system shall be available for use by all legislative branch vehicles capable of operating

with E–85 fuel, subject to such other legislative branch agencies reimbursing the Architect of the Capitol for the costs of E–85 fuel used by such other legislative branch vehicles.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $640,000 for fiscal year 2008.

SEC. 503. ENERGY AND ENVIRONMENTAL MEASURES IN CAPITOL COMPLEX MASTER PLAN.

(a) IN GENERAL.—To the maximum extent practicable, the Architect of the Capitol shall include energy efficiency and conservation measures, greenhouse gas emission reduction measures, and other appropriate environmental measures in the Capitol Complex Master Plan.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Architect of the Capitol shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Rules and Administration of the Senate a report on the energy efficiency and conservation measures, greenhouse gas emission reduction measures, and other appropriate environmental measures included in the Capitol Complex Master Plan pursuant to subsection (a).

SEC. 504. PROMOTING MAXIMUM EFFICIENCY IN OPERATION OF CAPITOL POWER PLANT.

(a) STEAM BOILERS.—

(1) IN GENERAL.—The Architect of the Capitol shall take such steps as may be necessary to operate the steam boilers at the Capitol Power Plant in the most energy efficient manner possible to minimize carbon emissions and operating costs, including adjusting steam pressures and adjusting the operation of the boilers to take into account variations in demand, including seasonality, for the use of the system.

(2) EFFECTIVE DATE.—The Architect shall implement the steps required under paragraph (1) not later than 30 days after the date of the enactment of this Act.

(b) CHILLER PLANT.—

(1) IN GENERAL.—The Architect of the Capitol shall take such steps as may be necessary to operate the chiller plant at the Capitol Power Plant in the most energy efficient manner possible to minimize carbon emissions and operating costs, including adjusting water temperatures and adjusting the operation of the chillers to take into account variations in demand, including seasonality, for the use of the system.

(2) EFFECTIVE DATE.—The Architect shall implement the steps required under paragraph (1) not later than 30 days after the date of the enactment of this Act.

(c) METERS.—Not later than 90 days after the date of the enactment of this Act, the Architect of the Capitol shall evaluate the accuracy of the meters in use at the Capitol Power Plant and correct them as necessary.

(d) REPORT ON IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Architect of the Capitol shall complete the implementation of the requirements of this section and submit a report describing the actions taken and the energy efficiencies achieved to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on House Administration of the House of Representatives, and the Committee on Rules and Administration of the Senate.

SEC. 505. CAPITOL POWER PLANT CARBON DIOXIDE EMISSIONS FEASIBILITY STUDY AND DEMONSTRATION PROJECTS.

The first section of the Act of March 4, 1911 (2 U.S.C. 2162; 36 Stat. 1414, chapter 285) is amended in the seventh undesignated paragraph (relating to the Capitol power plant) under the heading ''Public Buildings'', under the heading ''Under the Department of Interior''—

(1) by striking ''ninety thousand dollars:'' and inserting $90,000.''; and

(2) by striking ''Provided, That hereafter the'' and all that follows through the end of the proviso and inserting the following:

''(a) DESIGNATION.—The heating, lighting, and power plant constructed under the terms of the Act approved April 28, 1904 (33 Stat. 479, chapter 1762) shall be known as the 'Capitol Power Plant'.

''(b) DEFINITION.—In this section, the term 'carbon dioxide energy efficiency' means the quantity of electricity used to power equipment for carbon dioxide capture and storage or use.

''(c) FEASIBILITY STUDY.—The Architect of the Capitol shall conduct a feasibility study evaluating the available methods to capture, store, and use carbon dioxide emitted from the Capitol Power Plant as a result of burning fossil fuels. In carrying out the feasibility study, the Architect of the Capitol is encouraged to consult with individuals with expertise in carbon capture and storage or use, including experts with the Environmental Protection Agency, Department of Energy, academic institutions, non-profit organizations, and industry, as appropriate. The study shall consider—

''(1) the availability of technologies to capture and store or use Capitol Power Plant carbon dioxide emissions;

''(2) strategies to conserve energy and reduce carbon dioxide emissions at the Capitol Power Plant; and

''(3) other factors as determined by the Architect of the Capitol.

''(d) DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—If the feasibility study determines that a demonstration project to capture and store or use Capitol Power Plant carbon dioxide emissions is technologically feasible and economically justified (including direct and indirect economic and environmental benefits), the Architect of the Capitol may conduct one or more demonstration projects to capture and store or use carbon dioxide emitted from the Capitol Power Plant as a result of burning fossil fuels.

''(2) FACTORS FOR CONSIDERATION.—In carrying out such demonstration projects, the Architect of the Capitol shall consider—

''(A) the amount of Capitol Power Plant carbon dioxide emissions to be captured and stored or used;

''(B) whether the proposed project is able to reduce air pollutants other than carbon dioxide;

''(C) the carbon dioxide energy efficiency of the proposed project;

''(D) whether the proposed project is able to use carbon dioxide emissions;

''(E) whether the proposed project could be expanded to significantly increase the amount of Capitol Power Plant carbon dioxide emissions to be captured and stored or used;

''(F) the potential environmental, energy, and educational benefits of demonstrating the capture and storage or use of carbon dioxide at the U.S. Capitol; and

''(G) other factors as determined by the Architect of the Capitol.

''(3) TERMS AND CONDITIONS.—A demonstration project funded under this section shall be subject to such terms and conditions as the Architect of the Capitol may prescribe.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the feasibility study and demonstration project $3,000,000. Such sums shall remain available until expended.''.

Subtitle B—Energy Savings Performance Contracting

SEC. 511. AUTHORITY TO ENTER INTO CONTRACTS; REPORTS.

(a) IN GENERAL.—Section 801(a)(2)(D) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)) is amended—

(1) in clause (ii), by inserting ''and'' after the semicolon at the end;

(2) by striking clause (iii); and

(3) by redesignating clause (iv) as clause (iii).

(b) REPORTS.—Section 548(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)(2)) is amended by inserting ''and any termination penalty exposure'' after ''the energy and cost savings that have resulted from such contracts''.

(c) CONFORMING AMENDMENT.—Section 2913 of title 10, United States Code, is amended by striking subsection (e).

SEC. 512. FINANCING FLEXIBILITY.

Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) is amended by adding at the end the following:

''(E) FUNDING OPTIONS.—In carrying out a contract under this title, a Federal agency may use any combination of—

''(i) appropriated funds; and

''(ii) private financing under an energy savings performance contract.''.

SEC. 513. PROMOTING LONG-TERM ENERGY SAVINGS PERFORMANCE CONTRACTS AND VERIFYING SAVINGS.

Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) (as amended by section 512) is amended—

(1) in subparagraph (D), by inserting ''beginning on the date of the delivery order'' after ''25 years''; and

(2) by adding at the end the following:

''(F) PROMOTION OF CONTRACTS.—In carrying out this section, a Federal agency shall not—

''(i) establish a Federal agency policy that limits the maximum contract term under subparagraph (D) to a period shorter than 25 years; or

''(ii) limit the total amount of obligations under energy savings performance contracts or other private financing of energy savings measures.

''(G) MEASUREMENT AND VERIFICATION REQUIREMENTS FOR PRIVATE FINANCING.—

''(i) IN GENERAL.—In the case of energy savings performance contracts, the evaluations and savings measurement and verification required under paragraphs (2) and (4) of section 543(f) shall be used by a Federal agency to meet the requirements for the need for energy audits, calculation of energy savings, and any other evaluation of costs and savings needed to implement the guarantee of savings under this section.

''(ii) MODIFICATION OF EXISTING CONTRACTS.—Not later than 18 months after the date of enactment of this subparagraph, each Federal agency shall, to the maximum extent practicable, modify any indefinite delivery and indefinite quantity energy savings performance contracts, and other indefinite delivery and indefinite quantity contracts using private financing, to conform to the amendments made by subtitle B of title V of the Energy Independence and Security Act of 2007.''.

SEC. 514. PERMANENT REAUTHORIZATION.

Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended by striking subsection (c).

SEC. 515. DEFINITION OF ENERGY SAVINGS.

Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting appropriately;

(2) by striking ''means a reduction'' and inserting ''means—

''(A) a reduction'';

(3) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(B) the increased efficient use of an existing energy source by cogeneration or heat recovery;

''(C) if otherwise authorized by Federal or State law (including regulations), the sale or transfer of electrical or thermal energy generated on-site from renewable energy sources or cogeneration, but in excess of Federal needs, to utilities or non-Federal energy users; and

''(D) the increased efficient use of existing water sources in interior or exterior applications.''.

SEC. 516. RETENTION OF SAVINGS.

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended by striking paragraph (5).

SEC. 517. TRAINING FEDERAL CONTRACTING OFFICERS TO NEGOTIATE ENERGY EFFICIENCY CONTRACTS.

(a) PROGRAM.—The Secretary shall create and administer in the Federal Energy Management Program a training program to educate Federal contract negotiation and contract management personnel so that the contract officers are prepared to—

(1) negotiate energy savings performance contracts;

(2) conclude effective and timely contracts for energy efficiency services with all companies offering energy efficiency services; and

(3) review Federal contracts for all products and services for the potential energy efficiency opportunities and implications of the contracts.

(b) SCHEDULE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall plan, staff, announce, and begin training under the Federal Energy Management Program.

(c) PERSONNEL TO BE TRAINED.—Personnel appropriate to receive training under the Federal Energy Management Program shall be selected by and sent for the training from—

(1) the Department of Defense;

(2) the Department of Veterans Affairs;

(3) the Department;

(4) the General Services Administration;

(5) the Department of Housing and Urban Development;

(6) the United States Postal Service; and

(7) all other Federal agencies and departments that enter contracts for buildings, building services, electricity and electricity services, natural gas and natural gas services, heating and air conditioning services, building fuel purchases, and other types of procurement or service contracts determined by the Secretary, in carrying out the Federal Energy Management Program, to offer the potential for energy savings and greenhouse gas emission reductions if negotiated with taking into account those goals.

(d) TRAINERS.—Training under the Federal Energy Management Program may be conducted by—

(1) attorneys or contract officers with experience in negotiating and managing contracts described in subsection (c)(7) from any agency, except that the Secretary shall reimburse the related salaries and expenses of the attorneys or contract officers from amounts made available for carrying out this section to the extent the attorneys or contract officers are not employees of the Department; and

(2) private experts hired by the Secretary for the purposes of this section, except that the Secretary may not hire experts who are simultaneously employed by any company under contract to provide energy efficiency services to the Federal Government.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $750,000 for each of fiscal years 2008 through 2012.

SEC. 518. STUDY OF ENERGY AND COST SAVINGS IN NONBUILDING APPLICATIONS.

(a) DEFINITIONS.—In this section:

(1) NONBUILDING APPLICATION.—The term ''nonbuilding application'' means—

(A) any class of vehicles, devices, or equipment that is transportable under the power of the applicable vehicle, device, or equipment by land, sea, or air and that consumes energy from any fuel source for the purpose of—

(i) that transportation; or

(ii) maintaining a controlled environment within the vehicle, device, or equipment; and

(B) any federally-owned equipment used to generate electricity or transport water.

(2) SECONDARY SAVINGS.—

(A) IN GENERAL.—The term ''secondary savings'' means additional energy or cost savings that are a direct consequence of the energy savings that result from the energy efficiency improvements that were financed and implemented pursuant to an energy savings performance contract.

(B) INCLUSIONS.—The term ''secondary savings'' includes—

(i) energy and cost savings that result from a reduction in the need for fuel delivery and logistical support;

(ii) personnel cost savings and environmental benefits; and

(iii) in the case of electric generation equipment, the benefits of increased efficiency in the production of electricity, including revenues received by the Federal Government from the sale of electricity so produced.

(b) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of Defense shall jointly conduct, and submit to Congress and the President a report of, a study of the potential for the use of energy savings performance contracts to reduce energy consumption and provide energy and cost savings in nonbuilding applications.

(2) REQUIREMENTS.—The study under this subsection shall include—

(A) an estimate of the potential energy and cost savings to the Federal Government, including secondary savings and benefits, from increased efficiency in nonbuilding applications;

(B) an assessment of the feasibility of extending the use of energy savings performance contracts to nonbuilding applications, including an identification of any regulatory or statutory barriers to that use; and

(C) such recommendations as the Secretary and Secretary of Defense determine to be appropriate.

Subtitle C—Energy Efficiency in Federal Agencies

SEC. 521. INSTALLATION OF PHOTOVOLTAIC SYSTEM AT DEPARTMENT OF ENERGY HEADQUARTERS BUILDING.

(a) IN GENERAL.—The Administrator of General Services shall install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department located at 1000 Independence Avenue, SW., Washington, DC, commonly known as the Forrestal Building.

(b) FUNDING.—There shall be available from the Federal Buildings Fund established by section 592 of title 40, United States Code, $30,000,000 to carry out this section. Such sums shall be derived from the unobligated balance of amounts made available from the Fund for fiscal year 2007, and prior fiscal years, for repairs and alternations and other activities (excluding amounts made available for the energy program). Such sums shall remain available until expended.

SEC. 522. PROHIBITION ON INCANDESCENT LAMPS BY COAST GUARD.

(a) PROHIBITION.—Except as provided by subsection (b), on and after January 1, 2009, a general service incandescent lamp shall not be purchased or installed in a Coast Guard facility by or on behalf of the Coast Guard.

(b) EXCEPTION.—A general service incandescent lamp may be purchased, installed, and used in a Coast Guard facility whenever the application of a general service incandescent lamp is—

(1) necessary due to purpose or design, including medical, security, and industrial applications;

(2) reasonable due to the architectural or historical value of a light fixture installed before January 1, 2009; or

(3) the Commandant of the Coast Guard determines that operational requirements necessitate the use of a general service incandescent lamp.

(c) LIMITATION.—In this section, the term ''facility'' does not include a vessel or aircraft of the Coast Guard.

SEC. 523. STANDARD RELATING TO SOLAR HOT WATER HEATERS.

Section 305(a)(3)(A) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(A)) is amended—

(1) in clause (i)(II), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) if lifecycle cost-effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation be met through the installation and use of solar hot water heaters.''.

SEC. 524. FEDERALLY-PROCURED APPLIANCES WITH STANDBY POWER.

Section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) FEDERALLY-PROCURED APPLIANCES WITH STANDBY POWER.—

''(1) DEFINITION OF ELIGIBLE PRODUCT.—In this subsection, the term 'eligible product' means a commercially available, off-the-shelf product that—

''(A)(i) uses external standby power devices; or

''(ii) contains an internal standby power function; and

''(B) is included on the list compiled under paragraph (4).

''(2) FEDERAL PURCHASING REQUIREMENT.—Subject to paragraph (3), if an agency purchases an eligible product, the agency shall purchase—

''(A) an eligible product that uses not more than 1 watt in the standby power consuming mode of the eligible product; or

''(B) if an eligible product described in subparagraph (A) is not available, the eligible product with the lowest available standby power wattage in the standby power consuming mode of the eligible product.

''(3) LIMITATION.—The requirements of paragraph (2) shall apply to a purchase by an agency only if—

''(A) the lower-wattage eligible product is—

''(i) lifecycle cost-effective; and

''(ii) practicable; and

''(B) the utility and performance of the eligible product is not compromised by the lower wattage requirement.

''(4) ELIGIBLE PRODUCTS.—The Secretary, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Administrator of General Services, shall compile a publicly accessible list of cost-effective eligible products that shall be subject to the purchasing requirements of paragraph (2).''.

SEC. 525. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) AMENDMENTS.—Section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b) is amended—

(1) in subsection (b)(1), by inserting ''in a product category covered by the Energy Star program or the Federal Energy Management Program for designated products'' after ''energy consuming product''; and

(2) in the second sentence of subsection (c)—

(A) by inserting ''list in their catalogues, represent as available, and'' after ''Logistics Agency shall''; and

(B) by striking ''where the agency'' and inserting ''in which the head of the agency''.

(b) CATALOGUE LISTING DEADLINE.—Not later than 9 months after the date of enactment of this Act, the General Services Administration and the Defense Logistics Agency shall ensure that the requirement established by the amendment made by subsection (a)(2)(A) has been fully complied with.

SEC. 526. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

No Federal agency shall enter into a contract for procurement of an alternative or synthetic fuel, including a fuel produced from nonconventional petroleum sources, for any mobility-related use, other than for research or testing, unless the contract specifies that the lifecycle greenhouse gas emissions associated with the production and combustion of the fuel supplied under the contract must, on an ongoing basis, be less than or equal to such emissions from the equivalent conventional fuel produced from conventional petroleum sources.

SEC. 527. GOVERNMENT EFFICIENCY STATUS REPORTS.

(a) IN GENERAL.—Each Federal agency subject to any of the requirements of this title or the amendments made by this title shall compile and submit to the Director of the Office of Management and Budget an annual Government efficiency status report on—

(1) compliance by the agency with each of the requirements of this title and the amendments made by this title;

(2) the status of the implementation by the agency of initiatives to improve energy efficiency, reduce energy costs, and reduce emissions of greenhouse gases; and

(3) savings to the taxpayers of the United States resulting from mandated improvements under this title and the amendments made by this title

(b) SUBMISSION.—The report shall be submitted—

(1) to the Director at such time as the Director requires;

(2) in electronic, not paper, format; and

(3) consistent with related reporting requirements.

SEC. 528. OMB GOVERNMENT EFFICIENCY REPORTS AND SCORECARDS.

(a) REPORTS.—Not later than April 1 of each year, the Director of the Office of Management and Budget shall submit an annual Government efficiency report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, which shall contain—

(1) a summary of the information reported by agencies under section 527;

(2) an evaluation of the overall progress of the Federal Government toward achieving the goals of this title and the amendments made by this title; and

(3) recommendations for additional actions necessary to meet the goals of this title and the amendments made by this title.

(b) SCORECARDS.—The Director of the Office of Management and Budget shall include in any annual energy scorecard the Director is otherwise required to submit a description of the compliance of each agency with the requirements of this title and the amendments made by this title.

SEC. 529. ELECTRICITY SECTOR DEMAND RESPONSE.

(a) IN GENERAL.—Title V of the National Energy Conservation Policy Act (42 U.S.C. 8241 et seq.) is amended by adding at the end the following:

''PART 5—PEAK DEMAND REDUCTION

''SEC. 571. NATIONAL ACTION PLAN FOR DEMAND RESPONSE.

''(a) NATIONAL ASSESSMENT AND REPORT.—The Federal Energy Regulatory Commission ('Commission') shall conduct a National Assessment of Demand Response. The Commission shall, within 18 months of the date of enactment of this part, submit a report to Congress that includes each of the following:

''(1) Estimation of nationwide demand response potential in 5 and 10 year horizons, including data on a State-by-State basis, and a methodology for updates of such estimates on an annual basis.

''(2) Estimation of how much of this potential can be achieved within 5 and 10 years after the enactment of this part accompanied by specific policy recommendations that if implemented can achieve the estimated potential. Such recommendations shall include options for funding and/or incentives for the development of demand response resources.

''(3) The Commission shall further note any barriers to demand response programs offering flexible, non-discriminatory, and fairly compensatory terms for the services and benefits made available, and shall provide recommendations for overcoming such barriers.

''(4) The Commission shall seek to take advantage of preexisting research and ongoing work, and shall insure that there is no duplication of effort.

''(b) NATIONAL ACTION PLAN ON DEMAND RESPONSE.—The Commission shall further develop a National Action Plan on Demand Response, soliciting and accepting input and participation from a broad range of industry stakeholders, State regulatory utility commissioners, and non-governmental groups. The Commission shall seek consensus where possible, and decide on optimum solutions to issues that defy consensus. Such Plan shall be completed within one year after the completion of the National Assessment of Demand Response, and shall meet each of the following objectives:

''(1) Identification of requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed.

''(2) Design and identification of requirements for implementation of a national communications program that includes broad-based customer education and support.

''(3) Development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, states, utilities and demand response providers.

''(c) Upon completion, the National Action Plan on Demand Response shall be published, together with any favorable and dissenting comments submitted by participants in its preparation. Six months after publication, the Commission, together with the Secretary of Energy, shall submit to Congress a proposal to implement the Action Plan, including specific proposed assignments of responsibility, proposed budget amounts, and any agreements secured for participation from State and other participants.

''(d) AUTHORIZATION.—There are authorized to be appropriated to the Commission to carry out this section not more than $10,000,000 for each of the fiscal years 2008, 2009, and 2010.''.

(b) TABLE OF CONTENTS.—The table of contents for the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by adding after the items relating to part 4 of title V the following:

''PART 5—PEAK DEMAND REDUCTION

''Sec. 571. National Action Plan for Demand Response.''.

Subtitle D—Energy Efficiency of Public Institutions

SEC. 531. REAUTHORIZATION OF STATE ENERGY PROGRAMS.

Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008'' and inserting ''$125,000,000 for each of fiscal years 2007 through 2012''.

SEC. 532. UTILITY ENERGY EFFICIENCY PROGRAMS.

(a) ELECTRIC UTILITIES.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(16) INTEGRATED RESOURCE PLANNING.—Each electric utility shall—

''(A) integrate energy efficiency resources into utility, State, and regional plans; and

''(B) adopt policies establishing cost-effective energy efficiency as a priority resource.

''(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

''(A) IN GENERAL.—The rates allowed to be charged by any electric utility shall—

''(i) align utility incentives with the delivery of cost-effective energy efficiency; and

''(ii) promote energy efficiency investments.

''(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

''(i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

''(ii) providing utility incentives for the successful management of energy efficiency programs;

''(iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;

''(iv) adopting rate designs that encourage energy efficiency for each customer class;

''(v) allowing timely recovery of energy efficiency-related costs; and

''(vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.''.

(b) NATURAL GAS UTILITIES.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3203(b)) is amended by adding at the end the following:

''(5) ENERGY EFFICIENCY.—Each natural gas utility shall—

''(A) integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and

''(B) adopt policies that establish energy efficiency as a priority resource in the plans and planning processes of the natural gas utility.

''(6) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

''(A) IN GENERAL.—The rates allowed to be charged by a natural gas utility shall align utility incentives with the deployment of cost-effective energy efficiency.

''(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

''(i) separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer;

''(ii) providing to utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs;

''(iii) promoting the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; and

''(iv) adopting rate designs that encourage energy efficiency for each customer class.

For purposes of applying the provisions of this subtitle to this paragraph, any reference in this subtitle to the date of enactment of this Act shall be treated as a reference to the date of enactment of this paragraph.''.

(c) CONFORMING AMENDMENT.—Section 303(a) of the Public Utility Regulatory Policies Act of 1978 U.S.C. 3203(a)) is amended by striking ''and (4)'' inserting ''(4), (5), and (6)''.

Subtitle E—Energy Efficiency and Conservation Block Grants

SEC. 541. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a State;

(B) an eligible unit of local government; and

(C) an Indian tribe.

(2) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term ''eligible unit of local government'' means—

(A) an eligible unit of local government–alternative 1; and

(B) an eligible unit of local government–alternative 2.

(3)(A) ELIGIBLE UNIT OF LOCAL GOVERNMENT–ALTERNATIVE 1.—The term ''eligible unit of local government–alternative 1'' means—

(i) a city with a population—

(I) of at least 35,000; or

(II) that causes the city to be 1 of the 10 highest-populated cities of the State in which the city is located; and

(ii) a county with a population—

(I) of at least 200,000; or

(II) that causes the county to be 1 of the 10 highest-populated counties of the State in which the county is located.

(B) ELIGIBLE UNIT OF LOCAL GOVERNMENT–ALTERNATIVE 2.—The term ''eligible unit of local government–alternative 2'' means—

(i) a city with a population of at least 50,000; or

(ii) a county with a population of at least 200,000.

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

(5) PROGRAM.—The term ''program'' means the Energy Efficiency and Conservation Block Grant Program established under section 542(a).

(6) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

SEC. 542. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the ''Energy Efficiency and Conservation Block Grant Program'', under which the Secretary shall provide grants to eligible entities in accordance with this subtitle.

(b) PURPOSE.—The purpose of the program shall be to assist eligible entities in implementing strategies—

(1) to reduce fossil fuel emissions created as a result of activities within the jurisdictions of eligible entities in manner that—

(A) is environmentally sustainable; and

(B) to the maximum extent practicable, maximizes benefits for local and regional communities;

(2) to reduce the total energy use of the eligible entities; and

(3) to improve energy efficiency in—

(A) the transportation sector;

(B) the building sector; and

(C) other appropriate sectors.

SEC. 543. ALLOCATION OF FUNDS.

(a) IN GENERAL.—Of amounts made available to provide grants under this subtitle for each fiscal year, the Secretary shall allocate—

(1) 68 percent to eligible units of local government in accordance with subsection (b);

(2) 28 percent to States in accordance with subsection (c);

(3) 2 percent to Indian tribes in accordance with subsection (d); and

(4) 2 percent for competitive grants under section 546.

(b) ELIGIBLE UNITS OF LOCAL GOVERNMENT.—Of amounts available for distribution to eligible units of local government under subsection (a)(1), the Secretary shall provide grants to eligible units of local government under this section based on a formula established by the Secretary according to—

(1) the populations served by the eligible units of local government, according to the latest available decennial census; and

(2) the daytime populations of the eligible units of local government and other similar factors (such as square footage of commercial, office, and industrial space), as determined by the Secretary.

(c) STATES.—Of amounts available for distribution to States under subsection (a)(2), the Secretary shall provide—

(1) not less than 1.25 percent to each State; and

(2) the remainder among the States, based on a formula to be established by the Secretary that takes into account—

(A) the population of each State; and

(B) any other criteria that the Secretary determines to be appropriate.

(d) INDIAN TRIBES.—Of amounts available for distribution to Indian tribes under subsection (a)(3), the Secretary shall establish a formula for allocation of the amounts to Indian tribes, taking into account any factors that the Secretary determines to be appropriate.

(e) PUBLICATION OF ALLOCATION FORMULAS.—Not later than 90 days before the beginning of each fiscal year for which grants are provided under this subtitle, the Secretary shall publish in the Federal Register the formulas for allocation established under this section.

(f) STATE AND LOCAL ADVISORY COMMITTEE.—The Secretary shall establish a State and local advisory committee to advise the Secretary regarding administration, implementation, and evaluation of the program.

SEC. 544. USE OF FUNDS.

An eligible entity may use a grant received under this subtitle to carry out activities to achieve the purposes of the program, including—

(1) development and implementation of an energy efficiency and conservation strategy under section 545(b);

(2) retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—

(A) formulation of energy efficiency, energy conservation, and energy usage goals;

(B) identification of strategies to achieve those goals—

(i) through efforts to increase energy efficiency and reduce energy consumption; and

(ii) by encouraging behavioral changes among the population served by the eligible entity;

(C) development of methods to measure progress in achieving the goals;

(D) development and publication of annual reports to the population served by the eligible entity describing—

(i) the strategies and goals; and

(ii) the progress made in achieving the strategies and goals during the preceding calendar year; and

(E) other services to assist in the implementation of the energy efficiency and conservation strategy;

(3) conducting residential and commercial building energy audits;

(4) establishment of financial incentive programs for energy efficiency improvements;

(5) the provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;

(6) development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including—

(A) design and operation of the programs;

(B) identifying the most effective methods for achieving maximum participation and efficiency rates;

(C) public education;

(D) measurement and verification protocols; and

(E) identification of energy efficient technologies;

(7) development and implementation of programs to conserve energy used in transportation, including—

(A) use of flex time by employers;

(B) satellite work centers;

(C) development and promotion of zoning guidelines or requirements that promote energy efficient development;

(D) development of infrastructure, such as bike lanes and pathways and pedestrian walkways;

(E) synchronization of traffic signals; and

(F) other measures that increase energy efficiency and decrease energy consumption;

(8) development and implementation of building codes and inspection services to promote building energy efficiency;

(9) application and implementation of energy distribution technologies that significantly increase energy efficiency, including—

(A) distributed resources; and

(B) district heating and cooling systems;

(10) activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;

(11) the purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills or similar sources;

(12) replacement of traffic signals and street lighting with energy efficient lighting technologies, including—

(A) light emitting diodes; and

(B) any other technology of equal or greater energy efficiency;

(13) development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including—

(A) solar energy;

(B) wind energy;

(C) fuel cells; and

(D) biomass; and

(14) any other appropriate activity, as determined by the Secretary, in consultation with—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Transportation; and

(C) the Secretary of Housing and Urban Development.

SEC. 545. REQUIREMENTS FOR ELIGIBLE ENTITIES.

(a) CONSTRUCTION REQUIREMENT.—

(1) IN GENERAL.—To be eligible to receive a grant under the program, each eligible applicant shall submit to the Secretary a written assurance that all laborers and mechanics employed by any contractor or subcontractor of the eligible entity during any construction, alteration, or repair activity funded, in whole or in part, by the grant shall be paid wages at rates not less than the prevailing wages for similar construction activities in the locality, as determined by the Secretary of Labor, in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

(2) SECRETARY OF LABOR.—With respect to the labor standards referred to in paragraph (1), the Secretary of Labor shall have the authority and functions described in—

(A) Reorganization Plan Numbered 14 of 1950 (5 U.S.C. 903 note); and

(B) section 3145 of title 40, United States Code.

(b) ELIGIBLE UNITS OF LOCAL GOVERNMENT AND INDIAN TRIBES.—

(1) PROPOSED STRATEGY.—

(A) IN GENERAL.—Not later than 1 year after the date on which an eligible unit of local government or Indian tribe receives a grant under this subtitle, the eligible unit of local government or Indian tribe shall submit to the Secretary a proposed energy efficiency and conservation strategy in accordance with this paragraph.

(B) INCLUSIONS.—The proposed strategy under subparagraph (A) shall include—

(i) a description of the goals of the eligible unit of local government or Indian tribe, in accordance with the purposes of this subtitle, for increased energy efficiency and conservation in the jurisdiction of the eligible unit of local government or Indian tribe; and

(ii) a plan for the use of the grant to assist the eligible unit of local government or Indian tribe in achieving those goals, in accordance with section 544.

(C) REQUIREMENTS FOR ELIGIBLE UNITS OF LOCAL GOVERNMENT.—In developing the strategy under subparagraph (A), an eligible unit of local government shall—

(i) take into account any plans for the use of funds by adjacent eligible units of local governments that receive grants under the program; and

(ii) coordinate and share information with the State in which the eligible unit of local government is located regarding activities carried out using the grant to maximize the energy efficiency and conservation benefits under this subtitle.

(2) APPROVAL BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall approve or disapprove a proposed strategy under paragraph (1) by not later than 120 days after the date of submission of the proposed strategy.

(B) DISAPPROVAL.—If the Secretary disapproves a proposed strategy under subparagraph (A)—

(i) the Secretary shall provide to the eligible unit of local government or Indian tribe the reasons for the disapproval; and

(ii) the eligible unit of local government or Indian tribe may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) REQUIREMENT.—The Secretary shall not provide to an eligible unit of local government or Indian tribe any grant under the program until a proposed strategy of the eligible unit of local government or Indian tribe is approved by the Secretary under this paragraph.

(3) LIMITATIONS ON USE OF FUNDS.—Of amounts provided to an eligible unit of local government or Indian tribe under the program, an eligible unit of local government or Indian tribe may use—

(A) for administrative expenses, excluding the cost of meeting the reporting requirements of this subtitle, an amount equal to the greater of—

(i) 10 percent; and

(ii) $75,000;

(B) for the establishment of revolving loan funds, an amount equal to the greater of—

(i) 20 percent; and

(ii) $250,000; and

(C) for the provision of subgrants to nongovernmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe, an amount equal to the greater of—

(i) 20 percent; and

(ii) $250,000.

(4) ANNUAL REPORT.—Not later than 2 years after the date on which funds are initially provided to an eligible unit of local government or Indian tribe under the program, and annually thereafter, the eligible unit of local government or Indian tribe shall submit to the Secretary a report describing—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe; and

(B) as practicable, an assessment of energy efficiency gains within the jurisdiction of the eligible unit of local government or Indian tribe.

(c) STATES.—

(1) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—A State that receives a grant under the program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the State that are not eligible units of local government.

(B) DEADLINE.—The State shall provide the subgrants required under subparagraph (A) by not later than 180 days after the date on which the Secretary approves a proposed energy efficiency and conservation strategy of the State under paragraph (3).

(2) REVISION OF CONSERVATION PLAN; PROPOSED STRATEGY.—Not later than 120 days after the date of enactment of this Act, each State shall—

(A) modify the State energy conservation plan of the State under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) to establish additional goals for increased energy efficiency and conservation in the State; and

(B) submit to the Secretary a proposed energy efficiency and conservation strategy that—

(i) establishes a process for providing subgrants as required under paragraph (1); and

(ii) includes a plan of the State for the use of funds received under a the program to assist the State in achieving the goals established under subparagraph (A), in accordance with sections 542(b) and 544.

(3) APPROVAL BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall approve or disapprove a proposed strategy under paragraph (2)(B) by not later than 120 days after the date of submission of the proposed strategy.

(B) DISAPPROVAL.—If the Secretary disapproves a proposed strategy under subparagraph (A)—

(i) the Secretary shall provide to the State the reasons for the disapproval; and

(ii) the State may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) REQUIREMENT.—The Secretary shall not provide to a State any grant under the program until a proposed strategy of the State is approved the Secretary under this paragraph.

(4) LIMITATIONS ON USE OF FUNDS.—A State may use not more than 10 percent of amounts provided under the program for administrative expenses.

(5) ANNUAL REPORTS.—Each State that receives a grant under the program shall submit to the Secretary an annual report that describes—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the State during the preceding calendar year;

(B) the status of the subgrant program of the State under paragraph (1);

(C) the energy efficiency gains achieved through the energy efficiency and conservation strategy of the State during the preceding calendar year; and

(D) specific energy efficiency and conservation goals of the State for subsequent calendar years.

SEC. 546. COMPETITIVE GRANTS.

(a) IN GENERAL.—Of the total amount made available for each fiscal year to carry out this subtitle, the Secretary shall use not less than 2 percent to provide grants under this section, on a competitive basis, to—

(1) units of local government (including Indian tribes) that are not eligible entities; and

(2) consortia of units of local government described in paragraph (1).

(b) APPLICATIONS.—To be eligible to receive a grant under this section, a unit of local government or consortia shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a plan of the unit of local government to carry out an activity described in section 544.

(c) PRIORITY.—In providing grants under this section, the Secretary shall give priority to units of local government—

(1) located in States with populations of less than 2,000,000; or

(2) that plan to carry out projects that would result in significant energy efficiency improvements or reductions in fossil fuel use.

SEC. 547. REVIEW AND EVALUATION.

(a) IN GENERAL.—The Secretary may review and evaluate the performance of any eligible entity that receives a grant under the program, including by conducting an audit,

as the Secretary determines to be appropriate.

(b) WITHHOLDING OF FUNDS.—The Secretary may withhold from an eligible entity any portion of a grant to be provided to the eligible entity under the program if the Secretary determines that the eligible entity has failed to achieve compliance with—

(1) any applicable guideline or regulation of the Secretary relating to the program, including the misuse or misappropriation of funds provided under the program; or

(2) the energy efficiency and conservation strategy of the eligible entity.

SEC. 548. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) GRANTS.—There is authorized to be appropriated to the Secretary for the provision of grants under the program $2,000,000,000 for each of fiscal years 2008 through 2012; provided that 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government–alternative 1 in section 541(3)(A) and 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government–alternative 2 in section 541(3)(B).

(2) ADMINISTRATIVE COSTS.—There are authorized to be appropriated to the Secretary for administrative expenses of the program—

(A) $20,000,000 for each of fiscal years 2008 and 2009;

(B) $25,000,000 for each of fiscal years 2010 and 2011; and

(C) $30,000,000 for fiscal year 2012.

(b) MAINTENANCE OF FUNDING.—The funding provided under this section shall supplement (and not supplant) other Federal funding provided under—

(1) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(2) the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

TITLE VI—ACCELERATED RESEARCH AND DEVELOPMENT

Subtitle A—Solar Energy

SEC. 601. SHORT TITLE.

This subtitle may be cited as the ''Solar Energy Research and Advancement Act of 2007''.

SEC. 602. THERMAL ENERGY STORAGE RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program of research and development to provide lower cost and more viable thermal energy storage technologies to enable the shifting of electric power loads on demand and extend the operating time of concentrating solar power electric generating plants.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for fiscal year 2008, $7,000,000 for fiscal year 2009, $9,000,000 for fiscal year 2010, $10,000,000 for fiscal year 2011, and $12,000,000 for fiscal year 2012.

SEC. 603. CONCENTRATING SOLAR POWER COMMERCIAL APPLICATION STUDIES.

(a) INTEGRATION.—The Secretary shall conduct a study on methods to integrate concentrating solar power and utility-scale photovoltaic systems into regional electricity transmission systems, and to identify new transmission or transmission upgrades needed to bring electricity from high concentrating solar power resource areas to growing electric power load centers throughout the United States. The study shall analyze and assess cost-effective approaches for management and large-scale integration of concentrating solar power and utility-scale photovoltaic systems into regional electric transmission grids to improve electric reliability, to efficiently manage load, and to reduce demand on the natural gas transmission system for electric power. The Secretary shall submit a report to Congress on the results of this study not later than 12 months after the date of enactment of this Act.

(b) WATER CONSUMPTION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Energy shall transmit to Congress a report on the results of a study on methods to reduce the amount of water consumed by concentrating solar power systems.

SEC. 604. SOLAR ENERGY CURRICULUM DEVELOPMENT AND CERTIFICATION GRANTS.

(a) ESTABLISHMENT.—The Secretary shall establish in the Office of Solar Energy Technologies a competitive grant program to create and strengthen solar industry workforce training and internship programs in installation, operation, and maintenance of solar energy products. The goal of this program is to ensure a supply of well-trained individuals to support the expansion of the solar energy industry.

(b) AUTHORIZED ACTIVITIES.—Grant funds may be used to support the following activities:

(1) Creation and development of a solar energy curriculum appropriate for the local educational, entrepreneurial, and environmental conditions, including curriculum for community colleges.

(2) Support of certification programs for individual solar energy system installers, instructors, and training programs.

(3) Internship programs that provide hands-on participation by students in commercial applications.

(4) Activities required to obtain certification of training programs and facilities by an industry-accepted quality-control certification program.

(5) Incorporation of solar-specific learning modules into traditional occupational training and internship programs for construction-related trades.

(6) The purchase of equipment necessary to carry out activities under this section.

(7) Support of programs that provide guidance and updates to solar energy curriculum instructors.

(c) ADMINISTRATION OF GRANTS.—Grants may be awarded under this section for up to 3 years. The Secretary shall award grants to ensure sufficient geographic distribution of training programs nationally. Grants shall only be awarded for programs certified by an industry-accepted quality-control certification institution, or for new and growing programs with a credible path to certification. Due consideration shall be given to women, underrepresented minorities, and persons with disabilities.

(d) REPORT.—The Secretary shall make public, on the website of the Department or upon request, information on the name and institution for all grants awarded under this section, including a brief description of the project as well as the grant award amount.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $10,000,000 for each of the fiscal years 2008 through 2012.

SEC. 605. DAYLIGHTING SYSTEMS AND DIRECT SOLAR LIGHT PIPE TECHNOLOGY.

(a) ESTABLISHMENT.—The Secretary shall establish a program of research and development to provide assistance in the demonstration and commercial application of direct solar renewable energy sources to provide alternatives to traditional power generation for lighting and illumination, including light pipe technology, and to promote greater energy conservation and improved efficiency. All direct solar renewable energy devices supported under this program shall have the capability to provide measurable data on the amount of kilowatt-hours saved over the traditionally powered light sources they have replaced.

(b) REPORTING.—The Secretary shall transmit to Congress an annual report assessing the measurable data derived from each project in the direct solar renewable energy sources program and the energy savings resulting from its use.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''direct solar renewable energy'' means energy from a device that converts sunlight into useable light within a building, tunnel, or other enclosed structure, replacing artificial light generated by a light fixture and doing so without the conversion of the sunlight into another form of energy; and

(2) the term ''light pipe'' means a device designed to transport visible solar radiation from its collection point to the interior of a building while excluding interior heat gain in the nonheating season.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $3,500,000 for each of the fiscal years 2008 through 2012.

SEC. 606. SOLAR AIR CONDITIONING RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program to promote less costly and more reliable decentralized distributed solar-powered air conditioning for individuals and businesses.

(b) AUTHORIZED ACTIVITIES.—Grants made available under this section may be used to support the following activities:

(1) Advancing solar thermal collectors, including concentrating solar thermal and electric systems, flat plate and evacuated tube collector performance.

(2) Achieving technical and economic integration of solar-powered distributed air-conditioning systems with existing hot water and storage systems for residential applications.

(3) Designing and demonstrating mass manufacturing capability to reduce costs of modular standardized solar-powered distributed air conditioning systems and components.

(4) Improving the efficiency of solar-powered distributed air-conditioning to increase the effectiveness of solar-powered absorption chillers, solar-driven compressors and condensors, and cost-effective precooling approaches.

(5) Researching and comparing performance of solar-powered distributed air conditioning systems in different regions of the country, including potential integration with other onsite systems, such as solar, biogas, geothermal heat pumps, and propane assist or combined propane fuel cells, with a goal to develop site-specific energy production and management systems that ease fuel and peak utility loading.

(c) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a project carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $2,500,000 for each of the fiscal years 2008 through 2012.

SEC. 607. PHOTOVOLTAIC DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program of grants to States to demonstrate advanced photovoltaic technology.

(b) REQUIREMENTS.—

(1) ABILITY TO MEET REQUIREMENTS.—To receive funding under the program under this section, a State must submit a proposal that demonstrates, to the satisfaction of the Secretary, that the State will meet the requirements of subsection (f).

(2) COMPLIANCE WITH REQUIREMENTS.—If a State has received funding under this section for the preceding year, the State must demonstrate, to the satisfaction of the Secretary, that it complied with the requirements of subsection (f) in carrying out the program during that preceding year, and that it will do so in the future, before it can receive further funding under this section.

(c) COMPETITION.—The Secretary shall award grants on a competitive basis to the States with the proposals the Secretary considers most likely to encourage the widespread adoption of photovoltaic technologies. The Secretary shall take into consideration the geographic distribution of awards.

(d) PROPOSALS.—Not later than 6 months after the date of enactment of this Act, and in each subsequent fiscal year for the life of the program, the Secretary shall solicit proposals from the States to participate in the program under this section.

(e) COMPETITIVE CRITERIA.—In awarding funds in a competitive allocation under subsection (c), the Secretary shall consider—

(1) the likelihood of a proposal to encourage the demonstration of, or lower the costs of, advanced photovoltaic technologies; and

(2) the extent to which a proposal is likely to—

(A) maximize the amount of photovoltaics demonstrated;

(B) maximize the proportion of non-Federal cost share; and

(C) limit State administrative costs.

(f) STATE PROGRAM.—A program operated by a State with funding under this section shall provide competitive awards for the demonstration of advanced photo-voltaic technologies. Each State program shall—

(1) require a contribution of at least 60 percent per award from non-Federal sources, which may include any combination of State, local, and private funds, except that at least 10 percent of the funding must be supplied by the State;

(2) endeavor to fund recipients in the commercial, industrial, institutional, governmental, and residential sectors;

(3) limit State administrative costs to no more than 10 percent of the grant;

(4) report annually to the Secretary on—

(A) the amount of funds disbursed;

(B) the amount of photovoltaics purchased; and

(C) the results of the monitoring under paragraph (5);

(5) provide for measurement and verification of the output of a representative sample of the photovoltaics systems demonstrated throughout the average working life of the systems, or at least 20 years; and

(6) require that applicant buildings must have received an independent energy efficiency audit during the 6-month period preceding the filing of the application.

(g) UNEXPENDED FUNDS.—If a State fails to expend any funds received under this section within 3 years of receipt, such remaining funds shall be returned to the Treasury.

(h) REPORTS.—The Secretary shall report to Congress 5 years after funds are first distributed to the States under this section—

(1) the amount of photovoltaics demonstrated;

(2) the number of projects undertaken;

(3) the administrative costs of the program;

(4) the results of the monitoring under subsection (f)(5); and

(5) the total amount of funds distributed, including a breakdown by State.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of carrying out this section—

(1) $15,000,000 for fiscal year 2008;

(2) $30,000,000 for fiscal year 2009;

(3) $45,000,000 for fiscal year 2010;

(4) $60,000,000 for fiscal year 2011; and

(5) $70,000,000 for fiscal year 2012.

Subtitle B—Geothermal Energy

SEC. 611. SHORT TITLE.

This subtitle may be cited as the ''Advanced Geothermal Energy Research and Development Act of 2007''.

SEC. 612. DEFINITIONS.

For purposes of this subtitle:

(1) ENGINEERED.—When referring to enhanced geothermal systems, the term ''engineered'' means subjected to intervention, including intervention to address one or more of the following issues:

(A) Lack of effective permeability or porosity or open fracture connectivity within the reservoir.

(B) Insufficient contained geofluid in the reservoir.

(C) A low average geothermal gradient, which necessitates deeper drilling.

(2) ENHANCED GEOTHERMAL SYSTEMS.—The term ''enhanced geothermal systems'' means geothermal reservoir systems that are engineered, as opposed to occurring naturally.

(3) GEOFLUID.—The term ''geofluid'' means any fluid used to extract thermal energy from the Earth which is transported to the surface for direct use or electric power generation, except that such term shall not include oil or natural gas.

(4) GEOPRESSURED RESOURCES.—The term ''geopressured resources'' mean geothermal deposits found in sedimentary rocks under higher than normal pressure and saturated with gas or methane.

(5) GEOTHERMAL.—The term ''geothermal'' refers to heat energy stored in the Earth's crust that can be accessed for direct use or electric power generation.

(6) HYDROTHERMAL.—The term ''hydrothermal'' refers to naturally occurring subsurface reservoirs of hot water or steam.

(7) SYSTEMS APPROACH.—The term ''systems approach'' means an approach to solving problems or designing systems that attempts to optimize the performance of the overall system, rather than a particular component of the system.

SEC. 613. HYDROTHERMAL RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall support programs of research, development, demonstration, and commercial application to expand the use of geothermal energy production from hydrothermal systems, including the programs described in subsection (b).

(b) PROGRAMS.—

(1) ADVANCED HYDROTHERMAL RESOURCE TOOLS.—The Secretary, in consultation with other appropriate agencies, shall support a program to develop advanced geophysical, geochemical, and geologic tools to assist in locating hidden hydrothermal resources, and to increase the reliability of site characterization before, during, and after initial drilling. The program shall develop new prospecting techniques to assist in prioritization of targets for characterization. The program shall include a field component.

(2) INDUSTRY COUPLED EXPLORATORY DRILLING.—The Secretary shall support a program of cost-shared field demonstration programs, to be pursued, simultaneously and independently, in collaboration with industry partners, for the demonstration of advanced technologies and techniques of siting and exploratory drilling for undiscovered resources in a variety of geologic settings. The program shall include incentives to encourage the use of advanced technologies and techniques.

SEC. 614. GENERAL GEOTHERMAL SYSTEMS RESEARCH AND DEVELOPMENT.

(a) SUBSURFACE COMPONENTS AND SYSTEMS.—The Secretary shall support a program of research, development, demonstration, and commercial application of components and systems capable of withstanding extreme geothermal environments and necessary to cost-effectively develop, produce, and monitor geothermal reservoirs and produce geothermal energy. These components and systems shall include advanced casing systems (expandable tubular casing, low-clearance casing designs, and others), high-temperature cements, high-temperature submersible pumps, and high-temperature packers, as well as technologies for under-reaming, multilateral completions, high-temperature and high-pressure logging, logging while drilling, deep fracture stimulation, and reservoir system diagnostics.

(b) RESERVOIR PERFORMANCE MODELING.—The Secretary shall support a program of research, development, demonstration, and commercial application of models of geothermal reservoir performance, with an emphasis on accurately modeling performance over time. Models shall be developed to assist both in the development of geothermal reservoirs and to more accurately account for stress-related effects in stimulated hydrothermal and enhanced geothermal systems production environments.

(c) ENVIRONMENTAL IMPACTS.—The Secretary shall—

(1) support a program of research, development, demonstration, and commercial application of technologies and practices designed to mitigate or preclude potential adverse environmental impacts of geothermal energy development, production or use, and seek to ensure that geothermal energy development is consistent with the highest practicable standards of environmental stewardship;

(2) in conjunction with the Assistant Administrator for Research and Development at the Environmental Protection Agency, support a research program to identify potential environmental impacts of geothermal energy development, production, and use, and ensure that the program described in paragraph (1) addresses such impacts, including effects on groundwater and local hydrology; and

(3) support a program of research to compare the potential environmental impacts identified as part of the development, production, and use of geothermal energy with the potential emission reductions of greenhouse gases gained by geothermal energy development, production, and use.

SEC. 615. ENHANCED GEOTHERMAL SYSTEMS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall support a program of research, development, demonstration, and commercial application for enhanced geothermal systems, including the programs described in subsection (b).

(b) PROGRAMS.—

(1) ENHANCED GEOTHERMAL SYSTEMS TECHNOLOGIES.—The Secretary shall support a program of research, development, demonstration, and commercial application of the technologies and knowledge necessary for enhanced geothermal systems to advance to a state of commercial readiness, including advances in—

(A) reservoir stimulation;
(B) reservoir characterization, monitoring, and modeling;
(C) stress mapping;
(D) tracer development;
(E) three-dimensional tomography; and
(F) understanding seismic effects of reservoir engineering and stimulation.

(2) ENHANCED GEOTHERMAL SYSTEMS RESERVOIR STIMULATION.—

(A) PROGRAM.—In collaboration with industry partners, the Secretary shall support a program of research, development, and demonstration of enhanced geothermal systems reservoir stimulation technologies and techniques. A minimum of 4 sites shall be selected in locations that show particular promise for enhanced geothermal systems development. Each site shall—

(i) represent a different class of subsurface geologic environments; and

(ii) take advantage of an existing site where subsurface characterization has been conducted or existing drill holes can be utilized, if possible.

(B) CONSIDERATION OF EXISTING SITE.—The Desert Peak, Nevada, site, where a Department of Energy and industry cooperative enhanced geothermal systems project is already underway, may be considered for inclusion among the sites selected under subparagraph (A).

SEC. 616. GEOTHERMAL ENERGY PRODUCTION FROM OIL AND GAS FIELDS AND RECOVERY AND PRODUCTION OF GEOPRESSURED GAS RESOURCES.

(a) IN GENERAL.—The Secretary shall establish a program of research, development, demonstration, and commercial application to support development of geothermal energy production from oil and gas fields and production and recovery of energy, including electricity, from geopressured resources. In addition, the Secretary shall conduct such supporting activities including research, resource characterization, and technology development as necessary.

(b) GEOTHERMAL ENERGY PRODUCTION FROM OIL AND GAS FIELDS.—The Secretary shall implement a grant program in support of geothermal energy production from oil and gas fields. The program shall include grants for a total of not less than three demonstration projects of the use of geothermal techniques such as advanced organic rankine cycle systems at marginal, unproductive, and productive oil and gas wells. The Secretary shall, to the extent practicable and in the public interest, make awards that—

(1) include not less than five oil or gas well sites per project award;

(2) use a range of oil or gas well hot water source temperatures from 150 degrees Fahrenheit to 300 degrees Fahrenheit;

(3) cover a range of sizes up to one megawatt;

(4) are located at a range of sites;

(5) can be replicated at a wide range of sites;

(6) facilitate identification of optimum techniques among competing alternatives;

(7) include business commercialization plans that have the potential for production of equipment at high volumes and operation and support at a large number of sites; and

(8) satisfy other criteria that the Secretary determines are necessary to carry out the program and collect necessary data and information.

The Secretary shall give preference to assessments that address multiple elements contained in paragraphs (1) through (8).

(c) GRANT AWARDS.—Each grant award for demonstration of geothermal technology such as advanced organic rankine cycle systems at oil and gas wells made by the Secretary under subsection (b) shall include—

(1) necessary and appropriate site engineering study;

(2) detailed economic assessment of site specific conditions;

(3) appropriate feasibility studies to determine whether the demonstration can be replicated;

(4) design or adaptation of existing technology for site specific circumstances or conditions;

(5) installation of equipment, service, and support;

(6) operation for a minimum of one year and monitoring for the duration of the demonstration; and

(7) validation of technical and economic assumptions and documentation of lessons learned.

(d) GEOPRESSURED GAS RESOURCE RECOVERY AND PRODUCTION.—(1) The Secretary shall implement a program to support the research, development, demonstration, and commercial application of cost-effective techniques to produce energy from geopressured resources.

(2) The Secretary shall solicit preliminary engineering designs for geopressured resources production and recovery facilities.

(3) Based upon a review of the preliminary designs, the Secretary shall award grants, which may be cost-shared, to support the detailed development and completion of engineering, architectural and technical plans needed to support construction of new designs.

(4) Based upon a review of the final design plans above, the Secretary shall award cost-shared development and construction grants for demonstration geopressured production facilities that show potential for economic recovery of the heat, kinetic energy and gas resources from geopressured resources.

(e) COMPETITIVE GRANT SELECTION.—Not less than 90 days after the date of the enactment of this Act, the Secretary shall conduct a national solicitation for applications for grants under the programs outlined in subsections (b) and (d). Grant recipients shall be selected on a competitive basis based on criteria in the respective subsection.

(f) WELL DRILLING.—No funds may be used under this section for the purpose of drilling new wells.

SEC. 617. COST SHARING AND PROPOSAL EVALUATION.

(a) FEDERAL SHARE.—The Federal share of costs of projects funded under this subtitle shall be in accordance with section 988 of the Energy Policy Act of 2005.

(b) ORGANIZATION AND ADMINISTRATION OF PROGRAMS.—Programs under this subtitle shall incorporate the following elements:

(1) The Secretary shall coordinate with, and where appropriate may provide funds in furtherance of the purposes of this subtitle to, other Department of Energy research and development programs focused on drilling, subsurface characterization, and other related technologies.

(2) In evaluating proposals, the Secretary shall give priority to proposals that demonstrate clear evidence of employing a systems approach.

(3) The Secretary shall coordinate and consult with the appropriate Federal land management agencies in selecting proposals for funding under this subtitle.

(4) Nothing in this subtitle shall be construed to alter or affect any law relating to the management or protection of Federal lands.

SEC. 618. CENTER FOR GEOTHERMAL TECHNOLOGY TRANSFER.

(a) IN GENERAL.—The Secretary shall award to an institution of higher education (or consortium thereof) a grant to establish a Center for Geothermal Technology Transfer (referred to in this section as the ''Center'').

(b) DUTIES.—The Center shall—

(1) serve as an information clearinghouse for the geothermal industry by collecting and disseminating information on best practices in all areas relating to developing and utilizing geothermal resources;

(2) make data collected by the Center available to the public; and

(3) seek opportunities to coordinate efforts and share information with domestic and international partners engaged in research and development of geothermal systems and related technology.

(c) SELECTION CRITERIA.—In awarding the grant under subsection (a) the Secretary shall select an institution of higher education (or consortium thereof) best suited to provide national leadership on geothermal related issues and perform the duties enumerated under subsection (b).

(d) DURATION OF GRANT.—A grant made under subsection (a)—

(1) shall be for an initial period of 5 years; and

(2) may be renewed for additional 5-year periods on the basis of—

(A) satisfactory performance in meeting the duties outlined in subsection (b); and

(B) any other requirements specified by the Secretary.

SEC. 619. GEOPOWERING AMERICA.

The Secretary shall expand the Department of Energy's GeoPowering the West program to extend its geothermal technology transfer activities throughout the entire United States. The program shall be renamed ''GeoPowering America''. The program shall continue to be based in the Department of Energy office in Golden, Colorado.

SEC. 620. EDUCATIONAL PILOT PROGRAM.

The Secretary shall seek to award grant funding, on a competitive basis, to an institution of higher education for a geothermal-powered energy generation facility on the institution's campus. The purpose of the facility shall be to provide electricity and space heating. The facility shall also serve as an educational resource to students in relevant fields of study, and the data generated by the facility shall be available to students and the general public. The total funding award shall not exceed $2,000,000.

SEC. 621. REPORTS.

(a) REPORTS ON ADVANCED USES OF GEOTHERMAL ENERGY.—Not later than 3 years and 5 years after the date of enactment of this Act, the Secretary shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on advanced concepts and technologies to maximize the geothermal resource potential of the United States. The reports shall include—

(1) the use of carbon dioxide as an alternative geofluid with potential carbon sequestration benefits;

(2) mineral recovery from geofluids;

(3) use of geothermal energy to produce hydrogen;

(4) use of geothermal energy to produce biofuels;

(5) use of geothermal heat for oil recovery from oil shales and tar sands; and

(6) other advanced geothermal technologies, including advanced drilling technologies and advanced power conversion technologies.

(b) PROGRESS REPORTS.—(1) Not later than 36 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an interim report describing the progress made under this subtitle. At the end of 60

months, the Secretary shall submit to Congress a report on the results of projects undertaken under this subtitle and other such information the Secretary considers appropriate.

(2) As necessary, the Secretary shall report to the Congress on any legal, regulatory, or other barriers encountered that hinder economic development of these resources, and provide recommendations on legislative or other actions needed to address such impediments.

SEC. 622. APPLICABILITY OF OTHER LAWS.

Nothing in this subtitle shall be construed as waiving, modifying, or superseding the applicability of any requirement under any environmental or other Federal or State law. To the extent that activities authorized in this subtitle take place in coastal and ocean areas, the Secretary shall consult with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, regarding the potential marine environmental impacts and measures to address such impacts.

SEC. 623. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle $90,000,000 for each of the fiscal years 2008 through 2012, of which $10,000,000 for each fiscal year shall be for carrying out section 616. There are also authorized to be appropriated to the Secretary for the Intermountain West Geothermal Consortium $5,000,000 for each of the fiscal years 2008 through 2012.

SEC. 624. INTERNATIONAL GEOTHERMAL ENERGY DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Energy, in coordination with other appropriate Federal and multilateral agencies (including the United States Agency for International Development) shall support international collaborative efforts to promote the research, development, and deployment of geothermal technologies used to develop hydrothermal and enhanced geothermal system resources, including as partners (as appropriate) the African Rift Geothermal Development Facility, Australia, China, France, the Republic of Iceland, India, Japan, and the United Kingdom.

(b) UNITED STATES TRADE AND DEVELOPMENT AGENCY.—The Director of the United States Trade and Development Agency may—

(1) encourage participation by United States firms in actions taken to carry out subsection (a); and

(2) provide grants and other financial support for feasibility and resource assessment studies conducted in, or intended to benefit, less developed countries.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

SEC. 625. HIGH COST REGION GEOTHERMAL ENERGY GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a utility;

(B) an electric cooperative;

(C) a State;

(D) a political subdivision of a State;

(E) an Indian tribe; or

(F) a Native corporation.

(2) HIGH-COST REGION.—The term ''high-cost region'' means a region in which the average cost of electrical power exceeds 150 percent of the national average retail cost, as determined by the Secretary.

(b) PROGRAM.—The Secretary shall use amounts made available to carry out this section to make grants to eligible entities for activities described in subsection (c).

(c) ELIGIBLE ACTIVITIES.—An eligible entity may use grant funds under this section, with respect to a geothermal energy project in a high-cost region, only—

(1) to conduct a feasibility study, including a study of exploration, geochemical testing, geomagnetic surveys, geologic information gathering, baseline environmental studies, well drilling, resource characterization, permitting, and economic analysis;

(2) for design and engineering costs, relating to the project; and

(3) to demonstrate and promote commercial application of technologies related to geothermal energy as part of the project.

(d) COST SHARING.—The cost-sharing requirements of section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to any project carried out under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle C—Marine and Hydrokinetic Renewable Energy Technologies

SEC. 631. SHORT TITLE.

This subtitle may be cited as the ''Marine and Hydrokinetic Renewable Energy Research and Development Act''.

SEC. 632. DEFINITION.

For purposes of this subtitle, the term ''marine and hydrokinetic renewable energy'' means electrical energy from—:

(1) waves, tides, and currents in oceans, estuaries, and tidal areas;

(2) free flowing water in rivers, lakes, and streams;

(3) free flowing water in man-made channels; and

(4) differentials in ocean temperature (ocean thermal energy conversion).

The term ''marine and hydrokinetic renewable energy'' does not include energy from any source that uses a dam, diversionary structure, or impoundment for electric power purposes.

SEC. 633. MARINE AND HYDROKINETIC RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall establish a program of research, development, demonstration, and commercial application to expand marine and hydrokinetic renewable energy production, including programs to—

(1) study and compare existing marine and hydrokinetic renewable energy technologies;

(2) research, develop, and demonstrate marine and hydrokinetic renewable energy systems and technologies;

(3) reduce the manufacturing and operation costs of marine and hydrokinetic renewable energy technologies;

(4) investigate efficient and reliable integration with the utility grid and intermittency issues;

(5) advance wave forecasting technologies;

(6) conduct experimental and numerical modeling for optimization of marine energy conversion devices and arrays;

(7) increase the reliability and survivability of marine and hydrokinetic renewable energy technologies, including development of corrosive-resistant materials;

(8) identify, in conjunction with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, and other Federal agencies as appropriate, the potential environmental impacts, including potential impacts on fisheries and other marine resources, of marine and hydrokinetic renewable energy technologies, measures to prevent adverse impacts, and technologies and other means available for monitoring and determining environmental impacts;

(9) identify, in conjunction with the Secretary of the Department in which the United States Coast Guard is operating, acting through the Commandant of the United States Coast Guard, the potential navigational impacts of marine and hydrokinetic renewable energy technologies and measures to prevent adverse impacts on navigation;

(10) develop power measurement standards for marine and hydrokinetic renewable energy;

(11) develop identification standards for marine and hydrokinetic renewable energy devices;

(12) address standards development, demonstration, and technology transfer for advanced systems engineering and system integration methods to identify critical interfaces;

(13) identifying opportunities for cross fertilization and development of economies of scale between other renewable sources and marine and hydrokinetic renewable energy sources; and

(14) providing public information and opportunity for public comment concerning all technologies.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Commerce, acting through the Undersecretary of Commerce for Oceans and Atmosphere, and the Secretary of the Interior, shall provide to the Congress a report that addresses—

(1) the potential environmental impacts, including impacts to fisheries and marine resources, of marine and hydrokinetic renewable energy technologies;

(2) options to prevent adverse environmental impacts;

(3) the potential role of monitoring and adaptive management in identifying and addressing any adverse environmental impacts; and

(4) the necessary components of such an adaptive management program.

SEC. 634. NATIONAL MARINE RENEWABLE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTERS.

(a) CENTERS.—The Secretary shall award grants to institutions of higher education (or consortia thereof) for the establishment of 1 or more National Marine Renewable Energy Research, Development, and Demonstration Centers. In selecting locations for Centers, the Secretary shall consider sites that meet one of the following criteria:

(1) Hosts an existing marine renewable energy research and development program in coordination with an engineering program at an institution of higher education.

(2) Has proven expertise to support environmental and policy-related issues associated with harnessing of energy in the marine environment.

(3) Has access to and utilizes the marine resources in the Gulf of Mexico, the Atlantic Ocean, or the Pacific Ocean.

The Secretary may give special consideration to historically black colleges and universities and land grant universities that also meet one of these criteria. In establishing criteria for the selection of the Centers, the Secretary shall consult with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, on the criteria related to ocean waves, tides, and currents including those for advancing wave forecasting technologies, ocean temperature differences, and studying the compatibility of marine renewable energy technologies and systems with the environment, fisheries, and other marine resources.

(b) PURPOSES.—The Centers shall advance research, development, demonstration, and commercial application of marine renewable

energy, and shall serve as an information clearinghouse for the marine renewable energy industry, collecting and disseminating information on best practices in all areas related to developing and managing enhanced marine renewable energy systems resources.

(c) DEMONSTRATION OF NEED.—When applying for a grant under this section, an applicant shall include a description of why Federal support is necessary for the Center, including evidence that the research of the Center will not be conducted in the absence of Federal support.

SEC. 635. APPLICABILITY OF OTHER LAWS.

Nothing in this subtitle shall be construed as waiving, modifying, or superseding the applicability of any requirement under any environmental or other Federal or State law.

SEC. 636. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle $50,000,000 for each of the fiscal years 2008 through 2012, except that no funds shall be appropriated under this section for activities that are receiving funds under section 931(a)(2)(E)(i) of the Energy Policy Act of 2005 (42 U.S.C. 16231(a)(2)(E)(i)).

Subtitle D—Energy Storage for Transportation and Electric Power

SEC. 641. ENERGY STORAGE COMPETITIVENESS.

(a) SHORT TITLE.—This section may be cited as the ''United States Energy Storage Competitiveness Act of 2007''.

(b) DEFINITIONS.—In this section:

(1) COUNCIL.—The term ''Council'' means the Energy Storage Advisory Council established under subsection (e).

(2) COMPRESSED AIR ENERGY STORAGE.—The term ''compressed air energy storage'' means, in the case of an electricity grid application, the storage of energy through the compression of air.

(3) ELECTRIC DRIVE VEHICLE.—The term ''electric drive vehicle'' means—

(A) a vehicle that uses an electric motor for all or part of the motive power of the vehicle, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles and rail transportation vehicles; or

(B) mobile equipment that uses an electric motor to replace an internal combustion engine for all or part of the work of the equipment.

(4) ISLANDING.—The term ''islanding'' means a distributed generator or energy storage device continuing to power a location in the absence of electric power from the primary source.

(5) FLYWHEEL.—The term ''flywheel'' means, in the case of an electricity grid application, a device used to store rotational kinetic energy.

(6) MICROGRID.—The term ''microgrid'' means an integrated energy system consisting of interconnected loads and distributed energy resources (including generators and energy storage devices), which as an integrated system can operate in parallel with the utility grid or in an intentional islanding mode.

(7) SELF-HEALING GRID.—The term ''self-healing grid'' means a grid that is capable of automatically anticipating and responding to power system disturbances (including the isolation of failed sections and components), while optimizing the performance and service of the grid to customers.

(8) SPINNING RESERVE SERVICES.—The term ''spinning reserve services'' means a quantity of electric generating capacity in excess of the quantity needed to meet peak electric demand.

(9) ULTRACAPACITOR.—The term ''ultracapacitor'' means an energy storage device that has a power density comparable to a conventional capacitor but is capable of exceeding the energy density of a conventional capacitor by several orders of magnitude.

(c) PROGRAM.—The Secretary shall carry out a research, development, and demonstration program to support the ability of the United States to remain globally competitive in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(d) COORDINATION.—In carrying out the activities of this section, the Secretary shall coordinate relevant efforts with appropriate Federal agencies, including the Department of Transportation.

(e) ENERGY STORAGE ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish an Energy Storage Advisory Council.

(2) COMPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Council shall consist of not less than 15 individuals appointed by the Secretary, based on recommendations of the National Academy of Sciences.

(B) ENERGY STORAGE INDUSTRY.—The Council shall consist primarily of representatives of the energy storage industry of the United States.

(C) CHAIRPERSON.—The Secretary shall select a Chairperson for the Council from among the members appointed under subparagraph (A).

(3) MEETINGS.—

(A) IN GENERAL.—The Council shall meet not less than once a year.

(B) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a meeting of the Council.

(4) PLANS.—No later than 1 year after the date of enactment of this Act and every 5 years thereafter, the Council, in conjunction with the Secretary, shall develop a 5-year plan for integrating basic and applied research so that the United States retains a globally competitive domestic energy storage industry for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(5) REVIEW.—The Council shall—

(A) assess, every 2 years, the performance of the Department in meeting the goals of the plans developed under paragraph (4); and

(B) make specific recommendations to the Secretary on programs or activities that should be established or terminated to meet those goals.

(f) BASIC RESEARCH PROGRAM.—

(1) BASIC RESEARCH.—The Secretary shall conduct a basic research program on energy storage systems to support electric drive vehicles, stationary applications, and electricity transmission and distribution, including—

(A) materials design;

(B) materials synthesis and characterization;

(C) electrode-active materials, including electrolytes and bioelectrolytes;

(D) surface and interface dynamics;

(E) modeling and simulation; and

(F) thermal behavior and life degradation mechanisms.

(2) NANOSCIENCE CENTERS.—The Secretary, in cooperation with the Council, shall coordinate the activities of the nanoscience centers of the Department to help the energy storage research centers of the Department maintain a globally competitive posture in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(3) FUNDING.—For activities carried out under this subsection, in addition to funding activities at National Laboratories, the Secretary shall award funds to, and coordinate activities with, a range of stakeholders including the public, private, and academic sectors.

(g) APPLIED RESEARCH PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct an applied research program on energy storage systems to support electric drive vehicles, stationary applications, and electricity transmission and distribution technologies, including—

(A) ultracapacitors;

(B) flywheels;

(C) batteries and battery systems (including flow batteries);

(D) compressed air energy systems;

(E) power conditioning electronics;

(F) manufacturing technologies for energy storage systems;

(G) thermal management systems; and

(H) hydrogen as an energy storage medium.

(2) FUNDING.—For activities carried out under this subsection, in addition to funding activities at National Laboratories, the Secretary shall provide funds to, and coordinate activities with, a range of stakeholders, including the public, private, and academic sectors.

(h) ENERGY STORAGE RESEARCH CENTERS.—

(1) IN GENERAL.—The Secretary shall establish, through competitive bids, not more than 4 energy storage research centers to translate basic research into applied technologies to advance the capability of the United States to maintain a globally competitive posture in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(2) PROGRAM MANAGEMENT.—The centers shall be managed by the Under Secretary for Science of the Department.

(3) PARTICIPATION AGREEMENTS.—As a condition of participating in a center, a participant shall enter into a participation agreement with the center that requires that activities conducted by the participant for the center promote the goal of enabling the United States to compete successfully in global energy storage markets.

(4) PLANS.—A center shall conduct activities that promote the achievement of the goals of the plans of the Council under subsection (e)(4).

(5) NATIONAL LABORATORIES.—A national laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)) may participate in a center established under this subsection, including a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))).

(6) DISCLOSURE.—Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) may apply to any project carried out through a grant, contract, or cooperative agreement under this subsection.

(7) INTELLECTUAL PROPERTY.—In accordance with section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), the Secretary may require, for any new invention developed under this subsection, that—

(A) if an industrial participant is active in a energy storage research center established under this subsection relating to the advancement of energy storage technologies carried out, in whole or in part, with Federal funding, the industrial participant be granted the first option to negotiate with the invention owner, at least in the field of energy storage technologies, nonexclusive licenses, and royalties on terms that are reasonable, as determined by the Secretary;

(B) if 1 or more industry participants are active in a center, during a 2-year period beginning on the date on which an invention is made—

(i) the patent holder shall not negotiate any license or royalty agreement with any entity that is not an industrial participant under this subsection; and

(ii) the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested industrial participant under this subsection; and

(C) the new invention be developed under such other terms as the Secretary determines to be necessary to promote the accelerated commercialization of inventions made under this subsection to advance the capability of the United States to successfully compete in global energy storage markets.

(i) ENERGY STORAGE SYSTEMS DEMONSTRATIONS.—

(1) IN GENERAL.—The Secretary shall carry out a program of new demonstrations of advanced energy storage systems.

(2) SCOPE.—The demonstrations shall—

(A) be regionally diversified; and

(B) expand on the existing technology demonstration program of the Department.

(3) STAKEHOLDERS.—In carrying out the demonstrations, the Secretary shall, to the maximum extent practicable, include the participation of a range of stakeholders, including—

(A) rural electric cooperatives;

(B) investor owned utilities;

(C) municipally owned electric utilities;

(D) energy storage systems manufacturers;

(E) electric drive vehicle manufacturers;

(F) the renewable energy production industry;

(G) State or local energy offices;

(H) the fuel cell industry; and

(I) institutions of higher education.

(4) OBJECTIVES.—Each of the demonstrations shall include 1 or more of the following:

(A) Energy storage to improve the feasibility of microgrids or islanding, or transmission and distribution capability, to improve reliability in rural areas.

(B) Integration of an energy storage system with a self-healing grid.

(C) Use of energy storage to improve security to emergency response infrastructure and ensure availability of emergency backup power for consumers.

(D) Integration with a renewable energy production source, at the source or away from the source.

(E) Use of energy storage to provide ancillary services, such as spinning reserve services, for grid management.

(F) Advancement of power conversion systems to make the systems smarter, more efficient, able to communicate with other inverters, and able to control voltage.

(G) Use of energy storage to optimize transmission and distribution operation and power quality, which could address overloaded lines and maintenance of transformers and substations.

(H) Use of advanced energy storage for peak load management of homes, businesses, and the grid.

(I) Use of energy storage devices to store energy during nonpeak generation periods to make better use of existing grid assets.

(j) VEHICLE ENERGY STORAGE DEMONSTRATION.—

(1) IN GENERAL.—The Secretary shall carry out a program of electric drive vehicle energy storage technology demonstrations.

(2) CONSORTIA.—The technology demonstrations shall be conducted through consortia, which may include—

(A) energy storage systems manufacturers and suppliers of the manufacturers;

(B) electric drive vehicle manufacturers;

(C) rural electric cooperatives;

(D) investor owned utilities;

(E) municipal and rural electric utilities;

(F) State and local governments;

(G) metropolitan transportation authorities; and

(H) institutions of higher education.

(3) OBJECTIVES.—The program shall demonstrate 1 or more of the following:

(A) Novel, high capacity, high efficiency energy storage, charging, and control systems, along with the collection of data on performance characteristics, such as battery life, energy storage capacity, and power delivery capacity.

(B) Advanced onboard energy management systems and highly efficient battery cooling systems.

(C) Integration of those systems on a prototype vehicular platform, including with drivetrain systems for passenger, commercial, and nonroad electric drive vehicles.

(D) New technologies and processes that reduce manufacturing costs.

(E) Integration of advanced vehicle technologies with electricity distribution system and smart metering technology.

(F) Control systems that minimize emissions profiles in cases in which clean diesel engines are part of a plug-in hybrid drive system.

(k) SECONDARY APPLICATIONS AND DISPOSAL OF ELECTRIC DRIVE VEHICLE BATTERIES.—The Secretary shall carry out a program of research, development, and demonstration of—

(1) secondary applications of energy storage devices following service in electric drive vehicles; and

(2) technologies and processes for final recycling and disposal of the devices.

(l) COST SHARING.—The Secretary shall carry out the programs established under this section in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(m) MERIT REVIEW OF PROPOSALS.—The Secretary shall carry out the programs established under subsections (i), (j), and (k) in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353).

(n) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall coordinate activities under this section with other programs and laboratories of the Department and other Federal research programs.

(o) REVIEW BY NATIONAL ACADEMY OF SCIENCES.—On the business day that is 5 years after the date of enactment of this Act, the Secretary shall offer to enter into an arrangement with the National Academy of Sciences to assess the performance of the Department in carrying out this section.

(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out—

(1) the basic research program under subsection (f) $50,000,000 for each of fiscal years 2009 through 2018;

(2) the applied research program under subsection (g) $80,000,000 for each of fiscal years 2009 through 2018; and;

(3) the energy storage research center program under subsection (h) $100,000,000 for each of fiscal years 2009 through 2018;

(4) the energy storage systems demonstration program under subsection (i) $30,000,000 for each of fiscal years 2009 through 2018;

(5) the vehicle energy storage demonstration program under subsection (j) $30,000,000 for each of fiscal years 2009 through 2018; and

(6) the secondary applications and disposal of electric drive vehicle batteries program under subsection (k) $5,000,000 for each of fiscal years 2009 through 2018.

Subtitle E—Miscellaneous Provisions

SEC. 651. LIGHTWEIGHT MATERIALS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Energy shall establish a program to determine ways in which the weight of motor vehicles could be reduced to improve fuel efficiency without compromising passenger safety by conducting research, development, and demonstration relating to—

(1) the development of new materials (including cast metal composite materials formed by autocombustion synthesis) and material processes that yield a higher strength-to-weight ratio or other properties that reduce vehicle weight; and

(2) reducing the cost of—

(A) lightweight materials (including high-strength steel alloys, aluminum, magnesium, metal composites, and carbon fiber reinforced polymer composites) with the properties required for construction of lighter-weight vehicles; and

(B) materials processing, automated manufacturing, joining, and recycling lightweight materials for high-volume applications.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $80,000,000 for the period of fiscal years 2008 through 2012.

SEC. 652. COMMERCIAL INSULATION DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED INSULATION.—The term ''advanced insulation'' means insulation that has an R value of not less than R35 per inch.

(2) COVERED REFRIGERATION UNIT.—The term ''covered refrigeration unit'' means any—

(A) commercial refrigerated truck;

(B) commercial refrigerated trailer; or

(C) commercial refrigerator, freezer, or refrigerator-freezer described in section 342(c) of the Energy Policy and Conservation Act (42 U.S.C. 6313(c)).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes an evaluation of—

(1) the state of technological advancement of advanced insulation; and

(2) the projected amount of cost savings that would be generated by implementing advanced insulation into covered refrigeration units.

(c) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—If the Secretary determines in the report described in subsection (b) that the implementation of advanced insulation into covered refrigeration units would generate an economically justifiable amount of cost savings, the Secretary, in cooperation with manufacturers of covered refrigeration units, shall establish a demonstration program under which the Secretary shall demonstrate the cost-effectiveness of advanced insulation.

(2) DISCLOSURE.—The Secretary may, for a period of up to five years after an award is granted under the demonstration program, exempt from mandatory disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

(3) COST-SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to any project carried out under this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000 for the period of fiscal years 2009 through 2014.

SEC. 653. TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.

Section 402(b)(1)(B)(ii) of the Energy Policy Act of 2005 (42 U.S.C. 15962(b)(1)(B)(ii)) is amended by striking subclause (I) and inserting the following:

''(I)(aa) to remove at least 99 percent of sulfur dioxide; or

''(bb) to emit not more than 0.04 pound SO_2 per million Btu, based on a 30-day average;''.

SEC. 654. H-PRIZE.

Section 1008 of the Energy Policy Act of 2005 (42 U.S.C. 16396) is amended by adding at the end the following new subsection:

''(f) H-PRIZE.—

''(1) PRIZE AUTHORITY.—

''(A) IN GENERAL.—As part of the program under this section, the Secretary shall carry out a program to competitively award cash prizes in conformity with this subsection to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.

''(B) ADVERTISING AND SOLICITATION OF COMPETITORS.—

''(i) ADVERTISING.—The Secretary shall widely advertise prize competitions under this subsection to encourage broad participation, including by individuals, universities (including historically Black colleges and universities and other minority serving institutions), and large and small businesses (including businesses owned or controlled by socially and economically disadvantaged persons).

''(ii) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition under this subsection by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

''(C) ADMINISTERING THE COMPETITIONS.—The Secretary shall enter into an agreement with a private, nonprofit entity to administer the prize competitions under this subsection, subject to the provisions of this subsection (in this subsection referred to as the 'administering entity'). The duties of the administering entity under the agreement shall include—

''(i) advertising prize competitions under this subsection and their results;

''(ii) raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes, including funds provided in exchange for the right to name a prize awarded under this subsection;

''(iii) developing, in consultation with and subject to the final approval of the Secretary, the criteria for selecting winners in prize competitions under this subsection, based on goals provided by the Secretary;

''(iv) determining, in consultation with the Secretary, the appropriate amount and funding sources for each prize to be awarded under this subsection, subject to the final approval of the Secretary with respect to Federal funding;

''(v) providing advice and consultation to the Secretary on the selection of judges in accordance with paragraph (2)(D), using criteria developed in consultation with and subject to the final approval of the Secretary; and

''(vi) protecting against the administering entity's unauthorized use or disclosure of a registered participant's trade secrets and confidential business information. Any information properly identified as trade secrets or confidential business information that is submitted by a participant as part of a competitive program under this subsection may be withheld from public disclosure.

''(D) FUNDING SOURCES.—Prizes under this subsection shall consist of Federal appropriated funds and any funds provided by the administering entity (including funds raised pursuant to subparagraph (C)(ii)) for such cash prize programs. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, United States Code, may use such funds for the cash prize program under this subsection. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

''(E) ANNOUNCEMENT OF PRIZES.—The Secretary may not issue a notice required by subparagraph (B)(ii) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by the administering entity. The Secretary may increase the amount of a prize after an initial announcement is made under subparagraph (B)(ii) if—

''(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

''(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by the administering entity.

''(F) SUNSET.—The authority to announce prize competitions under this subsection shall terminate on September 30, 2018.

''(2) PRIZE CATEGORIES.—

''(A) CATEGORIES.—The Secretary shall establish prizes under this subsection for—

''(i) advancements in technologies, components, or systems related to—

''(I) hydrogen production;

''(II) hydrogen storage;

''(III) hydrogen distribution; and

''(IV) hydrogen utilization;

''(ii) prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and

''(iii) transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which may include cost criteria designed to facilitate the eventual market success of a winning technology.

''(B) AWARDS.—

''(i) ADVANCEMENTS.—To the extent permitted under paragraph (1)(E), the prizes authorized under subparagraph (A)(i) shall be awarded biennially to the most significant advance made in each of the four subcategories described in subclauses (I) through (IV) of subparagraph (A)(i) since the submission deadline of the previous prize competition in the same category under subparagraph (A)(i) or the date of enactment of this subsection, whichever is later, unless no such advance is significant enough to merit an award. No one such prize may exceed $1,000,000. If less than $4,000,000 is available for a prize competition under subparagraph (A)(i), the Secretary may omit one or more subcategories, reduce the amount of the prizes, or not hold a prize competition.

''(ii) PROTOTYPES.—To the extent permitted under paragraph (1)(E), prizes authorized under subparagraph (A)(ii) shall be awarded biennially in alternate years from the prizes authorized under subparagraph (A)(i). The Secretary is authorized to award up to one prize in this category in each 2-year period. No such prize may exceed $4,000,000. If no registered participants meet the objective performance criteria established pursuant to subparagraph (C) for a competition under this clause, the Secretary shall not award a prize.

''(iii) TRANSFORMATIONAL TECHNOLOGIES.—To the extent permitted under paragraph (1)(E), the Secretary shall announce one prize competition authorized under subparagraph (A)(iii) as soon after the date of enactment of this subsection as is practicable. A prize offered under this clause shall be not less than $10,000,000, paid to the winner in a lump sum, and an additional amount paid to the winner as a match for each dollar of private funding raised by the winner for the hydrogen technology beginning on the date the winner was named. The match shall be provided for 3 years after the date the prize winner is named or until the full amount of the prize has been paid out, whichever occurs first. A prize winner may elect to have the match amount paid to another entity that is continuing the development of the winning technology. The Secretary shall announce the rules for receiving the match in the notice required by paragraph (1)(B)(ii). The Secretary shall award a prize under this clause only when a registered participant has met the objective criteria established for the prize pursuant to subparagraph (C) and announced pursuant to paragraph (1)(B)(ii). Not more than $10,000,000 in Federal funds may be used for the prize award under this clause. The administering entity shall seek to raise $40,000,000 toward the matching award under this clause.

''(C) CRITERIA.—In establishing the criteria required by this subsection, the Secretary—

''(i) shall consult with the Department's Hydrogen Technical and Fuel Cell Advisory Committee;

''(ii) shall consult with other Federal agencies, including the National Science Foundation; and

''(iii) may consult with other experts such as private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.

''(D) JUDGES.—For each prize competition under this subsection, the Secretary in consultation with the administering entity shall assemble a panel of qualified judges to select the winner or winners on the basis of the criteria established under subparagraph (C). Judges for each prize competition shall include individuals from outside the Department, including from the private sector. A judge, spouse, minor children, and members of the judge's household may not—

''(i) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the prize competition for which he or she will serve as a judge; or

''(ii) have a familial or financial relationship with an individual who is a registered participant in the prize competition for which he or she will serve as a judge.

''(3) ELIGIBILITY.—To be eligible to win a prize under this subsection, an individual or entity—

''(A) shall have complied with all the requirements in accordance with the Federal Register notice required under paragraph (1)(B)(ii);

''(B) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

''(C) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.

''(4) INTELLECTUAL PROPERTY.—The Federal Government shall not, by virtue of offering or awarding a prize under this subsection, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this subsection. This paragraph shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this subsection.

''(5) LIABILITY.—

''(A) WAIVER OF LIABILITY.—The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this subsection. The Secretary shall give notice of any waiver required under this subparagraph in the notice required by paragraph (1)(B)(ii). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant's trade secrets or confidential business information.

''(B) LIABILITY INSURANCE.—

''(i) REQUIREMENTS.—Registered participants in a prize competition under this subsection shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

''(I) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this subsection; and

''(II) the Federal Government for damage or loss to Government property resulting from such an activity.

''(ii) FEDERAL GOVERNMENT INSURED.—The Federal Government shall be named as an additional insured under a registered participant's insurance policy required under clause (i)(I), and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities under this subsection.

''(6) REPORT TO CONGRESS.—Not later than 60 days after the awarding of the first prize under this subsection, and annually thereafter, the Secretary shall transmit to the Congress a report that—

''(A) identifies each award recipient;

''(B) describes the technologies developed by each award recipient; and

''(C) specifies actions being taken toward commercial application of all technologies with respect to which a prize has been awarded under this subsection.

''(7) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—

''(i) AWARDS.—There are authorized to be appropriated to the Secretary for the period encompassing fiscal years 2008 through 2017 for carrying out this subsection—

''(I) $20,000,000 for awards described in paragraph (2)(A)(i);

''(II) $20,000,000 for awards described in paragraph (2)(A)(ii); and

''(III) $10,000,000 for the award described in paragraph (2)(A)(iii).

''(ii) ADMINISTRATION.—In addition to the amounts authorized in clause (i), there are authorized to be appropriated to the Secretary for each of fiscal years 2008 and 2009 $2,000,000 for the administrative costs of carrying out this subsection.

''(B) CARRYOVER OF FUNDS.—Funds appropriated for prize awards under this subsection shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this subsection permits obligation or payment of funds in violation of section 1341 of title 31 of the United States Code (commonly referred to as the Anti-Deficiency Act).

''(8) NONSUBSTITUTION.—The programs created under this subsection shall not be considered a substitute for Federal research and development programs.''.

SEC. 655. BRIGHT TOMORROW LIGHTING PRIZES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, as part of the program carried out under section 1008 of the Energy Policy Act of 2005 (42 U.S.C. 16396), the Secretary shall establish and award Bright Tomorrow Lighting Prizes for solid state lighting in accordance with this section.

(b) PRIZE SPECIFICATIONS.—

(1) 60-WATT INCANDESCENT REPLACEMENT LAMP PRIZE.—The Secretary shall award a 60-Watt Incandescent Replacement Lamp Prize to an entrant that produces a solid-state light package simultaneously capable of—

(A) producing a luminous flux greater than 900 lumens;

(B) consuming less than or equal to 10 watts;

(C) having an efficiency greater than 90 lumens per watt;

(D) having a color rendering index greater than 90;

(E) having a correlated color temperature of not less than 2,750, and not more than 3,000, degrees Kelvin;

(F) having 70 percent of the lumen value under subparagraph (A) exceeding 25,000 hours under typical conditions expected in residential use;

(G) having a light distribution pattern similar to a soft 60-watt incandescent A19 bulb;

(H) having a size and shape that fits within the maximum dimensions of an A19 bulb in accordance with American National Standards Institute standard C78.20–2003, figure C78.20–211;

(I) using a single contact medium screw socket; and

(J) mass production for a competitive sales commercial market satisfied by producing commercially accepted quality control lots of such units equal to or exceeding the criteria described in subparagraphs (A) through (I).

(2) PAR TYPE 38 HALOGEN REPLACEMENT LAMP PRIZE.—The Secretary shall award a Parabolic Aluminized Reflector Type 38 Halogen Replacement Lamp Prize (referred to in this section as the ''PAR Type 38 Halogen Replacement Lamp Prize'') to an entrant that produces a solid-state-light package simultaneously capable of—

(A) producing a luminous flux greater than or equal to 1,350 lumens;

(B) consuming less than or equal to 11 watts;

(C) having an efficiency greater than 123 lumens per watt;

(D) having a color rendering index greater than or equal to 90;

(E) having a correlated color coordinate temperature of not less than 2,750, and not more than 3,000, degrees Kelvin;

(F) having 70 percent of the lumen value under subparagraph (A) exceeding 25,000 hours under typical conditions expected in residential use;

(G) having a light distribution pattern similar to a PAR 38 halogen lamp;

(H) having a size and shape that fits within the maximum dimensions of a PAR 38 halogen lamp in accordance with American National Standards Institute standard C78–21–2003, figure C78.21–238;

(I) using a single contact medium screw socket; and

(J) mass production for a competitive sales commercial market satisfied by producing commercially accepted quality control lots of such units equal to or exceeding the criteria described in subparagraphs (A) through (I).

(3) TWENTY-FIRST CENTURY LAMP PRIZE.—The Secretary shall award a Twenty-First Century Lamp Prize to an entrant that produces a solid-state-light-light capable of—

(A) producing a light output greater than 1,200 lumens;

(B) having an efficiency greater than 150 lumens per watt;

(C) having a color rendering index greater than 90;

(D) having a color coordinate temperature between 2,800 and 3,000 degrees Kelvin; and

(E) having a lifetime exceeding 25,000 hours.

(c) PRIVATE FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), and notwithstanding section 3302 of title 31, United States Code, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(2) PRIZE COMPETITION.—A private source of funding may not participate in the competition for prizes awarded under this section.

(d) TECHNICAL REVIEW.—The Secretary shall establish a technical review committee composed of non-Federal officers to review entrant data submitted under this section to determine whether the data meets the prize specifications described in subsection (b).

(e) THIRD PARTY ADMINISTRATION.—The Secretary may competitively select a third party to administer awards under this section.

(f) ELIGIBILITY FOR PRIZES.—To be eligible to be awarded a prize under this section—

(1) in the case of a private entity, the entity shall be incorporated in and maintain a primary place of business in the United States; and

(2) in the case of an individual (whether participating as a single individual or in a group), the individual shall be a citizen or lawful permanent resident of the United States.

(g) AWARD AMOUNTS.—Subject to the availability of funds to carry out this section, the amount of—

(1) the 60-Watt Incandescent Replacement Lamp Prize described in subsection (b)(1) shall be $10,000,000;

(2) the PAR Type 38 Halogen Replacement Lamp Prize described in subsection (b)(2) shall be $5,000,000; and

(3) the Twenty-First Century Lamp Prize described in subsection (b)(3) shall be $5,000,000.

(h) FEDERAL PROCUREMENT OF SOLID-STATE-LIGHTS.—

(1) 60-WATT INCANDESCENT REPLACEMENT.—Subject to paragraph (3), as soon as practicable after the successful award of the 60-Watt Incandescent Replacement Lamp Prize under subsection (b)(1), the Secretary (in consultation with the Administrator of General Services) shall develop governmentwide Federal purchase guidelines with a goal of replacing the use of 60-watt incandescent lamps in Federal Government buildings with a solid-state-light package described in subsection (b)(1) by not later than the date that is 5 years after the date the award is made.

(2) PAR 38 HALOGEN REPLACEMENT LAMP REPLACEMENT.—Subject to paragraph (3), as soon as practicable after the successful

award of the PAR Type 38 Halogen Replacement Lamp Prize under subsection (b)(2), the Secretary (in consultation with the Administrator of General Services) shall develop governmentwide Federal purchase guidelines with the goal of replacing the use of PAR 38 halogen lamps in Federal Government buildings with a solid-state-light package described in subsection (b)(2) by not later than the date that is 5 years after the date the award is made.

(3) WAIVERS.—

(A) IN GENERAL.—The Secretary or the Administrator of General Services may waive the application of paragraph (1) or (2) if the Secretary or Administrator determines that the return on investment from the purchase of a solid-state-light package described in paragraph (1) or (2) of subsection (b), respectively, is cost prohibitive.

(B) REPORT OF WAIVER.—If the Secretary or Administrator waives the application of paragraph (1) or (2), the Secretary or Administrator, respectively, shall submit to Congress an annual report that describes the waiver and provides a detailed justification for the waiver.

(i) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Administrator of General Services shall submit to the Energy Information Agency a report describing the quantity, type, and cost of each lighting product purchased by the Federal Government.

(j) BRIGHT TOMORROW LIGHTING AWARD FUND.—

(1) ESTABLISHMENT.—There is established in the United States Treasury a Bright Tomorrow Lighting permanent fund without fiscal year limitation to award prizes under paragraphs (1), (2), and (3) of subsection (b).

(2) SOURCES OF FUNDING.—The fund established under paragraph (1) shall accept—

(A) fiscal year appropriations; and

(B) private contributions authorized under subsection (c).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 656. RENEWABLE ENERGY INNOVATION MANUFACTURING PARTNERSHIP.

(a) ESTABLISHMENT.—The Secretary shall carry out a program, to be known as the Renewable Energy Innovation Manufacturing Partnership Program (referred to in this section as the ''Program''), to make assistance awards to eligible entities for use in carrying out research, development, and demonstration relating to the manufacturing of renewable energy technologies.

(b) SOLICITATION.—To carry out the Program, the Secretary shall annually conduct a competitive solicitation for assistance awards for an eligible project described in subsection (e).

(c) PROGRAM PURPOSES.—The purposes of the Program are—

(1) to develop, or aid in the development of, advanced manufacturing processes, materials, and infrastructure;

(2) to increase the domestic production of renewable energy technology and components; and

(3) to better coordinate Federal, State, and private resources to meet regional and national renewable energy goals through advanced manufacturing partnerships.

(d) ELIGIBLE ENTITIES.—An entity shall be eligible to receive an assistance award under the Program to carry out an eligible project described in subsection (e) if the entity is composed of—

(1) 1 or more public or private nonprofit institutions or national laboratories engaged in research, development, demonstration, or technology transfer, that would participate substantially in the project; and

(2) 1 or more private entities engaged in the manufacturing or development of renewable energy system components (including solar energy, wind energy, biomass, geothermal energy, energy storage, or fuel cells).

(e) ELIGIBLE PROJECTS.—An eligible entity may use an assistance award provided under this section to carry out a project relating to—

(1) the conduct of studies of market opportunities for component manufacturing of renewable energy systems;

(2) the conduct of multiyear applied research, development, demonstration, and deployment projects for advanced manufacturing processes, materials, and infrastructure for renewable energy systems; and

(3) other similar ventures, as approved by the Secretary, that promote advanced manufacturing of renewable technologies.

(f) CRITERIA AND GUIDELINES.—The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under the Program.

(g) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a project carried out under this section.

(h) DISCLOSURE.—The Secretary may, for a period of up to five years after an award is granted under this section, exempt from mandatory disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

(i) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Secretary should ensure that small businesses engaged in renewable manufacturing be given priority consideration for the assistance awards provided under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of funds already authorized to carry out this section $25,000,000 for each of fiscal years 2008 through 2013, to remain available until expended.

TITLE VII—CARBON CAPTURE AND SEQUESTRATION

Subtitle A—Carbon Capture and Sequestration Research, Development, and Demonstration

SEC. 701. SHORT TITLE.

This subtitle may be cited as the ''Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007''.

SEC. 702. CARBON CAPTURE AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) AMENDMENT.—Section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293) is amended—

(1) in the section heading, by striking ''**RESEARCH AND DEVELOPMENT**'' and inserting ''**AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION**'';

(2) in subsection (a)—

(A) by striking ''research and development'' and inserting ''and sequestration research, development, and demonstration''; and

(B) by striking ''capture technologies on combustion-based systems'' and inserting ''capture and sequestration technologies related to industrial sources of carbon dioxide'';

(3) in subsection (b)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) to expedite and carry out large-scale testing of carbon sequestration systems in a range of geologic formations that will provide information on the cost and feasibility of deployment of sequestration technologies.''; and

(4) by striking subsection (c) and inserting the following:

''(c) PROGRAMMATIC ACTIVITIES.—

''(1) FUNDAMENTAL SCIENCE AND ENGINEERING RESEARCH AND DEVELOPMENT AND DEMONSTRATION SUPPORTING CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES AND CARBON USE ACTIVITIES.—

''(A) IN GENERAL.—The Secretary shall carry out fundamental science and engineering research (including laboratory-scale experiments, numeric modeling, and simulations) to develop and document the performance of new approaches to capture and sequester, or use carbon dioxide to lead to an overall reduction of carbon dioxide emissions.

''(B) PROGRAM INTEGRATION.—The Secretary shall ensure that fundamental research carried out under this paragraph is appropriately applied to energy technology development activities, the field testing of carbon sequestration, and carbon use activities, including—

''(i) development of new or advanced technologies for the capture and sequestration of carbon dioxide;

''(ii) development of new or advanced technologies that reduce the cost and increase the efficacy of advanced compression of carbon dioxide required for the sequestration of carbon dioxide;

''(iii) modeling and simulation of geologic sequestration field demonstrations;

''(iv) quantitative assessment of risks relating to specific field sites for testing of sequestration technologies;

''(v) research and development of new and advanced technologies for carbon use, including recycling and reuse of carbon dioxide; and

''(vi) research and development of new and advanced technologies for the separation of oxygen from air.

''(2) FIELD VALIDATION TESTING ACTIVITIES.—

''(A) IN GENERAL.—The Secretary shall promote, to the maximum extent practicable, regional carbon sequestration partnerships to conduct geologic sequestration tests involving carbon dioxide injection and monitoring, mitigation, and verification operations in a variety of candidate geologic settings, including—

''(i) operating oil and gas fields;

''(ii) depleted oil and gas fields;

''(iii) unmineable coal seams;

''(iv) deep saline formations;

''(v) deep geologic systems that may be used as engineered reservoirs to extract economical quantities of heat from geothermal resources of low permeability or porosity; and

''(vi) deep geologic systems containing basalt formations.

''(B) OBJECTIVES.—The objectives of tests conducted under this paragraph shall be—

''(i) to develop and validate geophysical tools, analysis, and modeling to monitor, predict, and verify carbon dioxide containment;

''(ii) to validate modeling of geologic formations;

''(iii) to refine sequestration capacity estimated for particular geologic formations;

''(iv) to determine the fate of carbon dioxide concurrent with and following injection into geologic formations;

''(v) to develop and implement best practices for operations relating to, and monitoring of, carbon dioxide injection and sequestration in geologic formations;

''(vi) to assess and ensure the safety of operations related to geologic sequestration of carbon dioxide;

''(vii) to allow the Secretary to promulgate policies, procedures, requirements, and guidance to ensure that the objectives of this subparagraph are met in large-scale testing and deployment activities for carbon capture and sequestration that are funded by the Department of Energy; and

''(viii) to provide information to States, the Environmental Protection Agency, and other appropriate entities to support development of a regulatory framework for commercial-scale sequestration operations that ensure the protection of human health and the environment.

''(3) LARGE-SCALE CARBON DIOXIDE SEQUESTRATION TESTING.—

''(A) IN GENERAL.—The Secretary shall conduct not less than 7 initial large-scale sequestration tests, not including the FutureGen project, for geologic containment of carbon dioxide to collect and validate information on the cost and feasibility of commercial deployment of technologies for geologic containment of carbon dioxide. These 7 tests may include any Regional Partnership projects awarded as of the date of enactment of the Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007.

''(B) DIVERSITY OF FORMATIONS TO BE STUDIED.—In selecting formations for study under this paragraph, the Secretary shall consider a variety of geologic formations across the United States, and require characterization and modeling of candidate formations, as determined by the Secretary.

''(C) SOURCE OF CARBON DIOXIDE FOR LARGE-SCALE SEQUESTRATION TESTS.—In the process of any acquisition of carbon dioxide for sequestration tests under subparagraph (A), the Secretary shall give preference to sources of carbon dioxide from industrial sources. To the extent feasible, the Secretary shall prefer tests that would facilitate the creation of an integrated system of capture, transportation and sequestration of carbon dioxide. The preference provided for under this subparagraph shall not delay the implementation of the large-scale sequestration tests under this paragraph.

''(D) DEFINITION.—For purposes of this paragraph, the term 'large-scale' means the injection of more than 1,000,000 tons of carbon dioxide from industrial sources annually or a scale that demonstrates the ability to inject and sequester several million metric tons of industrial source carbon dioxide for a large number of years.

''(4) PREFERENCE IN PROJECT SELECTION FROM MERITORIOUS PROPOSALS.—In making competitive awards under this subsection, subject to the requirements of section 989, the Secretary shall—

''(A) give preference to proposals from partnerships among industrial, academic, and government entities; and

''(B) require recipients to provide assurances that all laborers and mechanics employed by contractors and subcontractors in the construction, repair, or alteration of new or existing facilities performed in order to carry out a demonstration or commercial application activity authorized under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code, and the Secretary of Labor shall, with respect to the labor standards in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176; 5 U.S.C. Appendix) and section 3145 of title 40, United States Code.

''(5) COST SHARING.—Activities under this subsection shall be considered research and development activities that are subject to the cost sharing requirements of section 988(b).

''(6) PROGRAM REVIEW AND REPORT.—During fiscal year 2011, the Secretary shall—

''(A) conduct a review of programmatic activities carried out under this subsection; and

''(B) make recommendations with respect to continuation of the activities.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $240,000,000 for fiscal year 2008;

''(2) $240,000,000 for fiscal year 2009;

''(3) $240,000,000 for fiscal year 2010;

''(4) $240,000,000 for fiscal year 2011; and

''(5) $240,000,000 for fiscal year 2012.''.

(b) TABLE OF CONTENTS AMENDMENT.—The item relating to section 963 in the table of contents for the Energy Policy Act of 2005 is amended to read as follows:

''Sec. 963. Carbon capture and sequestration research, development, and demonstration program.''.

SEC. 703. CARBON CAPTURE.

(a) PROGRAM ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate technologies for the large-scale capture of carbon dioxide from industrial sources. In making awards under this program, the Secretary shall select, as appropriate, a diversity of capture technologies to address the need to capture carbon dioxide from a range of industrial sources.

(2) SCOPE OF AWARD.—Awards under this section shall be only for the portion of the project that—

(A) carries out the large-scale capture (including purification and compression) of carbon dioxide from industrial sources;

(B) provides for the transportation and injection of carbon dioxide; and

(C) incorporates a comprehensive measurement, monitoring, and validation program.

(3) PREFERENCES FOR AWARD.—To ensure reduced carbon dioxide emissions, the Secretary shall take necessary actions to provide for the integration of the program under this paragraph with the large-scale carbon dioxide sequestration tests described in section 963(c)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16293(c)(3)), as added by section 702 of this subtitle. These actions should not delay implementation of these tests. The Secretary shall give priority consideration to projects with the following characteristics:

(A) CAPACITY.—Projects that will capture a high percentage of the carbon dioxide in the treated stream and large volumes of carbon dioxide as determined by the Secretary.

(B) SEQUESTRATION.—Projects that capture carbon dioxide from industrial sources that are near suitable geological reservoirs and could continue sequestration including—

(i) a field testing validation activity under section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293), as amended by this Act; or

(ii) other geologic sequestration projects approved by the Secretary.

(4) REQUIREMENT.—For projects that generate carbon dioxide that is to be sequestered, the carbon dioxide stream shall be of a sufficient purity level to allow for safe transport and sequestration.

(5) COST-SHARING.—The cost-sharing requirements of section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) for research and development projects shall apply to this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $200,000,000 per year for fiscal years 2009 through 2013.

SEC. 704. REVIEW OF LARGE-SCALE PROGRAMS.

The Secretary shall enter into an arrangement with the National Academy of Sciences for an independent review and oversight, beginning in 2011, of the programs under section 963(c)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16293(c)(3)), as added by section 702 of this subtitle, and under section 703 of this subtitle, to ensure that the benefits of such programs are maximized. Not later than January 1, 2012, the Secretary shall transmit to the Congress a report on the results of such review and oversight.

SEC. 705. GEOLOGIC SEQUESTRATION TRAINING AND RESEARCH.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to undertake a study that—

(A) defines an interdisciplinary program in geology, engineering, hydrology, environmental science, and related disciplines that will support the Nation's capability to capture and sequester carbon dioxide from anthropogenic sources;

(B) addresses undergraduate and graduate education, especially to help develop graduate level programs of research and instruction that lead to advanced degrees with emphasis on geologic sequestration science;

(C) develops guidelines for proposals from colleges and universities with substantial capabilities in the required disciplines that seek to implement geologic sequestration science programs that advance the Nation's capacity to address carbon management through geologic sequestration science; and

(D) outlines a budget and recommendations for how much funding will be necessary to establish and carry out the grant program under subsection (b).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Congress a copy of the results of the study provided by the National Academy of Sciences under paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subsection $1,000,000 for fiscal year 2008.

(b) GRANT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program through which colleges and universities may apply for and receive 4-year grants for—

(A) salary and startup costs for newly designated faculty positions in an integrated geologic carbon sequestration science program; and

(B) internships for graduate students in geologic sequestration science.

(2) RENEWAL.—Grants under this subsection shall be renewable for up to 2 additional 3-year terms, based on performance criteria, established by the National Academy of Sciences study conducted under subsection (a), that include the number of graduates of such programs.

(3) INTERFACE WITH REGIONAL GEOLOGIC CARBON SEQUESTRATION PARTNERSHIPS.—To the greatest extent possible, geologic carbon sequestration science programs supported under this subsection shall interface with the research of the Regional Carbon Sequestration Partnerships operated by the Department to provide internships and practical training in carbon capture and geologic sequestration.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary for carrying out this subsection such sums as may be necessary.

SEC. 706. RELATION TO SAFE DRINKING WATER ACT.

The injection and geologic sequestration of carbon dioxide pursuant to this subtitle and the amendments made by this subtitle shall be subject to the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.), including the provisions of part C of such Act (42 U.S.C. 300h et seq.; relating to protection of underground sources of drinking water). Nothing in this subtitle and the amendments made by this subtitle imposes or authorizes the promulgation of any requirement that is inconsistent or in conflict with the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or regulations thereunder.

SEC. 707. SAFETY RESEARCH.

(a) PROGRAM.—The Administrator of the Environmental Protection Agency shall conduct a research program to address public health, safety, and environmental impacts that may be associated with capture, injection, and sequestration of greenhouse gases in geologic reservoirs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section $5,000,000 for each fiscal year.

SEC. 708. UNIVERSITY BASED RESEARCH AND DEVELOPMENT GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with other appropriate agencies, shall establish a university based research and development program to study carbon capture and sequestration using the various types of coal.

(b) RURAL AND AGRICULTURAL INSTITUTIONS.—The Secretary shall give special consideration to rural or agricultural based institutions in areas that have regional sources of coal and that offer interdisciplinary programs in the area of environmental science to study carbon capture and sequestration.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are to be authorized to be appropriated $10,000,000 to carry out this section.

Subtitle B—Carbon Capture and Sequestration Assessment and Framework

SEC. 711. CARBON DIOXIDE SEQUESTRATION CAPACITY ASSESSMENT.

(a) DEFINITIONS.—In this section

(1) ASSESSMENT.—The term ''assessment'' means the national assessment of onshore capacity for carbon dioxide completed under subsection (f).

(2) CAPACITY.—The term ''capacity'' means the portion of a sequestration formation that can retain carbon dioxide in accordance with the requirements (including physical, geological, and economic requirements) established under the methodology developed under subsection (b).

(3) ENGINEERED HAZARD.—The term ''engineered hazard'' includes the location and completion history of any well that could affect potential sequestration.

(4) RISK.—The term ''risk'' includes any risk posed by geomechanical, geochemical, hydrogeological, structural, and engineered hazards.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(6) SEQUESTRATION FORMATION.—The term ''sequestration formation'' means a deep saline formation, unmineable coal seam, or oil or gas reservoir that is capable of accommodating a volume of industrial carbon dioxide.

(b) METHODOLOGY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a methodology for conducting an assessment under subsection (f), taking into consideration—

(1) the geographical extent of all potential sequestration formations in all States;

(2) the capacity of the potential sequestration formations;

(3) the injectivity of the potential sequestration formations;

(4) an estimate of potential volumes of oil and gas recoverable by injection and sequestration of industrial carbon dioxide in potential sequestration formations;

(5) the risk associated with the potential sequestration formations; and

(6) the work done to develop the Carbon Sequestration Atlas of the United States and Canada that was completed by the Department.

(c) COORDINATION.—

(1) FEDERAL COORDINATION.—

(A) CONSULTATION.—The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on issues of data sharing, format, development of the methodology, and content of the assessment required under this section to ensure the maximum usefulness and success of the assessment.

(B) COOPERATION.—The Secretary of Energy and the Administrator shall cooperate with the Secretary to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(2) STATE COORDINATION.—The Secretary shall consult with State geological surveys and other relevant entities to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(d) EXTERNAL REVIEW AND PUBLICATION.—On completion of the methodology under subsection (b), the Secretary shall—

(1) publish the methodology and solicit comments from the public and the heads of affected Federal and State agencies;

(2) establish a panel of individuals with expertise in the matters described in paragraphs (1) through (5) of subsection (b) composed, as appropriate, of representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international geoscience organizations to review the methodology and comments received under paragraph (1); and

(3) on completion of the review under paragraph (2), publish in the Federal Register the revised final methodology.

(e) PERIODIC UPDATES.—The methodology developed under this section shall be updated periodically (including at least once every 5 years) to incorporate new data as the data becomes available.

(f) NATIONAL ASSESSMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of publication of the methodology under subsection (d)(1), the Secretary, in consultation with the Secretary of Energy and State geological surveys, shall complete a national assessment of capacity for carbon dioxide in accordance with the methodology.

(2) GEOLOGICAL VERIFICATION.—As part of the assessment under this subsection, the Secretary shall carry out a drilling program to supplement the geological data relevant to determining sequestration capacity of carbon dioxide in geological sequestration formations, including—

(A) well log data;

(B) core data; and

(C) fluid sample data.

(3) PARTNERSHIP WITH OTHER DRILLING PROGRAMS.—As part of the drilling program under paragraph (2), the Secretary shall enter, as appropriate, into partnerships with other entities to collect and integrate data from other drilling programs relevant to the sequestration of carbon dioxide in geological formations.

(4) INCORPORATION INTO NATCARB.—

(A) IN GENERAL.—On completion of the assessment, the Secretary of Energy and the Secretary of the Interior shall incorporate the results of the assessment using—

(i) the NatCarb database, to the maximum extent practicable; or

(ii) a new database developed by the Secretary of Energy, as the Secretary of Energy determines to be necessary.

(B) RANKING.—The database shall include the data necessary to rank potential sequestration sites for capacity and risk, across the United States, within each State, by formation, and within each basin.

(5) REPORT.—Not later than 180 days after the date on which the assessment is completed, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the findings under the assessment.

(6) PERIODIC UPDATES.—The national assessment developed under this section shall be updated periodically (including at least once every 5 years) to support public and private sector decisionmaking.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for the period of fiscal years 2008 through 2012.

SEC. 712. ASSESSMENT OF CARBON SEQUESTRATION AND METHANE AND NITROUS OXIDE EMISSIONS FROM ECOSYSTEMS.

(a) DEFINITIONS.—In this section:

(1) ADAPTATION STRATEGY.—The term ''adaptation strategy'' means a land use and management strategy that can be used—

(A) to increase the sequestration capabilities of covered greenhouse gases of any ecosystem; or

(B) to reduce the emissions of covered greenhouse gases from any ecosystem.

(2) ASSESSMENT.—The term ''assessment'' means the national assessment authorized under subsection (b).

(3) COVERED GREENHOUSE GAS.—The term ''covered greenhouse gas'' means carbon dioxide, nitrous oxide, and methane gas.

(4) ECOSYSTEM.—The term ''ecosystem'' means any terrestrial, freshwater aquatic, or coastal ecosystem, including an estuary.

(5) NATIVE PLANT SPECIES.—The term ''native plant species'' means any noninvasive, naturally occurring plant species within an ecosystem.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) AUTHORIZATION OF ASSESSMENT.—Not later than 2 years after the date on which the final methodology is published under subsection (f)(3)(D), the Secretary shall complete a national assessment of—

(1) the quantity of carbon stored in and released from ecosystems, including from man-caused and natural fires; and

(2) the annual flux of covered greenhouse gases in and out of ecosystems.

(c) COMPONENTS.—In conducting the assessment under subsection (b), the Secretary shall—

(1) determine the processes that control the flux of covered greenhouse gases in and out of each ecosystem;

(2) estimate the potential for increasing carbon sequestration in natural and managed ecosystems through management activities or restoration activities in each ecosystem;

(3) develop near-term and long-term adaptation strategies or mitigation strategies that can be employed—

(A) to enhance the sequestration of carbon in each ecosystem;

(B) to reduce emissions of covered greenhouse gases from ecosystems; and

(C) to adapt to climate change; and

(4) estimate the annual carbon sequestration capacity of ecosystems under a range of policies in support of management activities to optimize sequestration.

(d) USE OF NATIVE PLANT SPECIES.—In developing restoration activities under subsection (c)(2) and management strategies and adaptation strategies under subsection (c)(3), the Secretary shall emphasize the use of native plant species (including mixtures of many native plant species) for sequestering covered greenhouse gas in each ecosystem.

(e) CONSULTATION.—

(1) IN GENERAL.—In conducting the assessment under subsection (b) and developing the methodology under subsection (f), the Secretary shall consult with—

(A) the Secretary of Energy;

(B) the Secretary of Agriculture;

(C) the Administrator of the Environmental Protection Agency;

(D) the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere; and

(E) the heads of other relevant agencies.

(2) OCEAN AND COASTAL ECOSYSTEMS.—In carrying out this section with respect to ocean and coastal ecosystems (including estuaries), the Secretary shall work jointly with the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere.

(f) METHODOLOGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a methodology for conducting the assessment.

(2) REQUIREMENTS.—The methodology developed under paragraph (1)—

(A) shall—

(i) determine the method for measuring, monitoring, and quantifying covered greenhouse gas emissions and reductions;

(ii) estimate the total capacity of each ecosystem to sequester carbon; and

(iii) estimate the ability of each ecosystem to reduce emissions of covered greenhouse gases through management practices; and

(B) may employ economic and other systems models, analyses, and estimates, to be developed in consultation with each of the individuals described in subsection (e).

(3) EXTERNAL REVIEW AND PUBLICATION.—On completion of a proposed methodology, the Secretary shall—

(A) publish the proposed methodology;

(B) at least 60 days before the date on which the final methodology is published, solicit comments from—

(i) the public; and

(ii) heads of affected Federal and State agencies;

(C) establish a panel to review the proposed methodology published under subparagraph (A) and any comments received under subparagraph (B), to be composed of members—

(i) with expertise in the matters described in subsections (c) and (d); and

(ii) that are, as appropriate, representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international organizations; and

(D) on completion of the review under subparagraph (C), publish in the Federal Register the revised final methodology.

(g) ESTIMATE; REVIEW.—The Secretary shall—

(1) based on the assessment, prescribe the data, information, and analysis needed to establish a scientifically sound estimate of the carbon sequestration capacity of relevant ecosystems; and

(2) not later than 180 days after the date on which the assessment is completed, submit to the heads of applicable Federal agencies and the appropriate committees of Congress a report that describes the results of the assessment.

(h) DATA AND REPORT AVAILABILITY.—On completion of the assessment, the Secretary shall incorporate the results of the assessment into a web-accessible database for public use.

(i) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $20,000,000 for the period of fiscal years 2008 through 2012.

SEC. 713. CARBON DIOXIDE SEQUESTRATION INVENTORY.

Section 354 of the Energy Policy Act of 2005 (42 U.S.C. 15910) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) RECORDS AND INVENTORY.—The Secretary of the Interior, acting through the Bureau of Land Management, shall maintain records on, and an inventory of, the quantity of carbon dioxide stored within Federal mineral leaseholds.''.

SEC. 714. FRAMEWORK FOR GEOLOGICAL CARBON SEQUESTRATION ON PUBLIC LAND.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on a recommended framework for managing geological carbon sequestration activities on public land.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) Recommended criteria for identifying candidate geological sequestration sites in each of the following types of geological settings:

(A) Operating oil and gas fields.

(B) Depleted oil and gas fields.

(C) Unmineable coal seams.

(D) Deep saline formations.

(E) Deep geological systems that may be used as engineered reservoirs to extract economical quantities of heat from geothermal resources of low permeability or porosity.

(F) Deep geological systems containing basalt formations.

(G) Coalbeds being used for methane recovery.

(2) A proposed regulatory framework for the leasing of public land or an interest in public land for the long-term geological sequestration of carbon dioxide, which includes an assessment of options to ensure that the United States receives fair market value for the use of public land or an interest in public land for geological sequestration.

(3) A proposed procedure for ensuring that any geological carbon sequestration activities on public land—

(A) provide for public review and comment from all interested persons; and

(B) protect the quality of natural and cultural resources of the public land overlaying a geological sequestration site.

(4) A description of the status of Federal leasehold or Federal mineral estate liability issues related to the geological subsurface trespass of or caused by carbon dioxide stored in public land, including any relevant experience from enhanced oil recovery using carbon dioxide on public land.

(5) Recommendations for additional legislation that may be required to ensure that public land management and leasing laws are adequate to accommodate the long-term geological sequestration of carbon dioxide.

(6) An identification of the legal and regulatory issues specific to carbon dioxide sequestration on land in cases in which title to mineral resources is held by the United States but title to the surface estate is not held by the United States.

(7)(A) An identification of the issues specific to the issuance of pipeline rights-of-way on public land under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for natural or anthropogenic carbon dioxide.

(B) Recommendations for additional legislation that may be required to clarify the appropriate framework for issuing rights-of-way for carbon dioxide pipelines on public land.

(c) CONSULTATION WITH OTHER AGENCIES.—In preparing the report under this section, the Secretary of the Interior shall coordinate with—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Energy; and

(3) the heads of other appropriate agencies.

(d) COMPLIANCE WITH SAFE DRINKING WATER ACT.—The Secretary shall ensure that all recommendations developed under this section are in compliance with all Federal environmental laws, including the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and regulations under that Act.

TITLE VIII—IMPROVED MANAGEMENT OF ENERGY POLICY

Subtitle A—Management Improvements

SEC. 801. NATIONAL MEDIA CAMPAIGN.

(a) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy (referred to in this section as the ''Secretary''), shall develop and conduct a national media campaign—

(1) to increase energy efficiency throughout the economy of the United States during the 10-year period beginning on the date of enactment of this Act;

(2) to promote the national security benefits associated with increased energy efficiency; and

(3) to decrease oil consumption in the United States during the 10-year period beginning on the date of enactment of this Act.

(b) CONTRACT WITH ENTITY.—The Secretary shall carry out subsection (a) directly or through—

(1) competitively bid contracts with 1 or more nationally recognized media firms for the development and distribution of monthly television, radio, and newspaper public service announcements; or

(2) collective agreements with 1 or more nationally recognized institutes, businesses, or nonprofit organizations for the funding, development, and distribution of monthly television, radio, and newspaper public service announcements.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts made available to carry out this section shall be used for—

(A) advertising costs, including—

(i) the purchase of media time and space;

(ii) creative and talent costs;

(iii) testing and evaluation of advertising; and

(iv) evaluation of the effectiveness of the media campaign; and

(B) administrative costs, including operational and management expenses.

(2) LIMITATIONS.—In carrying out this section, the Secretary shall allocate not less than 85 percent of funds made available under subsection (e) for each fiscal year for the advertising functions specified under paragraph (1)(A).

(d) REPORTS.—The Secretary shall annually submit to Congress a report that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished, including—

(A) determinations concerning the rate of change of energy consumption, in both absolute and per capita terms; and

(B) an evaluation that enables consideration of whether the media campaign contributed to reduction of energy consumption;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

(5) all contracts or cooperative agreements entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

(2) DECREASED OIL CONSUMPTION.—The Secretary shall use not less than 50 percent of the amount that is made available under this section for each fiscal year to develop and conduct a national media campaign to decrease oil consumption in the United States over the next decade.

SEC. 802. ALASKA NATURAL GAS PIPELINE ADMINISTRATION.

Section 106 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d) is amended by adding at the end the following:

''(h) ADMINISTRATION.—

''(1) PERSONNEL APPOINTMENTS.—

''(A) IN GENERAL.—The Federal Coordinator may appoint and terminate such personnel as the Federal Coordinator determines to be appropriate.

''(B) AUTHORITY OF FEDERAL COORDINATOR.—Personnel appointed by the Federal Coordinator under subparagraph (A) shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

''(2) COMPENSATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), personnel appointed by the Federal Coordinator under paragraph (1)(A) shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification and General Schedule pay rates).

''(B) MAXIMUM LEVEL OF COMPENSATION.—The rate of pay for personnel appointed by the Federal Coordinator under paragraph (1)(A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

''(C) ALLOWANCES.—Section 5941 of title 5, United States Code, shall apply to personnel appointed by the Federal Coordinator under paragraph (1)(A).

''(3) TEMPORARY SERVICES.—

''(A) IN GENERAL.—The Federal Coordinator may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code.

''(B) MAXIMUM LEVEL OF COMPENSATION.—The level of compensation of an individual employed on a temporary or intermittent basis under subparagraph (A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

''(4) FEES, CHARGES, AND COMMISSIONS.—

''(A) IN GENERAL.—With respect to the duties of the Federal Coordinator, as described in this Act, the Federal Coordinator shall have similar authority to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds as provided to the Secretary of the Interior in section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

''(B) AUTHORITY OF SECRETARY OF THE INTERIOR.—Subparagraph (A) shall not affect the authority of the Secretary of the Interior to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds under section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

''(C) USE OF FUNDS.—The Federal Coordinator is authorized to use, without further appropriation, amounts collected under subparagraph (A) to carry out this section.''.

SEC. 803. RENEWABLE ENERGY DEPLOYMENT.

(a) DEFINITIONS.—In this section:

(1) ALASKA SMALL HYDROELECTRIC POWER.—The term ''Alaska small hydroelectric power'' means power that—

(A) is generated—

(i) in the State of Alaska;

(ii) without the use of a dam or impoundment of water; and

(iii) through the use of—

(I) a lake tap (but not a perched alpine lake); or

(II) a run-of-river screened at the point of diversion; and

(B) has a nameplate capacity rating of a wattage that is not more than 15 megawatts.

(2) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means any—

(A) governmental entity;

(B) private utility;

(C) public utility;

(D) municipal utility;

(E) cooperative utility;

(F) Indian tribes; and

(G) Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(3) OCEAN ENERGY.—

(A) INCLUSIONS.—The term ''ocean energy'' includes current, wave, and tidal energy.

(B) EXCLUSION.—The term ''ocean energy'' excludes thermal energy.

(4) RENEWABLE ENERGY PROJECT.—The term ''renewable energy project'' means a project—

(A) for the commercial generation of electricity; and

(B) that generates electricity from—

(i) solar, wind, or geothermal energy or ocean energy;

(ii) biomass (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)));

(iii) landfill gas; or

(iv) Alaska small hydroelectric power.

(b) RENEWABLE ENERGY CONSTRUCTION GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts appropriated under this section to make grants for use in carrying out renewable energy projects.

(2) CRITERIA.—Not later than 180 days after the date of enactment of this Act, the Secretary shall set forth criteria for use in awarding grants under this section.

(3) APPLICATION.—To receive a grant from the Secretary under paragraph (1), an eligible applicant shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, United States Code; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

(4) NON-FEDERAL SHARE.—Each eligible applicant that receives a grant under this subsection shall contribute to the total cost of the renewable energy project constructed by the eligible applicant an amount not less than 50 percent of the total cost of the project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

SEC. 804. COORDINATION OF PLANNED REFINERY OUTAGES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Energy Information Administration.

(2) PLANNED REFINERY OUTAGE.—

(A) IN GENERAL.—The term ''planned refinery outage'' means a removal, scheduled before the date on which the removal occurs, of a refinery, or any unit of a refinery, from service for maintenance, repair, or modification.

(B) EXCLUSION.—The term ''planned refinery outage'' does not include any necessary and unplanned removal of a refinery, or any unit of a refinery, from service as a result of a component failure, safety hazard, emergency, or action reasonably anticipated to be necessary to prevent such events.

(3) REFINED PETROLEUM PRODUCT.—The term ''refined petroleum product'' means any gasoline, diesel fuel, fuel oil, lubricating oil, liquid petroleum gas, or other petroleum distillate that is produced through the refining or processing of crude oil or an oil derived from tar sands, shale, or coal.

(4) REFINERY.—The term ''refinery'' means a facility used in the production of a refined petroleum product through distillation, cracking, or any other process.

(b) REVIEW AND ANALYSIS OF AVAILABLE INFORMATION.—The Administrator shall, on an ongoing basis—

(1) review information on refinery outages that is available from commercial reporting services;

(2) analyze that information to determine whether the scheduling of a refinery outage may nationally or regionally substantially affect the price or supply of any refined petroleum product by—

(A) decreasing the production of the refined petroleum product; and

(B) causing or contributing to a retail or wholesale supply shortage or disruption;

(3) not less frequently than twice each year, submit to the Secretary a report describing the results of the review and analysis under paragraphs (1) and (2); and

(4) specifically alert the Secretary of any refinery outage that the Administrator determines may nationally or regionally substantially affect the price or supply of a refined petroleum product.

(c) ACTION BY SECRETARY.—On a determination by the Secretary, based on a report or alert under paragraph (3) or (4) of subsection (b), that a refinery outage may affect the price or supply of a refined petroleum product, the Secretary shall make available to refinery operators information on planned refinery outages to encourage reductions of the quantity of refinery capacity that is out of service at any time.

(d) LIMITATION.—Nothing in this section shall alter any existing legal obligation or responsibility of a refinery operator, or create any legal right of action, nor shall this section authorize the Secretary—

(1) to prohibit a refinery operator from conducting a planned refinery outage; or

(2) to require a refinery operator to continue to operate a refinery.

SEC. 805. ASSESSMENT OF RESOURCES.

(a) 5-YEAR PLAN.—

(1) ESTABLISHMENT.—The Administrator of the Energy Information Administration (referred to in this section as the ''Administrator'') shall establish a 5-year plan to enhance the quality and scope of the data collection necessary to ensure the scope, accuracy, and timeliness of the information needed for efficient functioning of energy markets and related financial operations.

(2) REQUIREMENT.—In establishing the plan under paragraph (1), the Administrator shall pay particular attention to—

(A) data series terminated because of budget constraints;

(B) data on demand response;

(C) timely data series of State-level information;

(D) improvements in the area of oil and gas data;

(E) improvements in data on solid byproducts from coal-based energy-producing facilities; and

(F) the ability to meet applicable deadlines under Federal law (including regulations) to provide data required by Congress.

(b) SUBMISSION TO CONGRESS.—The Administrator shall submit to Congress the plan established under subsection (a), including a description of any improvements needed to enhance the ability of the Administrator to collect and process energy information in a manner consistent with the needs of energy markets.

(c) GUIDELINES.—

(1) IN GENERAL.—The Administrator shall—

(A) establish guidelines to ensure the quality, comparability, and scope of State energy data, including data on energy production and consumption by product and sector and renewable and alternative sources, required to provide a comprehensive, accurate energy profile at the State level;

(B) share company-level data collected at the State level with each State involved, in a manner consistent with the legal authorities, confidentiality protections, and stated uses in effect at the time the data were collected, subject to the condition that the State shall agree to reasonable requirements for use of the data, as the Administrator may require;

(C) assess any existing gaps in data obtained and compiled by the Energy Information Administration; and

(D) evaluate the most cost-effective ways to address any data quality and quantity issues in conjunction with State officials.

(2) CONSULTATION.—The Administrator shall consult with State officials and the Federal Energy Regulatory Commission on a regular basis in—

(A) establishing guidelines and determining the scope of State-level data under paragraph (1); and

(B) exploring ways to address data needs and serve data uses.

(d) ASSESSMENT OF STATE DATA NEEDS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress an assessment of State-level data needs, including a plan to address the needs.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to the Administrator, there are authorized to be appropriated to the Administrator to carry out this section—

(1) $10,000,000 for fiscal year 2008;

(2) $10,000,000 for fiscal year 2009;

(3) $10,000,000 for fiscal year 2010;

(4) $15,000,000 for fiscal year 2011;

(5) $20,000,000 for fiscal year 2012; and

(6) such sums as are necessary for subsequent fiscal years.

SEC. 806. SENSE OF CONGRESS RELATING TO THE USE OF RENEWABLE RESOURCES TO GENERATE ENERGY.

(a) FINDINGS.—Congress finds that—

(1) the United States has a quantity of renewable energy resources that is sufficient to supply a significant portion of the energy needs of the United States;

(2) the agricultural, forestry, and working land of the United States can help ensure a sustainable domestic energy system;

(3) accelerated development and use of renewable energy technologies provide numerous benefits to the United States, including improved national security, improved balance of payments, healthier rural economies, improved environmental quality, and abundant, reliable, and affordable energy for all citizens of the United States;

(4) the production of transportation fuels from renewable energy would help the United States meet rapidly growing domestic and global energy demands, reduce the dependence of the United States on energy imported from volatile regions of the world that are politically unstable, stabilize the cost and availability of energy, and safeguard the economy and security of the United States;

(5) increased energy production from domestic renewable resources would attract substantial new investments in energy infrastructure, create economic growth, develop new jobs for the citizens of the United States, and increase the income for farm, ranch, and forestry jobs in the rural regions of the United States;

(6) increased use of renewable energy is practical and can be cost effective with the implementation of supportive policies and proper incentives to stimulate markets and infrastructure; and

(7) public policies aimed at enhancing renewable energy production and accelerating technological improvements will further reduce energy costs over time and increase market demand.

(b) SENSE OF CONGRESS.—It is the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should—

(1) provide from renewable resources not less than 25 percent of the total energy consumed in the United States; and

(2) continue to produce safe, abundant, and affordable food, feed, and fiber.

SEC. 807. GEOTHERMAL ASSESSMENT, EXPLORATION INFORMATION, AND PRIORITY ACTIVITIES.

(a) IN GENERAL.—Not later than January 1, 2012, the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall—

(1) complete a comprehensive nationwide geothermal resource assessment that examines the full range of geothermal resources in the United States; and

(2) submit to the the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the assessment.

(b) PERIODIC UPDATES.—At least once every 10 years, the Secretary shall update the national assessment required under this section to support public and private sector decisionmaking.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior to carry out this section—

(1) $15,000,000 for each of fiscal years 2008 through 2012; and

(2) such sums as are necessary for each of fiscal years 2013 through 2022.

Subtitle B—Prohibitions on Market Manipulation and False Information

SEC. 811. PROHIBITION ON MARKET MANIPULATION.

It is unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of crude oil gasoline or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Federal Trade Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

SEC. 812. PROHIBITION ON FALSE INFORMATION.

It is unlawful for any person to report information related to the wholesale price of crude oil gasoline or petroleum distillates to a Federal department or agency if—

(1) the person knew, or reasonably should have known, the information to be false or misleading;

(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by the department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, or petroleum distillates.

SEC. 813. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) ENFORCEMENT.—This subtitle shall be enforced by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as though all applicable terms of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle.

(b) VIOLATION IS TREATED AS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The violation of any provision of this subtitle shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

SEC. 814. PENALTIES.

(a) CIVIL PENALTY.—In addition to any penalty applicable under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), any supplier that violates section 811 or 812 shall be punishable by a civil penalty of not more than $1,000,000.

(b) METHOD.—The penalties provided by subsection (a) shall be obtained in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(c) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(1) each day of a continuing violation shall be considered a separate violation; and

(2) the court shall take into consideration, among other factors—

(A) the seriousness of the violation; and

(B) the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

SEC. 815. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF THE COMMISSION.—Nothing in this subtitle limits or affects the authority of the Federal Trade Commission to bring an enforcement action or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) ANTITRUST LAW.—Nothing in this subtitle shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of this subsection, the term ''antitrust laws'' shall have the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that it includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(c) STATE LAW.—Nothing in this subtitle preempts any State law.

TITLE IX—INTERNATIONAL ENERGY PROGRAMS

SEC. 901. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works of the Senate, and the Committee on Commerce, Science, and Transportation.

(2) CLEAN AND EFFICIENT ENERGY TECHNOLOGY.—The term ''clean and efficient energy technology'' means an energy supply or end-use technology that, compared to a similar technology already in widespread commercial use in a recipient country, will—

(A) reduce emissions of greenhouse gases; or

(B)(i) increase efficiency of energy production; or

(ii) decrease intensity of energy usage.

(3) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; or

(F) sulfur hexafluoride.

Subtitle A—Assistance to Promote Clean and Efficient Energy Technologies in Foreign Countries

SEC. 911. UNITED STATES ASSISTANCE FOR DEVELOPING COUNTRIES.

(a) ASSISTANCE AUTHORIZED.—The Administrator of the United States Agency for International Development shall support policies and programs in developing countries that promote clean and efficient energy technologies—

(1) to produce the necessary market conditions for the private sector delivery of energy and environmental management services;

(2) to create an environment that is conducive to accepting clean and efficient energy technologies that support the overall purpose of reducing greenhouse gas emissions, including—

(A) improving policy, legal, and regulatory frameworks;

(B) increasing institutional abilities to provide energy and environmental management services; and

(C) increasing public awareness and participation in the decision-making of delivering energy and environmental management services; and

(3) to promote the use of American-made clean and efficient energy technologies, products, and energy and environmental management services.

(b) REPORT.—The Administrator of the United States Agency for International Development shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Administrator of the United States Agency for International Development $200,000,000 for each of the fiscal years 2008 through 2012.

SEC. 912. UNITED STATES EXPORTS AND OUTREACH PROGRAMS FOR INDIA, CHINA, AND OTHER COUNTRIES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce shall direct the United States and Foreign Commercial Service to expand or create a corps of the Foreign Commercial Service officers to promote United States exports in clean and efficient energy technologies and build the capacity of government officials in India, China, and any other country the Secretary of Commerce determines appropriate, to become more familiar with the available technologies—

(1) by assigning or training Foreign Commercial Service attachés, who have expertise in clean and efficient energy technologies from the United States, to embark on business development and outreach efforts to such countries; and

(2) by deploying the attachés described in paragraph (1) to educate provincial, state, and local government officials in such countries on the variety of United States-based technologies in clean and efficient energy technologies for the purposes of promoting United States exports and reducing global greenhouse gas emissions.

(b) REPORT.—The Secretary of Commerce shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 913. UNITED STATES TRADE MISSIONS TO ENCOURAGE PRIVATE SECTOR TRADE AND INVESTMENT.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce shall direct the International Trade Administration to expand or create trade missions to and from the United States to encourage private sector trade and investment in clean and efficient energy technologies—

(1) by organizing and facilitating trade missions to foreign countries and by matching United States private sector companies with opportunities in foreign markets so that clean and efficient energy technologies can help to combat increases in global greenhouse gas emissions; and

(2) by creating reverse trade missions in which the Department of Commerce facilitates the meeting of foreign private and public sector organizations with private sector companies in the United States for the purpose of showcasing clean and efficient energy technologies in use or in development that could be exported to other countries.

(b) REPORT.—The Secretary of Commerce shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 914. ACTIONS BY OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Overseas Private Investment Corporation should promote greater investment in clean and efficient energy technologies by—

(1) proactively reaching out to United States companies that are interested in investing in clean and efficient energy technologies in countries that are significant contributors to global greenhouse gas emissions;

(2) giving preferential treatment to the evaluation and awarding of projects that involve the investment or utilization of clean and efficient energy technologies; and

(3) providing greater flexibility in supporting projects that involve the investment or utilization of clean and efficient energy technologies, including financing, insurance, and other assistance.

(b) REPORT.—The Overseas Private Investment Corporation shall include in its annual report required under section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a)—

(1) a description of the activities carried out to implement this section; or

(2) if the Corporation did not carry out any activities to implement this section, an explanation of the reasons therefor.

SEC. 915. ACTIONS BY UNITED STATES TRADE AND DEVELOPMENT AGENCY.

(a) ASSISTANCE AUTHORIZED.—The Director of the Trade and Development Agency shall establish or support policies that—

(1) proactively seek opportunities to fund projects that involve the utilization of clean and efficient energy technologies, including in trade capacity building and capital investment projects;

(2) where appropriate, advance the utilization of clean and efficient energy technologies, particularly to countries that have the potential for significant reduction in greenhouse gas emissions; and

(3) recruit and retain individuals with appropriate expertise or experience in clean, renewable, and efficient energy technologies to identify and evaluate opportunities for projects that involve clean and efficient energy technologies and services.

(b) REPORT.—The President shall include in the annual report on the activities of the Trade and Development Agency required under section 661(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(d)) a description of the activities carried out to implement this section.

SEC. 916. DEPLOYMENT OF INTERNATIONAL CLEAN AND EFFICIENT ENERGY TECHNOLOGIES AND INVESTMENT IN GLOBAL ENERGY MARKETS.

(a) TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish a Task Force on International Cooperation for Clean and Efficient Energy Technologies (in this section referred to as the ''Task Force'').

(2) COMPOSITION.—The Task Force shall be composed of representatives, appointed by the head of the respective Federal department or agency, of—

(A) the Council on Environmental Quality;

(B) the Department of Energy;

(C) the Department of Commerce;

(D) the Department of the Treasury;

(E) the Department of State;

(F) the Environmental Protection Agency;

(G) the United States Agency for International Development;

(H) the Export-Import Bank of the United States;

(I) the Overseas Private Investment Corporation:

(J) the Trade and Development Agency;

(K) the Small Business Administration;

(L) the Office of the United States Trade Representative; and

(M) other Federal departments and agencies, as determined by the President.

(3) CHAIRPERSON.—The President shall designate a Chairperson or Co-Chairpersons of the Task Force.

(4) DUTIES.—The Task Force—

(A) shall develop and assist in the implementation of the strategy required under subsection (c); and

(B)(i) shall analyze technology, policy, and market opportunities for the development, demonstration, and deployment of clean and efficient energy technologies on an international basis; and

(ii) shall examine relevant trade, tax, finance, international, and other policy issues to assess which policies, in the United States

and in developing countries, would help open markets and improve the export of clean and efficient energy technologies from the United States.

(5) TERMINATION.—The Task Force, including any working group established by the Task Force pursuant to subsection (b), shall terminate 12 years after the date of the enactment of this Act.

(b) WORKING GROUPS.—

(1) ESTABLISHMENT.—The Task Force—

(A) shall establish an Interagency Working Group on the Export of Clean and Efficient Energy Technologies (in this section referred to as the ''Interagency Working Group''); and

(B) may establish other working groups as may be necessary to carry out this section.

(2) COMPOSITION.—The Interagency Working Group shall be composed of—

(A) the Secretary of Energy, the Secretary of Commerce, and the Secretary of State, who shall serve as Co-Chairpersons of the Interagency Working Group; and

(B) other members, as determined by the Chairperson or Co-Chairpersons of the Task Force.

(3) DUTIES.—The Interagency Working Group shall coordinate the resources and relevant programs of the Department of Energy, the Department of Commerce, the Department of State, and other relevant Federal departments and agencies to support the export of clean and efficient energy technologies developed or demonstrated in the United States to other countries and the deployment of such clean and efficient energy technologies in such other countries.

(4) INTERAGENCY CENTER.—The Interagency Working Group—

(A) shall establish an Interagency Center on the Export of Clean and Efficient Energy Technologies (in this section referred to as the ''Interagency Center'') to assist the Interagency Working Group in carrying out its duties required under paragraph (3); and

(B) shall locate the Interagency Center at a site agreed upon by the Co-Chairpersons of the Interagency Working Group, with the approval of Chairperson or Co-Chairpersons of the Task Force.

(c) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Task Force shall develop and submit to the President and the appropriate congressional committees a strategy to—

(A) support the development and implementation of programs, policies, and initiatives in developing countries to promote the adoption and deployment of clean and efficient energy technologies, with an emphasis on those developing countries that are expected to experience the most significant growth in energy production and use over the next 20 years;

(B) open and expand clean and efficient energy technology markets and facilitate the export of clean and efficient energy technologies to developing countries, in a manner consistent with United States obligations as member of the World Trade Organization;

(C) integrate into the foreign policy objectives of the United States the promotion of—

(i) the deployment of clean and efficient energy technologies and the reduction of greenhouse gas emissions in developing countries; and

(ii) the export of clean and efficient energy technologies; and

(D) develop financial mechanisms and instruments, including securities that mitigate the political and foreign exchange risks of uses that are consistent with the foreign policy objectives of the United States by combining the private sector market and government enhancements, that—

(i) are cost-effective; and

(ii) facilitate private capital investment in clean and efficient energy technology projects in developing countries.

(2) UPDATES.—Not later than 3 years after the date of submission of the strategy under paragraph (1), and every 3 years thereafter, the Task Force shall update the strategy in accordance with the requirements of paragraph (1).

(d) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of submission of the strategy under subsection (c)(1), and every 3 years thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this section for the prior 3-year period.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the following:

(A) The update of the strategy required under subsection (c)(2) and a description of the actions taken by the Task Force to assist in the implementation of the strategy.

(B) A description of actions taken by the Task Force to carry out the duties required under subsection (a)(4)(B).

(C) A description of assistance provided under this section.

(D) The results of programs, projects, and activities carried out under this section.

(E) A description of priorities for promoting the diffusion and adoption of clean and efficient energy technologies and strategies in developing countries, taking into account economic and security interests of the United States and opportunities for the export of technology of the United States.

(F) Recommendations to the heads of appropriate Federal departments and agencies on methods to streamline Federal programs and policies to improve the role of such Federal departments and agencies in the development, demonstration, and deployment of clean and efficient energy technologies on an international basis.

(G) Strategies to integrate representatives of the private sector and other interested groups on the export and deployment of clean and efficient energy technologies.

(H) A description of programs to disseminate information to the private sector and the public on clean and efficient energy technologies and opportunities to transfer such clean and efficient energy technologies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2020.

SEC. 917. UNITED STATES-ISRAEL ENERGY COOPERATION.

(a) FINDINGS.—Congress finds that—

(1) it is in the highest national security interests of the United States to develop renewable energy sources;

(2) the State of Israel is a steadfast ally of the United States;

(3) the special relationship between the United States and Israel is manifested in a variety of cooperative scientific research and development programs, such as—

(A) the United States-Israel Binational Science Foundation; and

(B) the United States-Israel Binational Industrial Research and Development Foundation;

(4) those programs have made possible many scientific, technological, and commercial breakthroughs in the fields of life sciences, medicine, bioengineering, agriculture, biotechnology, communications, and others;

(5) on February 1, 1996, the Secretary of Energy (referred to in this section as the ''Secretary'') and the Israeli Minister of Energy and Infrastructure signed an agreement to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(6) Israeli scientists and engineers are at the forefront of research and development in the field of renewable energy sources; and

(7) enhanced cooperation between the United States and Israel for the purpose of research and development of renewable energy sources would be in the national interests of both countries.

(b) GRANT PROGRAM.—

(1) ESTABLISHMENT.—In implementing the agreement entitled the ''Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation'', dated February 1, 1996, the Secretary shall establish a grant program in accordance with the requirements of sections 988 and 989 of the Energy Policy Act of 2005 (42 U.S.C. 16352, 16353) to support research, development, and commercialization of renewable energy or energy efficiency.

(2) TYPES OF ENERGY.—In carrying out paragraph (1), the Secretary may make grants to promote—

(A) solar energy;

(B) biomass energy;

(C) energy efficiency;

(D) wind energy;

(E) geothermal energy;

(F) wave and tidal energy; and

(G) advanced battery technology.

(3) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant under this subsection if the project of the applicant—

(A) addresses a requirement in the area of improved energy efficiency or renewable energy sources, as determined by the Secretary; and

(B) is a joint venture between—

(i)(I) a for-profit business entity, academic institution, National Laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)), or nonprofit entity in the United States; and

(II) a for-profit business entity, academic institution, or nonprofit entity in Israel; or

(ii)(I) the Federal Government; and

(II) the Government of Israel.

(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an applicant shall submit to the Secretary an application for the grant in accordance with procedures established by the Secretary, in consultation with the advisory board established under paragraph (5).

(5) ADVISORY BOARD.—

(A) ESTABLISHMENT.—The Secretary shall establish an advisory board—

(i) to monitor the method by which grants are awarded under this subsection; and

(ii) to provide to the Secretary periodic performance reviews of actions taken to carry out this subsection.

(B) COMPOSITION.—The advisory board established under subparagraph (A) shall be composed of 3 members, to be appointed by the Secretary, of whom—

(i) 1 shall be a representative of the Federal Government;

(ii) 1 shall be selected from a list of nominees provided by the United States-Israel Binational Science Foundation; and

(iii) 1 shall be selected from a list of nominees provided by the United States-Israel Binational Industrial Research and Development Foundation.

(6) CONTRIBUTED FUNDS.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(7) REPORT.—Not later than 180 days after the date of completion of a project for which

a grant is provided under this subsection, the grant recipient shall submit to the Secretary a report that contains—

(A) a description of the method by which the recipient used the grant funds; and

(B) an evaluation of the level of success of each project funded by the grant.

(8) CLASSIFICATION.—Grants shall be awarded under this subsection only for projects that are considered to be unclassified by both the United States and Israel.

(c) TERMINATION.—The grant program and the advisory committee established under this section terminate on the date that is 7 years after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall use amounts authorized to be appropriated under section 931 of the Energy Policy Act of 2005 (42 U.S.C. 16231) to carry out this section.

Subtitle B—International Clean Energy Foundation

SEC. 921. DEFINITIONS.

In this subtitle:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Foundation established pursuant to section 922(c).

(2) CHIEF EXECUTIVE OFFICER.—The term ''Chief Executive Officer'' means the chief executive officer of the Foundation appointed pursuant to section 922(b).

(3) FOUNDATION.—The term ''Foundation'' means the International Clean Energy Foundation established by section 922(a).

SEC. 922. ESTABLISHMENT AND MANAGEMENT OF FOUNDATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the executive branch a foundation to be known as the ''International Clean Energy Foundation'' that shall be responsible for carrying out the provisions of this subtitle. The Foundation shall be a government corporation, as defined in section 103 of title 5, United States Code.

(2) BOARD OF DIRECTORS.—The Foundation shall be governed by a Board of Directors in accordance with subsection (c).

(3) INTENT OF CONGRESS.—It is the intent of Congress, in establishing the structure of the Foundation set forth in this subsection, to create an entity that serves the long-term foreign policy and energy security goals of reducing global greenhouse gas emissions.

(b) CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—There shall be in the Foundation a Chief Executive Officer who shall be responsible for the management of the Foundation.

(2) APPOINTMENT.—The Chief Executive Officer shall be appointed by the Board, with the advice and consent of the Senate, and shall be a recognized leader in clean and efficient energy technologies and climate change and shall have experience in energy security, business, or foreign policy, chosen on the basis of a rigorous search.

(3) RELATIONSHIP TO BOARD.—The Chief Executive Officer shall report to, and be under the direct authority of, the Board.

(4) COMPENSATION AND RANK.—

(A) IN GENERAL.—The Chief Executive Officer shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) AMENDMENT.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Chief Executive Officer, International Clean Energy Foundation.''.

(C) AUTHORITIES AND DUTIES.—The Chief Executive Officer shall be responsible for the management of the Foundation and shall exercise the powers and discharge the duties of the Foundation.

(D) AUTHORITY TO APPOINT OFFICERS.—In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Foundation.

(c) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT.—There shall be in the Foundation a Board of Directors.

(2) DUTIES.—The Board shall perform the functions specified to be carried out by the Board in this subtitle and may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised.

(3) MEMBERSHIP.—The Board shall consist of—

(A) the Secretary of State (or the Secretary's designee), the Secretary of Energy (or the Secretary's designee), and the Administrator of the United States Agency for International Development (or the Administrator's designee); and

(B) four other individuals with relevant experience in matters relating to energy security (such as individuals who represent institutions of energy policy, business organizations, foreign policy organizations, or other relevant organizations) who shall be appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) one individual shall be appointed from among a list of individuals submitted by the majority leader of the House of Representatives;

(ii) one individual shall be appointed from among a list of individuals submitted by the minority leader of the House of Representatives;

(iii) one individual shall be appointed from among a list of individuals submitted by the majority leader of the Senate; and

(iv) one individual shall be appointed from among a list of individuals submitted by the minority leader of the Senate.

(4) CHIEF EXECUTIVE OFFICER.—The Chief Executive Officer of the Foundation shall serve as a nonvoting, ex officio member of the Board.

(5) TERMS.—

(A) OFFICERS OF THE FEDERAL GOVERNMENT.—Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) OTHER MEMBERS.—Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 3 years.

(C) VACANCIES.—A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(D) ACTING MEMBERS.—A vacancy in the Board may be filled with an appointment of an acting member by the Chairperson of the Board for up to 1 year while a nominee is named and awaits confirmation in accordance with paragraph (3)(B).

(6) CHAIRPERSON.—There shall be a Chairperson of the Board. The Secretary of State (or the Secretary's designee) shall serve as the Chairperson.

(7) QUORUM.—A majority of the members of the Board described in paragraph (3) shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on the date of the enactment of this Act, shall include at least 1 member of the Board described in paragraph (3)(B).

(8) MEETINGS.—The Board shall meet at the call of the Chairperson, who shall call a meeting no less than once a year.

(9) COMPENSATION.—

(A) OFFICERS OF THE FEDERAL GOVERNMENT.—

(i) IN GENERAL.—A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) TRAVEL EXPENSES.—Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(B) OTHER MEMBERS.—

(i) IN GENERAL.—Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this subtitle at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code.

(ii) LIMITATION.—A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

SEC. 923. DUTIES OF FOUNDATION.

The Foundation shall—

(1) use the funds authorized by this subtitle to make grants to promote projects outside of the United States that serve as models of how to significantly reduce the emissions of global greenhouse gases through clean and efficient energy technologies, processes, and services;

(2) seek contributions from foreign governments, especially those rich in energy resources such as member countries of the Organization of the Petroleum Exporting Countries, and private organizations to supplement funds made available under this subtitle;

(3) harness global expertise through collaborative partnerships with foreign governments and domestic and foreign private actors, including nongovernmental organizations and private sector companies, by leveraging public and private capital, technology, expertise, and services towards innovative models that can be instituted to reduce global greenhouse gas emissions;

(4) create a repository of information on best practices and lessons learned on the utilization and implementation of clean and efficient energy technologies and processes to be used for future initiatives to tackle the climate change crisis;

(5) be committed to minimizing administrative costs and to maximizing the availability of funds for grants under this subtitle; and

(6) promote the use of American-made clean and efficient energy technologies, processes, and services by giving preference to entities incorporated in the United States and whose technology will be substantially manufactured in the United States.

SEC. 924. ANNUAL REPORT.

(a) REPORT REQUIRED.—Not later than March 31, 2008, and each March 31 thereafter, the Foundation shall submit to the appropriate congressional committees a report on the implementation of this subtitle during the prior fiscal year.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) the total financial resources available to the Foundation during the year, including

appropriated funds, the value and source of any gifts or donations accepted pursuant to section 925(a)(6), and any other resources;

(2) a description of the Board's policy priorities for the year and the basis upon which competitive grant proposals were solicited and awarded to nongovernmental institutions and other organizations;

(3) a list of grants made to nongovernmental institutions and other organizations that includes the identity of the institutional recipient, the dollar amount, and the results of the program; and

(4) the total administrative and operating expenses of the Foundation for the year, as well as specific information on—

(A) the number of Foundation employees and the cost of compensation for Board members, Foundation employees, and personal service contractors;

(B) costs associated with securing the use of real property for carrying out the functions of the Foundation;

(C) total travel expenses incurred by Board members and Foundation employees in connection with Foundation activities; and

(D) total representational expenses.

SEC. 925. POWERS OF THE FOUNDATION; RELATED PROVISIONS.

(a) POWERS.—The Foundation—

(1) shall have perpetual succession unless dissolved by a law enacted after the date of the enactment of this Act;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may accept money, funds, services, or property (real, personal, or mixed), tangible or intangible, made available by gift, bequest grant, or otherwise for the purpose of carrying out the provisions of this title from domestic or foreign private individuals, charities, nongovernmental organizations, corporations, or governments;

(7) may use the United States mails in the same manner and on the same conditions as the executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this subtitle.

(b) PRINCIPAL OFFICE.—The Foundation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—

(1) IN GENERAL.—The Foundation shall be subject to chapter 91 of subtitle VI of title 31, United States Code, except that the Foundation shall not be authorized to issue obligations or offer obligations to the public.

(2) CONFORMING AMENDMENT.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

''(R) the International Clean Energy Foundation.''.

(d) INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of State shall serve as Inspector General of the Foundation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Foundation.

(2) AUTHORITY OF THE BOARD.—In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) REIMBURSEMENT AND AUTHORIZATION OF SERVICES.—

(A) REIMBURSEMENT.—The Foundation shall reimburse the Department of State for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

(B) AUTHORIZATION FOR SERVICES.—Of the amount authorized to be appropriated under section 927(a) for a fiscal year, up to $500,000 is authorized to be made available to the Inspector General of the Department of State to conduct reviews, investigations, and inspections of operations and activities of the Foundation.

SEC. 926. GENERAL PERSONNEL AUTHORITIES.

(a) DETAIL OF PERSONNEL.—Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Foundation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee's allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Foundation, is entitled to be reemployed in such employee's former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Foundation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Foundation.

(2) SPECIFIC RIGHTS.—An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) HIRING AUTHORITY.—Of persons employed by the Foundation, no more than 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) BASIC PAY.—The Chief Executive Officer may fix the rate of basic pay of employees of the Foundation without regard to the provisions of chapter 51 of title 5, United States Code (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Foundation may receive a rate of basic pay that exceeds the rate for level IV of the Executive Schedule under section 5315 of such title.

(e) DEFINITIONS.—In this section—

(1) the term ''agency'' means an executive agency, as defined by section 105 of title 5, United States Code; and

(2) the term ''detail'' means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Foundation.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subtitle, there are authorized to be appropriated $20,000,000 for each of the fiscal years 2009 through 2013.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Foundation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this subtitle. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this subtitle or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

(2) NOTIFICATION.—The Foundation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

Subtitle C—Miscellaneous Provisions

SEC. 931. ENERGY DIPLOMACY AND SECURITY WITHIN THE DEPARTMENT OF STATE.

(a) STATE DEPARTMENT COORDINATOR FOR INTERNATIONAL ENERGY AFFAIRS.—

(1) IN GENERAL.—The Secretary of State should ensure that energy security is integrated into the core mission of the Department of State.

(2) COORDINATOR FOR INTERNATIONAL ENERGY AFFAIRS.—There is established within the Office of the Secretary of State a Coordinator for International Energy Affairs, who shall be responsible for—

(A) representing the Secretary of State in interagency efforts to develop the international energy policy of the United States;

(B) ensuring that analyses of the national security implications of global energy and environmental developments are reflected in the decision making process within the Department of State;

(C) incorporating energy security priorities into the activities of the Department of State;

(D) coordinating energy activities of the Department of State with relevant Federal agencies; and

(E) coordinating energy security and other relevant functions within the Department of State currently undertaken by offices within—

(i) the Bureau of Economic, Energy and Business Affairs;

(ii) the Bureau of Oceans and International Environmental and Scientific Affairs; and

(iii) other offices within the Department of State.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) ENERGY EXPERTS IN KEY EMBASSIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that includes—

(1) a description of the Department of State personnel who are dedicated to energy matters and are stationed at embassies and consulates in countries that are major energy producers or consumers;

(2) an analysis of the need for Federal energy specialist personnel in United States embassies and other United States diplomatic missions; and

(3) recommendations for increasing energy expertise within United States embassies among foreign service officers and options for assigning to such embassies energy attachés from the National Laboratories or other agencies within the Department of Energy.

(c) ENERGY ADVISORS.—The Secretary of Energy may make appropriate arrangements with the Secretary of State to assign personnel from the Department of Energy or the National Laboratories of the Department of Energy to serve as dedicated advisors on energy matters in embassies of the United States or other United States diplomatic missions.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every 2 years thereafter for the following 20 years, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that describes—

(1) the energy-related activities being conducted by the Department of State, including activities within—

(A) the Bureau of Economic, Energy and Business Affairs;

(B) the Bureau of Oceans and Environmental and Scientific Affairs; and

(C) other offices within the Department of State;

(2) the amount of funds spent on each activity within each office described in paragraph (1); and

(3) the number and qualification of personnel in each embassy (or relevant foreign posting) of the United States whose work is dedicated exclusively to energy matters.

SEC. 932. NATIONAL SECURITY COUNCIL REORGANIZATION.

Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) the Secretary of Energy;''.

SEC. 933. ANNUAL NATIONAL ENERGY SECURITY STRATEGY REPORT.

(a) REPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), on the date on which the President submits to Congress the budget for the following fiscal year under section 1105 of title 31, United States Code, the President shall submit to Congress a comprehensive report on the national energy security of the United States.

(2) NEW PRESIDENTS.—In addition to the reports required under paragraph (1), the President shall submit a comprehensive report on the national energy security of the United States by not later than 150 days after the date on which the President assumes the office of President after a presidential election.

(b) CONTENTS.—Each report under this section shall describe the national energy security strategy of the United States, including a comprehensive description of—

(1) the worldwide interests, goals, and objectives of the United States that are vital to the national energy security of the United States;

(2) the foreign policy, worldwide commitments, and national defense capabilities of the United States necessary—

(A) to deter political manipulation of world energy resources; and

(B) to implement the national energy security strategy of the United States;

(3) the proposed short-term and long-term uses of the political, economic, military, and other authorities of the United States—

(A) to protect or promote energy security; and

(B) to achieve the goals and objectives described in paragraph (1);

(4) the adequacy of the capabilities of the United States to protect the national energy security of the United States, including an evaluation of the balance among the capabilities of all elements of the national authority of the United States to support the implementation of the national energy security strategy; and

(5) such other information as the President determines to be necessary to inform Congress on matters relating to the national energy security of the United States.

(c) CLASSIFIED AND UNCLASSIFIED FORM.—Each national energy security strategy report shall be submitted to Congress in—

(1) a classified form; and

(2) an unclassified form.

SEC. 934. CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE CONTINGENT COST ALLOCATION.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly known as the ''Price-Anderson Act'')—

(i) provides a predictable legal framework necessary for nuclear projects; and

(ii) ensures prompt and equitable compensation in the event of a nuclear incident in the United States;

(B) the Price-Anderson Act, in effect, provides operators of nuclear powerplants with insurance for damage arising out of a nuclear incident and funds the insurance primarily through the assessment of a retrospective premium from each operator after the occurrence of a nuclear incident;

(C) the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997, will establish a global system—

(i) to provide a predictable legal framework necessary for nuclear energy projects; and

(ii) to ensure prompt and equitable compensation in the event of a nuclear incident;

(D) the Convention benefits United States nuclear suppliers that face potentially unlimited liability for nuclear incidents that are not covered by the Price-Anderson Act by replacing a potentially open-ended liability with a predictable liability regime that, in effect, provides nuclear suppliers with insurance for damage arising out of such an incident;

(E) the Convention also benefits United States nuclear facility operators that may be publicly liable for a Price-Anderson incident by providing an additional early source of funds to compensate damage arising out of the Price-Anderson incident;

(F) the combined operation of the Convention, the Price-Anderson Act, and this section will augment the quantity of assured funds available for victims in a wider variety of nuclear incidents while reducing the potential liability of United States suppliers without increasing potential costs to United States operators;

(G) the cost of those benefits is the obligation of the United States to contribute to the supplementary compensation fund established by the Convention;

(H) any such contribution should be funded in a manner that does not—

(i) upset settled expectations based on the liability regime established under the Price-Anderson Act; or

(ii) shift to Federal taxpayers liability risks for nuclear incidents at foreign installations;

(I) with respect to a Price-Anderson incident, funds already available under the Price-Anderson Act should be used; and

(J) with respect to a nuclear incident outside the United States not covered by the Price-Anderson Act, a retrospective premium should be prorated among nuclear suppliers relieved from potential liability for which insurance is not available.

(2) PURPOSE.—The purpose of this section is to allocate the contingent costs associated with participation by the United States in the international nuclear liability compensation system established by the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997—

(A) with respect to a Price-Anderson incident, by using funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) to cover the contingent costs in a manner that neither increases the burdens nor decreases the benefits under section 170 of that Act; and

(B) with respect to a covered incident outside the United States that is not a Price-Anderson incident, by allocating the contingent costs equitably, on the basis of risk, among the class of nuclear suppliers relieved by the Convention from the risk of potential liability resulting from any covered incident outside the United States.

(b) DEFINITIONS.—In this section:

(1) COMMISSION.—The term ''Commission'' means the Nuclear Regulatory Commission.

(2) CONTINGENT COST.—The term ''contingent cost'' means the cost to the United States in the event of a covered incident the amount of which is equal to the amount of funds the United States is obligated to make available under paragraph 1(b) of Article III of the Convention.

(3) CONVENTION.—The term ''Convention'' means the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) COVERED INCIDENT.—The term ''covered incident'' means a nuclear incident the occurrence of which results in a request for funds pursuant to Article VII of the Convention.

(5) COVERED INSTALLATION.—The term ''covered installation'' means a nuclear installation at which the occurrence of a nuclear incident could result in a request for funds under Article VII of the Convention.

(6) COVERED PERSON.—

(A) IN GENERAL.—The term ''covered person'' means—

(i) a United States person; and

(ii) an individual or entity (including an agency or instrumentality of a foreign country) that—

(I) is located in the United States; or

(II) carries out an activity in the United States.

(B) EXCLUSIONS.—The term ''covered person'' does not include—

(i) the United States; or

(ii) any agency or instrumentality of the United States.

(7) NUCLEAR SUPPLIER.—The term ''nuclear supplier'' means a covered person (or a successor in interest of a covered person) that—

(A) supplies facilities, equipment, fuel, services, or technology pertaining to the design, construction, operation, or decommissioning of a covered installation; or

(B) transports nuclear materials that could result in a covered incident.

(8) PRICE-ANDERSON INCIDENT.—The term ''Price-Anderson incident'' means a covered incident for which section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) would make funds available to compensate for public liability (as defined in section 11 of that Act (42 U.S.C. 2014)).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(10) UNITED STATES.—

(A) IN GENERAL.—The term ''United States'' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(B) INCLUSIONS.—The term ''United States'' includes—

(i) the Commonwealth of Puerto Rico;

(ii) any other territory or possession of the United States;

(iii) the Canal Zone; and

(iv) the waters of the United States territorial sea under Presidential Proclamation Number 5928, dated December 27, 1988 (43 U.S.C. 1331 note).

(11) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any individual who is a resident, national, or citizen of the United States (other than an individual residing outside of the United States and employed by a person who is not a United States person); and

(B) any corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the laws of the United States.

(c) USE OF PRICE-ANDERSON FUNDS.—

(1) IN GENERAL.—Funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) shall be used to cover the contingent cost resulting from any Price-Anderson incident.

(2) EFFECT.—The use of funds pursuant to paragraph (1) shall not reduce the limitation on public liability established under section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)).

(d) EFFECT ON AMOUNT OF PUBLIC LIABILITY.—

(1) IN GENERAL.—Funds made available to the United States under Article VII of the Convention with respect to a Price-Anderson incident shall be used to satisfy public liability resulting from the Price-Anderson incident.

(2) AMOUNT.—The amount of public liability allowable under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) relating to a Price-Anderson incident under paragraph (1) shall be increased by an amount equal to the difference between—

(A) the amount of funds made available for the Price-Anderson incident under Article VII of the Convention; and

(B) the amount of funds used under subsection (c) to cover the contingent cost resulting from the Price-Anderson incident.

(e) RETROSPECTIVE RISK POOLING PROGRAM.—

(1) IN GENERAL.—Except as provided under paragraph (2), each nuclear supplier shall participate in a retrospective risk pooling program in accordance with this section to cover the contingent cost resulting from a covered incident outside the United States that is not a Price-Anderson incident.

(2) DEFERRED PAYMENT.—

(A) IN GENERAL.—The obligation of a nuclear supplier to participate in the retrospective risk pooling program shall be deferred until the United States is called on to provide funds pursuant to Article VII of the Convention with respect to a covered incident that is not a Price-Anderson incident.

(B) AMOUNT OF DEFERRED PAYMENT.—The amount of a deferred payment of a nuclear supplier under subparagraph (A) shall be based on the risk-informed assessment formula determined under subparagraph (C).

(C) RISK-INFORMED ASSESSMENT FORMULA.—

(i) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, and every 5 years thereafter, the Secretary shall, by regulation, determine the risk-informed assessment formula for the allocation among nuclear suppliers of the contingent cost resulting from a covered incident that is not a Price-Anderson incident, taking into account risk factors such as—

(I) the nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(II) the quantity of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(III) the hazards associated with the supplied goods and services if the goods and services fail to achieve the intended purposes;

(IV) the hazards associated with the covered installation outside the United States to which the goods and services are supplied;

(V) the legal, regulatory, and financial infrastructure associated with the covered installation outside the United States to which the goods and services are supplied; and

(VI) the hazards associated with particular forms of transportation.

(ii) FACTORS FOR CONSIDERATION.—In determining the formula, the Secretary may—

(I) exclude—

(aa) goods and services with negligible risk;

(bb) classes of goods and services not intended specifically for use in a nuclear installation;

(cc) a nuclear supplier with a de minimis share of the contingent cost; and

(dd) a nuclear supplier no longer in existence for which there is no identifiable successor; and

(II) establish the period on which the risk assessment is based.

(iii) APPLICATION.—In applying the formula, the Secretary shall not consider any covered installation or transportation for which funds would be available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210).

(iv) REPORT.—Not later than 5 years after the date of the enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on whether there is a need for continuation or amendment of this section, taking into account the effects of the implementation of the Convention on the United States nuclear industry and suppliers.

(f) REPORTING.—

(1) COLLECTION OF INFORMATION.—

(A) IN GENERAL.—The Secretary may collect information necessary for developing and implementing the formula for calculating the deferred payment of a nuclear supplier under subsection (e)(2).

(B) PROVISION OF INFORMATION.—Each nuclear supplier and other appropriate persons shall make available to the Secretary such information, reports, records, documents, and other data as the Secretary determines, by regulation, to be necessary or appropriate to develop and implement the formula under subsection (e)(2)(C).

(2) PRIVATE INSURANCE.—The Secretary shall make available to nuclear suppliers, and insurers of nuclear suppliers, information to support the voluntary establishment and maintenance of private insurance against any risk for which nuclear suppliers may be required to pay deferred payments under this section.

(g) EFFECT ON LIABILITY.—Nothing in any other law (including regulations) limits liability for a covered incident to an amount equal to less than the amount prescribed in paragraph 1(a) of Article IV of the Convention, unless the law—

(1) specifically refers to this section; and

(2) explicitly repeals, alters, amends, modifies, impairs, displaces, or supersedes the effect of this subsection.

(h) PAYMENTS TO AND BY THE UNITED STATES.—

(1) ACTION BY NUCLEAR SUPPLIERS.—

(A) NOTIFICATION.—In the case of a request for funds under Article VII of the Convention resulting from a covered incident that is not a Price-Anderson incident, the Secretary shall notify each nuclear supplier of the amount of the deferred payment required to be made by the nuclear supplier.

(B) PAYMENTS.—

(i) IN GENERAL.—Except as provided under clause (ii), not later than 60 days after receipt of a notification under subparagraph (A), a nuclear supplier shall pay to the general fund of the Treasury the deferred payment of the nuclear supplier required under subparagraph (A).

(ii) ANNUAL PAYMENTS.—A nuclear supplier may elect to prorate payment of the deferred payment required under subparagraph (A) in 5 equal annual payments (including interest on the unpaid balance at the prime rate prevailing at the time the first payment is due).

(C) VOUCHERS.—A nuclear supplier shall submit payment certification vouchers to the Secretary of the Treasury in accordance with section 3325 of title 31, United States Code.

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts paid into the Treasury under paragraph (1) shall be available to the Secretary of the Treasury, without further appropriation and without fiscal year limitation, for the purpose of making the contributions of public funds required to be made by the United States under the Convention.

(B) ACTION BY SECRETARY OF TREASURY.—The Secretary of the Treasury shall pay the contribution required under the Convention to the court of competent jurisdiction under Article XIII of the Convention with respect to the applicable covered incident.

(3) FAILURE TO PAY.—If a nuclear supplier fails to make a payment required under this subsection, the Secretary may take appropriate action to recover from the nuclear supplier—

(A) the amount of the payment due from the nuclear supplier;

(B) any applicable interest on the payment; and

(C) a penalty of not more than twice the amount of the deferred payment due from the nuclear supplier.

(i) LIMITATION ON JUDICIAL REVIEW; CAUSE OF ACTION.—

(1) LIMITATION ON JUDICIAL REVIEW.—

(A) IN GENERAL.—In any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, any appeal or review by writ of mandamus or otherwise with respect to a nuclear incident that is not a Price-Anderson incident shall be in accordance with chapter 83 of title 28, United States Code, except that the appeal or review shall occur in the United States Court of Appeals for the District of Columbia Circuit.

(B) SUPREME COURT JURISDICTION.—Nothing in this paragraph affects the jurisdiction of the Supreme Court of the United States under chapter 81 of title 28, United States Code.

(2) CAUSE OF ACTION.—

(A) IN GENERAL.—Subject to subparagraph (B), in any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, in addition to any other cause of action that may exist, an individual or entity shall have a cause of action against the operator to recover for nuclear damage suffered by the individual or entity.

(B) REQUIREMENT.—Subparagraph (A) shall apply only if the individual or entity seeks a remedy for nuclear damage (as defined in Article I of the Convention) that was caused by a nuclear incident (as defined in Article I of the Convention) that is not a Price-Anderson incident.

(C) SAVINGS PROVISION.—Nothing in this paragraph may be construed to limit, modify, extinguish, or otherwise affect any cause

of action that would have existed in the absence of enactment of this paragraph.

(j) RIGHT OF RECOURSE.—This section does not provide to an operator of a covered installation any right of recourse under the Convention.

(k) PROTECTION OF SENSITIVE UNITED STATES INFORMATION.—Nothing in the Convention or this section requires the disclosure of—

(1) any data that, at any time, was Restricted Data (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014));

(2) information relating to intelligence sources or methods protected by section 102A(i) of the National Security Act of 1947 (50 U.S.C. 403–1(i)); or

(3) national security information classified under Executive Order 12958 (50 U.S.C. 435 note; relating to classified national security information) (or a successor Executive Order or regulation).

(l) REGULATIONS.—

(1) IN GENERAL.—The Secretary or the Commission, as appropriate, may prescribe regulations to carry out section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this section.

(2) REQUIREMENT.—Rules prescribed under this subsection shall ensure, to the maximum extent practicable, that—

(A) the implementation of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this section is consistent and equitable; and

(B) the financial and operational burden on a Commission licensee in complying with section 170 of that Act is not greater as a result of the enactment of this section.

(3) APPLICABILITY OF PROVISION.—Section 553 of title 5, United States Code, shall apply with respect to the promulgation of regulations under this subsection.

(4) EFFECT OF SUBSECTION.—The authority provided under this subsection is in addition to, and does not impair or otherwise affect, any other authority of the Secretary or the Commission to prescribe regulations.

(m) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 935. TRANSPARENCY IN EXTRACTIVE INDUSTRIES RESOURCE PAYMENTS.

(a) PURPOSE.—The purpose of this section is to—

(1) ensure greater United States energy security by combating corruption in the governments of foreign countries that receive revenues from the sale of their natural resources; and

(2) enhance the development of democracy and increase political and economic stability in such resource rich foreign countries.

(b) STATEMENT OF POLICY.—It is the policy of the United States—

(1) to increase energy security by promoting anti-corruption initiatives in oil and natural gas rich countries; and

(2) to promote global energy security through promotion of programs such as the Extractive Industries Transparency Initiative (EITI) that seek to instill transparency and accountability into extractive industries resource payments.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States should further global energy security and promote democratic development in resource-rich foreign countries by—

(1) encouraging further participation in the EITI by eligible countries and companies; and

(2) promoting the efficacy of the EITI program by ensuring a robust and candid review mechanism.

(d) REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in consultation with the Secretary of Energy, shall submit to the appropriate congressional committees a report on progress made in promoting transparency in extractive industries resource payments.

(2) MATTERS TO BE INCLUDED.—The report required by paragraph (1) shall include a detailed description of United States participation in the EITI, bilateral and multilateral diplomatic efforts to further participation in the EITI, and other United States initiatives to strengthen energy security, deter energy kleptocracy, and promote transparency in the extractive industries.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 for the purposes of United States contributions to the Multi-Donor Trust Fund of the EITI.

TITLE X—GREEN JOBS

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Green Jobs Act of 2007''.

SEC. 1002. ENERGY EFFICIENCY AND RENEWABLE ENERGY WORKER TRAINING PROGRAM.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) ENERGY EFFICIENCY AND RENEWABLE ENERGY WORKER TRAINING PROGRAM.—

''(1) GRANT PROGRAM.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Green Jobs Act of 2007, the Secretary, in consultation with the Secretary of Energy, shall establish an energy efficiency and renewable energy worker training program under which the Secretary shall carry out the activities described in paragraph (2) to achieve the purposes of this subsection.

''(B) ELIGIBILITY.—For purposes of providing assistance and services under the program established under this subsection—

''(i) target populations of eligible individuals to be given priority for training and other services shall include—

''(I) workers impacted by national energy and environmental policy;

''(II) individuals in need of updated training related to the energy efficiency and renewable energy industries;

''(III) veterans, or past and present members of reserve components of the Armed Forces;

''(IV) unemployed individuals;

''(V) individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency; and

''(VI) formerly incarcerated, adjudicated, nonviolent offenders; and

''(ii) energy efficiency and renewable energy industries eligible to participate in a program under this subsection include—

''(I) the energy-efficient building, construction, and retrofits industries;

''(II) the renewable electric power industry;

''(III) the energy efficient and advanced drive train vehicle industry;

''(IV) the biofuels industry;

''(V) the deconstruction and materials use industries;

''(VI) the energy efficiency assessment industry serving the residential, commercial, or industrial sectors; and

''(VII) manufacturers that produce sustainable products using environmentally sustainable processes and materials.

''(2) ACTIVITIES.—

''(A) NATIONAL RESEARCH PROGRAM.—Under the program established under paragraph (1), the Secretary, acting through the Bureau of Labor Statistics, where appropriate, shall collect and analyze labor market data to track workforce trends resulting from energy-related initiatives carried out under this subsection. Activities carried out under this paragraph shall include—

''(i) tracking and documentation of academic and occupational competencies as well as future skill needs with respect to renewable energy and energy efficiency technology;

''(ii) tracking and documentation of occupational information and workforce training data with respect to renewable energy and energy efficiency technology;

''(iii) collaborating with State agencies, workforce investments boards, industry, organized labor, and community and nonprofit organizations to disseminate information on successful innovations for labor market services and worker training with respect to renewable energy and energy efficiency technology;

''(iv) serving as a clearinghouse for best practices in workforce development, job placement, and collaborative training partnerships;

''(v) encouraging the establishment of workforce training initiatives with respect to renewable energy and energy efficiency technologies;

''(vi) linking research and development in renewable energy and energy efficiency technology with the development of standards and curricula for current and future jobs;

''(vii) assessing new employment and work practices including career ladder and upgrade training as well as high performance work systems; and

''(viii) providing technical assistance and capacity building to national and State energy partnerships, including industry and labor representatives.

''(B) NATIONAL ENERGY TRAINING PARTNERSHIP GRANTS.—

''(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award National Energy Training Partnerships Grants on a competitive basis to eligible entities to enable such entities to carry out training that leads to economic self-sufficiency and to develop an energy efficiency and renewable energy industries workforce. Grants shall be awarded under this subparagraph so as to ensure geographic diversity with at least 2 grants awarded to entities located in each of the 4 Petroleum Administration for Defense Districts with no subdistricts, and at least 1 grant awarded to an entity located in each of the subdistricts of the Petroleum Administration for Defense District with subdistricts.

''(ii) ELIGIBILITY.—To be eligible to receive a grant under clause (i), an entity shall be a nonprofit partnership that—

''(I) includes the equal participation of industry, including public or private employers, and labor organizations, including joint labor-management training programs, and may include workforce investment boards, community-based organizations, qualified service and conservation corps, educational institutions, small businesses, cooperatives, State and local veterans agencies, and veterans service organizations; and

''(II) demonstrates—

''(aa) experience in implementing and operating worker skills training and education programs;

''(bb) the ability to identify and involve in training programs carried out under this grant, target populations of individuals who would benefit from training and be actively involved in activities related to energy efficiency and renewable energy industries; and

''(cc) the ability to help individuals achieve economic self-sufficiency.

''(iii) PRIORITY.—Priority shall be given to partnerships which leverage additional public and private resources to fund training

programs, including cash or in-kind matches from participating employers.

''(C) STATE LABOR MARKET RESEARCH, INFORMATION, AND LABOR EXCHANGE RESEARCH PROGRAM.—

''(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award competitive grants to States to enable such States to administer labor market and labor exchange information programs that include the implementation of the activities described in clause (ii), in coordination with the one-stop delivery system.

''(ii) ACTIVITIES.—A State shall use amounts awarded under a grant under this subparagraph to provide funding to the State agency that administers the Wagner-Peyser Act and State unemployment compensation programs to carry out the following activities using State agency merit staff:

''(I) The identification of job openings in the renewable energy and energy efficiency sector.

''(II) The administration of skill and aptitude testing and assessment for workers.

''(III) The counseling, case management, and referral of qualified job seekers to openings and training programs, including energy efficiency and renewable energy training programs.

''(D) STATE ENERGY TRAINING PARTNERSHIP PROGRAM.—

''(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award competitive grants to States to enable such States to administer renewable energy and energy efficiency workforce development programs that include the implementation of the activities described in clause (ii).

''(ii) PARTNERSHIPS.—A State shall use amounts awarded under a grant under this subparagraph to award competitive grants to eligible State Energy Sector Partnerships to enable such Partnerships to coordinate with existing apprenticeship and labor management training programs and implement training programs that lead to the economic self-sufficiency of trainees.

''(iii) ELIGIBILITY.—To be eligible to receive a grant under this subparagraph, a State Energy Sector Partnership shall—

''(I) consist of nonprofit organizations that include equal participation from industry, including public or private nonprofit employers, and labor organizations, including joint labor-management training programs, and may include representatives from local governments, the workforce investment system, including one-stop career centers, community based organizations, qualified service and conservation corps, community colleges, and other post-secondary institutions, small businesses, cooperatives, State and local veterans agencies, and veterans service organizations;

''(II) demonstrate experience in implementing and operating worker skills training and education programs; and

''(III) demonstrate the ability to identify and involve in training programs, target populations of workers who would benefit from training and be actively involved in activities related to energy efficiency and renewable energy industries.

''(iv) PRIORITY.—In awarding grants under this subparagraph, the Secretary shall give priority to States that demonstrate that activities under the grant—

''(I) meet national energy policies associated with energy efficiency, renewable energy, and the reduction of emissions of greenhouse gases;

''(II) meet State energy policies associated with energy efficiency, renewable energy, and the reduction of emissions of greenhouse gases; and

''(III) leverage additional public and private resources to fund training programs, including cash or in-kind matches from participating employers.

''(v) COORDINATION.—A grantee under this subparagraph shall coordinate activities carried out under the grant with existing other appropriate training programs, including apprenticeship and labor management training programs, including such activities referenced in paragraph (3)(A), and implement training programs that lead to the economic self-sufficiency of trainees.

''(E) PATHWAYS OUT OF POVERTY DEMONSTRATION PROGRAM.—

''(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award competitive grants of sufficient size to eligible entities to enable such entities to carry out training that leads to economic self-sufficiency. The Secretary shall give priority to entities that serve individuals in families with income of less than 200 percent of the sufficiency standard for the local areas where the training is conducted that specifies, as defined by the State, or where such standard is not established, the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations. Grants shall be awards to ensure geographic diversity.

''(ii) ELIGIBLE ENTITIES.—To be eligible to receive a grant an entity shall be a partnership that—

''(I) includes community-based nonprofit organizations, educational institutions with expertise in serving low-income adults or youth, public or private employers from the industry sectors described in paragraph (1)(B)(ii), and labor organizations representing workers in such industry sectors;

''(II) demonstrates a record of successful experience in implementing and operating worker skills training and education programs;

''(III) coordinates activities, where appropriate, with the workforce investment system; and

''(IV) demonstrates the ability to recruit individuals for training and to support such individuals to successful completion in training programs carried out under this grant, targeting populations of workers who are or will be engaged in activities related to energy efficiency and renewable energy industries.

''(iii) PRIORITIES.—In awarding grants under this paragraph, the Secretary shall give priority to applicants that—

''(I) target programs to benefit low-income workers, unemployed youth and adults, high school dropouts, or other underserved sectors of the workforce within areas of high poverty;

''(II) ensure that supportive services are integrated with education and training, and delivered by organizations with direct access to and experience with targeted populations;

''(III) leverage additional public and private resources to fund training programs, including cash or in-kind matches from participating employers;

''(IV) involve employers and labor organizations in the determination of relevant skills and competencies and ensure that the certificates or credentials that result from the training are employer-recognized;

''(V) deliver courses at alternative times (such as evening and weekend programs) and locations most convenient and accessible to participants and link adult remedial education with occupational skills training; and

''(VI) demonstrate substantial experience in administering local, municipal, State, Federal, foundation, or private entity grants.

''(iv) DATA COLLECTION.—Grantees shall collect and report the following information:

''(I) The number of participants.

''(II) The demographic characteristics of participants, including race, gender, age, parenting status, participation in other Federal programs, education and literacy level at entry, significant barriers to employment (such as limited English proficiency, criminal record, addiction or mental health problem requiring treatment, or mental disability).

''(III) The services received by participants, including training, education, and supportive services.

''(IV) The amount of program spending per participant.

''(V) Program completion rates.

''(VI) Factors determined as significantly interfering with program participation or completion.

''(VII) The rate of Job placement and the rate of employment retention after 1 year.

''(VIII) The average wage at placement, including any benefits, and the rate of average wage increase after 1 year.

''(IX) Any post-employment supportive services provided.

The Secretary shall assist grantees in the collection of data under this clause by making available, where practicable, low-cost means of tracking the labor market outcomes of participants, and by providing standardized reporting forms, where appropriate.

''(3) ACTIVITIES.—

''(A) IN GENERAL.—Activities to be carried out under a program authorized by subparagraph (B), (D), or (E) of paragraph (2) shall be coordinated with existing systems or providers, as appropriate. Such activities may include—

''(i) occupational skills training, including curriculum development, on-the-job training, and classroom training;

''(ii) safety and health training;

''(iii) the provision of basic skills, literacy, GED, English as a second language, and job readiness training;

''(iv) individual referral and tuition assistance for a community college training program, or any training program leading to an industry-recognized certificate;

''(v) internship programs in fields related to energy efficiency and renewable energy;

''(vi) customized training in conjunction with an existing registered apprenticeship program or labor-management partnership;

''(vii) incumbent worker and career ladder training and skill upgrading and retraining;

''(viii) the implementation of transitional jobs strategies; and

''(ix) the provision of supportive services.

''(B) OUTREACH ACTIVITIES.—In addition to the activities authorized under subparagraph (A), activities authorized for programs under subparagraph (E) of paragraph (2) may include the provision of outreach, recruitment, career guidance, and case management services.

''(4) WORKER PROTECTIONS AND NONDISCRIMINATION REQUIREMENTS.—

''(A) APPLICATION OF WIA.—The provisions of sections 181 and 188 of the Workforce Investment Act of 1998 (29 U.S.C. 2931 and 2938) shall apply to all programs carried out with assistance under this subsection.

''(B) CONSULTATION WITH LABOR ORGANIZATIONS.—If a labor organization represents a substantial number of workers who are engaged in similar work or training in an area that is the same as the area that is proposed to be funded under this Act, the labor organization shall be provided an opportunity to be consulted and to submit comments in regard to such a proposal.

''(5) PERFORMANCE MEASURES.—

''(A) IN GENERAL.—The Secretary shall negotiate and reach agreement with the eligible entities that receive grants and assistance under this section on performance measures for the indicators of performance referred to in subparagraphs (A) and (B) of section 136(b)(2) that will be used to evaluate the performance of the eligible entity in carrying out the activities described in subsection (e)(2). Each performance measure shall consist of such an indicator of performance, and a performance level referred to in subparagraph (B).

''(B) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the eligible entity regarding the levels of performance expected to be achieved by the eligible entity on the indicators of performance.

''(6) REPORT.—

''(A) STATUS REPORT.—Not later than 18 months after the date of enactment of the Green Jobs Act of 2007, the Secretary shall transmit a report to the Senate Committee on Energy and Natural Resources, the Senate Committee on Health, Education, Labor, and Pensions, the House Committee on Education and Labor, and the House Committee on Energy and Commerce on the training program established by this subsection. The report shall include a description of the entities receiving funding and the activities carried out by such entities.

''(B) EVALUATION.—Not later than 3 years after the date of enactment of such Act, the Secretary shall transmit to the Senate Committee on Energy and Natural Resources, the Senate Committee on Health, Education, Labor, and Pensions, the House Committee on Education and Labor, and the House Committee on Energy and Commerce an assessment of such program and an evaluation of the activities carried out by entities receiving funding from such program.

''(7) DEFINITION.—As used in this subsection, the term 'renewable energy' has the meaning given such term in section 203(b)(2) of the Energy Policy Act of 2005 (Public Law 109–58).

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $125,000,000 for each fiscal years, of which—

''(A) not to exceed 20 percent of the amount appropriated in each such fiscal year shall be made available for, and shall be equally divided between, national labor market research and information under paragraph (2)(A) and State labor market information and labor exchange research under paragraph (2)(C), and not more than 2 percent of such amount shall be for the evaluation and report required under paragraph (4);

''(B) 20 percent shall be dedicated to Pathways Out of Poverty Demonstration Programs under paragraph (2)(E); and

''(C) the remainder shall be divided equally between National Energy Partnership Training Grants under paragraph (2)(B) and State energy training partnership grants under paragraph (2)(D).''.

TITLE XI—ENERGY TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Department of Transportation

SEC. 1101. OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.

(a) IN GENERAL.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

''(1) ESTABLISHMENT.—There is established in the Department an Office of Climate Change and Environment to plan, coordinate, and implement—

''(A) department-wide research, strategies, and actions under the Department's statutory authority to reduce transportation-related energy use and mitigate the effects of climate change; and

''(B) department-wide research strategies and actions to address the impacts of climate change on transportation systems and infrastructure.

''(2) CLEARINGHOUSE.—The Office shall establish a clearinghouse of solutions, including cost-effective congestion reduction approaches, to reduce air pollution and transportation-related energy use and mitigate the effects of climate change.''.

(b) COORDINATION.—The Office of Climate Change and Environment of the Department of Transportation shall coordinate its activities with the United States Global Change Research Program.

(c) TRANSPORTATION SYSTEM'S IMPACT ON CLIMATE CHANGE AND FUEL EFFICIENCY.—

(1) STUDY.—The Office of Climate Change and Environment, in coordination with the Environmental Protection Agency and in consultation with the United States Global Change Research Program, shall conduct a study to examine the impact of the Nation's transportation system on climate change and the fuel efficiency savings and clean air impacts of major transportation projects, to identify solutions to reduce air pollution and transportation-related energy use and mitigate the effects of climate change, and to examine the potential fuel savings that could result from changes in the current transportation system and through the use of intelligent transportation systems that help businesses and consumers to plan their travel and avoid delays, including Web-based real-time transit information systems, congestion information systems, carpool information systems, parking information systems, freight route management systems, and traffic management systems.

(2) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Administrator of the Environmental Protection Agency, shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a report that contains the results of the study required under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the Office of Climate Change and Environment to carry out its duties under section 102(g) of title 49, United States Code (as amended by this Act), such sums as may be necessary for fiscal years 2008 through 2011.

Subtitle B—Railroads

SEC. 1111. ADVANCED TECHNOLOGY LOCOMOTIVE GRANT PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall establish and carry out a pilot program for making grants to railroad carriers (as defined in section 20102 of title 49, United States Code) and State and local governments—

(1) for assistance in purchasing hybrid or other energy-efficient locomotives, including hybrid switch and generator-set locomotives; and

(2) to demonstrate the extent to which such locomotives increase fuel economy, reduce emissions, and lower costs of operation.

(b) LIMITATION.—Notwithstanding subsection (a), no grant under this section may be used to fund the costs of emissions reductions that are mandated under Federal law.

(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary of Transportation shall consider—

(1) the level of energy efficiency that would be achieved by the proposed project;

(2) the extent to which the proposed project would assist in commercial deployment of hybrid or other energy-efficient locomotive technologies;

(3) the extent to which the proposed project complements other private or governmental partnership efforts to improve air quality or fuel efficiency in a particular area; and

(4) the extent to which the applicant demonstrates innovative strategies and a financial commitment to increasing energy efficiency and reducing greenhouse gas emissions of its railroad operations.

(d) COMPETITIVE GRANT SELECTION PROCESS.—

(1) APPLICATIONS.—A railroad carrier or State or local government seeking a grant under this section shall submit for approval by the Secretary of Transportation an application for the grant containing such information as the Secretary of Transportation may require.

(2) COMPETITIVE SELECTION.—The Secretary of Transportation shall conduct a national solicitation for applications for grants under this section and shall select grantees on a competitive basis.

(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall not exceed 80 percent of the project cost.

(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the pilot program carried out under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation $10,000,000 for each of the fiscal years 2008 through 2011 to carry out this section. Such funds shall remain available until expended.

SEC. 1112. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

(a) AMENDMENT.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS

''§ 22301. Capital grants for class II and class III railroads

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making capital grants to class II and class III railroads. Such grants shall be for projects in the public interest that—

''(A)(i) rehabilitate, preserve, or improve railroad track (including roadbed, bridges, and related track structures) used primarily for freight transportation;

''(ii) facilitate the continued or greater use of railroad transportation for freight shipments; and

''(iii) reduce the use of less fuel efficient modes of transportation in the transportation of such shipments; and

''(B) demonstrate innovative technologies and advanced research and development that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation.

''(2) PROVISION OF GRANTS.—Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(3) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(4) REGULATIONS.—Not later than October 1, 2008, the Secretary shall issue final regulations to implement the program under this section.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case-by-case basis consistent with this chapter.

''(c) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(d) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of this chapter.

''(e) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40 (commonly known as the 'Davis-Bacon Act'). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the subchapter IV of chapter 31 of title 40.

''(f) STUDY.—The Secretary shall conduct a study of the projects carried out with grant assistance under this section to determine the extent to which the program helps promote a reduction in fuel use associated with the transportation of freight and demonstrates innovative technologies that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation. Not later than March 31, 2009, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the study, including any recommendations the Secretary considers appropriate regarding the program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2008 through 2011 for carrying out this section.''.

(b) CLERICAL AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS ..... 22301''.

Subtitle C—Marine Transportation

SEC. 1121. SHORT SEA TRANSPORTATION INITIATIVE.

(a) IN GENERAL.—Title 46, United States Code, is amended by adding after chapter 555 the following:

''CHAPTER 556—SHORT SEA TRANSPORTATION

''§ 55601. Short sea transportation program

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a short sea transportation program and designate short sea transportation projects to be conducted under the program to mitigate landside congestion.

''(b) PROGRAM ELEMENTS.—The program shall encourage the use of short sea transportation through the development and expansion of—

''(1) documented vessels;

''(2) shipper utilization;

''(3) port and landside infrastructure; and

''(4) marine transportation strategies by State and local governments.

''(c) SHORT SEA TRANSPORTATION ROUTES.—The Secretary shall designate short sea transportation routes as extensions of the surface transportation system to focus public and private efforts to use the waterways to relieve landside congestion along coastal corridors. The Secretary may collect and disseminate data for the designation and delineation of short sea transportation routes.

''(d) PROJECT DESIGNATION.—The Secretary may designate a project to be a short sea transportation project if the Secretary determines that the project may—

''(1) offer a waterborne alternative to available landside transportation services using documented vessels; and

''(2) provide transportation services for passengers or freight (or both) that may reduce congestion on landside infrastructure using documented vessels.

''(e) ELEMENTS OF PROGRAM.—For a short sea transportation project designated under this section, the Secretary may—

''(1) promote the development of short sea transportation services;

''(2) coordinate, with ports, State departments of transportation, localities, other public agencies, and the private sector and on the development of landside facilities and infrastructure to support short sea transportation services; and

''(3) develop performance measures for the short sea transportation program.

''(f) MULTISTATE, STATE AND REGIONAL TRANSPORTATION PLANNING.—The Secretary, in consultation with Federal entities and State and local governments, shall develop strategies to encourage the use of short sea transportation for transportation of passengers and cargo. The Secretary shall—

''(1) assess the extent to which States and local governments include short sea transportation and other marine transportation solutions in their transportation planning;

''(2) encourage State departments of transportation to develop strategies, where appropriate, to incorporate short sea transportation, ferries, and other marine transportation solutions for regional and interstate transport of freight and passengers in their transportation planning; and

''(3) encourage groups of States and multi-State transportation entities to determine how short sea transportation can address congestion, bottlenecks, and other interstate transportation challenges.

''§ 55602. Cargo and shippers

''(a) MEMORANDUMS OF AGREEMENT.—The Secretary of Transportation shall enter into memorandums of understanding with the heads of other Federal entities to transport federally owned or generated cargo using a short sea transportation project designated under section 55601 when practical or available.

''(b) SHORT-TERM INCENTIVES.—The Secretary shall consult shippers and other participants in transportation logistics and develop proposals for short-term incentives to encourage the use of short sea transportation.

''§ 55603. Interagency coordination

''The Secretary of Transportation shall establish a board to identify and seek solutions to impediments hindering effective use of short sea transportation. The board shall include representatives of the Environmental Protection Agency and other Federal, State, and local governmental entities and private sector entities.

''§ 55604. Research on short sea transportation

''The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, may conduct research on short sea transportation, regarding—

''(1) the environmental and transportation benefits to be derived from short sea transportation alternatives for other forms of transportation;

''(2) technology, vessel design, and other improvements that would reduce emissions, increase fuel economy, and lower costs of short sea transportation and increase the efficiency of intermodal transfers; and

''(3) solutions to impediments to short sea transportation projects designated under section 55601.

''§ 55605. Short sea transportation defined

''In this chapter, the term 'short sea transportation' means the carriage by vessel of cargo—

''(1) that is—

''(A) contained in intermodal cargo containers and loaded by crane on the vessel; or

''(B) loaded on the vessel by means of wheeled technology; and

''(2) that is—

''(A) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

''(B) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of such title is amended by inserting after the item relating to chapter 555 the following:

''556. Short Sea Transportation ..... 55601''.

(c) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue temporary regulations to implement the program under this section. Subchapter II of chapter 5 of title 5, United States Code, does not apply to a temporary regulation issued under this paragraph or to an amendment to such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than October 1, 2008, the Secretary of Transportation shall issue final regulations to implement the program under this section.

SEC. 1122. SHORT SEA SHIPPING ELIGIBILITY FOR CAPITAL CONSTRUCTION FUND.

(a) DEFINITION OF QUALIFIED VESSEL.—Section 53501 of title 46, United States Code, is amended—

(1) in paragraph (5)(A)(iii) by striking ''or noncontiguous domestic'' and inserting ''noncontiguous domestic, or short sea transportation trade''; and

(2) by inserting after paragraph (6) the following:

''(7) SHORT SEA TRANSPORTATION TRADE.—The term 'short sea transportation trade' means the carriage by vessel of cargo—

''(A) that is—

''(i) contained in intermodal cargo containers and loaded by crane on the vessel; or

''(ii) loaded on the vessel by means of wheeled technology; and

''(B) that is—

''(i) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

''(ii) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.''.

(b) ALLOWABLE PURPOSE.—Section 53503(b) of such title is amended by striking ''or noncontiguous domestic trade'' and inserting ''noncontiguous domestic, or short sea transportation trade''.

SEC. 1123. SHORT SEA TRANSPORTATION REPORT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the short sea transportation program established under the amendments made by section 1121. The report shall include a description of the activities conducted under the program, and any recommendations for further legislative or administrative action that the Secretary of Transportation considers appropriate.

Subtitle D—Highways

SEC. 1131. INCREASED FEDERAL SHARE FOR CMAQ PROJECTS.

Section 120(c) of title 23, United States Code, is amended—

(1) in the subsection heading by striking ''FOR CERTAIN SAFETY PROJECTS'';

(2) by striking ''The Federal share'' and inserting the following:

''(1) CERTAIN SAFETY PROJECTS.—The Federal share''; and

(3) by adding at the end the following:

''(2) CMAQ PROJECTS.—The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.''.

SEC. 1132. DISTRIBUTION OF RESCISSIONS.

(a) IN GENERAL.—Any unobligated balances of amounts that are appropriated from the Highway Trust Fund for a fiscal year, and apportioned under chapter 1 of title 23, United States Code, before, on, or after the date of enactment of this Act and that are rescinded in fiscal year 2008 or fiscal year 2009 shall be distributed by the Secretary of Transportation within each State (as defined in section 101 of such title) among all programs for which funds are apportioned under such chapter for such fiscal year, to the extent sufficient funds remain available for obligation, in the ratio that the amount of funds apportioned for each program under such chapter for such fiscal year, bears to the amount of funds apportioned for all such programs under such chapter for such fiscal year.

(b) ADJUSTMENTS.—A State may make adjustments to the distribution of a rescission within the State for a fiscal year under subsection (a) by transferring the amounts to be rescinded among the programs for which funds are apportioned under chapter 1 of title 23, United States Code, for such fiscal year, except that in making such adjustments the State may not rescind from any such program more than 110 percent of the funds to be rescinded from the program for the fiscal year as determined by the Secretary of Transportation under subsection (a).

(c) TREATMENT OF TRANSPORTATION ENHANCEMENT SET-ASIDE AND FUNDS SUBALLOCATED TO SUBSTATE AREAS.—Funds set aside under sections 133(d)(2) and 133(d)(3) of title 23, United States Code, shall be treated as being apportioned under chapter 1 of such title for purposes of subsection (a).

SEC. 1133. SENSE OF CONGRESS REGARDING USE OF COMPLETE STREETS DESIGN TECHNIQUES.

It is the sense of Congress that in constructing new roadways or rehabilitating existing facilities, State and local governments should consider policies designed to accommodate all users, including motorists, pedestrians, cyclists, transit riders, and people of all ages and abilities, in order to—

(1) serve all surface transportation users by creating a more interconnected and intermodal system;

(2) create more viable transportation options; and

(3) facilitate the use of environmentally friendly options, such as public transportation, walking, and bicycling.

TITLE XII—SMALL BUSINESS ENERGY PROGRAMS

SEC. 1201. EXPRESS LOANS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.

Section 7(a)(31) of the Small Business Act (15 U.S.C. 636(a)(31)) is amended by adding at the end the following:

''(F) EXPRESS LOANS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.—

''(i) DEFINITIONS.—In this subparagraph—

''(I) the term 'biomass'—

''(aa) means any organic material that is available on a renewable or recurring basis, including—

''(AA) agricultural crops;

''(BB) trees grown for energy production;

''(CC) wood waste and wood residues;

''(DD) plants (including aquatic plants and grasses);

''(EE) residues;

''(FF) fibers;

''(GG) animal wastes and other waste materials; and

''(HH) fats, oils, and greases (including recycled fats, oils, and greases); and

''(bb) does not include—

''(AA) paper that is commonly recycled; or

''(BB) unsegregated solid waste;

''(II) the term 'energy efficiency project' means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

''(III) the term 'renewable energy system' means a system of energy derived from—

''(aa) a wind, solar, biomass (including biodiesel), or geothermal source; or

''(bb) hydrogen derived from biomass or water using an energy source described in item (aa).

''(ii) LOANS.—The Administrator may make a loan under the Express Loan Program for the purpose of—

''(I) purchasing a renewable energy system; or

''(II) carrying out an energy efficiency project for a small business concern.''.

SEC. 1202. PILOT PROGRAM FOR REDUCED 7(a) FEES FOR PURCHASE OF ENERGY EFFICIENT TECHNOLOGIES.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(32) LOANS FOR ENERGY EFFICIENT TECHNOLOGIES.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a);

''(ii) the term 'covered energy efficiency loan' means a loan—

''(I) made under this subsection; and

''(II) the proceeds of which are used to purchase energy efficient designs, equipment, or fixtures, or to reduce the energy consumption of the borrower by 10 percent or more; and

''(iii) the term 'pilot program' means the pilot program established under subparagraph (B)

''(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for covered energy efficiency loans.

''(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

''(D) MAXIMUM PARTICIPATION.—A covered energy efficiency loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

''(E) FEES.—

''(i) IN GENERAL.—The fee on a covered energy efficiency loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

''(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

''(I) for the fiscal year before that fiscal year, the annual rate of default of covered energy efficiency loans exceeds that of loans made under this subsection that are not covered energy efficiency loans;

''(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making covered energy efficiency loans; and

''(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

''(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

''(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

''(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

''(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not covered energy efficiency loans as a direct result of the pilot program.

''(F) GAO REPORT.—

''(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

''(ii) CONTENTS.—The report submitted under clause (i) shall include—

''(I) the number of covered energy efficiency loans for which fees were reduced under the pilot program;

''(II) a description of the energy efficiency savings with the pilot program;

''(III) a description of the impact of the pilot program on the program under this subsection;

''(IV) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

''(V) recommendations for improving the pilot program.''.

SEC. 1203. SMALL BUSINESS ENERGY EFFICIENCY.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''association'' means the association of small business development centers established under section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A));

(3) the term ''disability'' has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(4) the term ''Efficiency Program'' means the Small Business Energy Efficiency Program established under subsection (c)(1);

(5) the term ''electric utility'' has the meaning given that term in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602);

(6) the term ''high performance green building'' has the meaning given that term in section 401;

(7) the term ''on-bill financing'' means a low interest or no interest financing agreement between a small business concern and an electric utility for the purchase or installation of equipment, under which the regularly scheduled payment of that small business concern to that electric utility is not reduced by the amount of the reduction in cost attributable to the new equipment and that amount is credited to the electric utility, until the cost of the purchase or installation is repaid;

(8) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(9) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(10) the term ''telecommuting'' means the use of telecommunications to perform work functions under circumstances which reduce or eliminate the need to commute;

(11) the term ''Telecommuting Pilot Program'' means the pilot program established under subsection (d)(1)(A); and

(12) the term ''veteran'' has the meaning given that term in section 101 of title 38, United States Code.

(b) IMPLEMENTATION OF SMALL BUSINESS ENERGY EFFICIENCY PROGRAM.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate final rules establishing the Government-wide program authorized under subsection (d) of section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) that ensure compliance with that subsection by not later than 6 months after such date of enactment.

(2) PROGRAM REQUIRED.—The Administrator shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business program, to assist small business concerns in—

(A) becoming more energy efficient;

(B) understanding the cost savings from improved energy efficiency; and

(C) identifying financing options for energy efficiency upgrades.

(3) CONSULTATION AND COOPERATION.—The program required by paragraph (2) shall be developed and coordinated—

(A) in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency; and

(B) in cooperation with any entities the Administrator considers appropriate, such as industry trade associations, industry members, and energy efficiency organizations.

(4) AVAILABILITY OF INFORMATION.—The Administrator shall make available the information and materials developed under the program required by paragraph (2) to—

(A) small business concerns, including smaller design, engineering, and construction firms; and

(B) other Federal programs for energy efficiency, such as the Energy Star for Small Business program.

(5) STRATEGY AND REPORT.—

(A) STRATEGY REQUIRED.—The Administrator shall develop a strategy to educate, encourage, and assist small business concerns in adopting energy efficient building fixtures and equipment.

(B) REPORT.—Not later than December 31, 2008, the Administrator shall submit to Congress a report containing a plan to implement the strategy developed under subparagraph (A).

(c) SMALL BUSINESS SUSTAINABILITY INITIATIVE.—

(1) AUTHORITY.—The Administrator shall establish a Small Business Energy Efficiency Program to provide energy efficiency assistance to small business concerns through small business development centers.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—

(A) IN GENERAL.—In carrying out the Efficiency Program, the Administrator shall enter into agreements with small business development centers under which such centers shall—

(i) provide access to information and resources on energy efficiency practices, including on-bill financing options;

(ii) conduct training and educational activities;

(iii) offer confidential, free, one-on-one, in-depth energy audits to the owners and operators of small business concerns regarding energy efficiency practices;

(iv) give referrals to certified professionals and other providers of energy efficiency assistance who meet such standards for educational, technical, and professional competency as the Administrator shall establish;

(v) to the extent not inconsistent with controlling State public utility regulations, act as a facilitator between small business concerns, electric utilities, lenders, and the Administration to facilitate on-bill financing arrangements;

(vi) provide necessary support to small business concerns to—

(I) evaluate energy efficiency opportunities and opportunities to design or construct high performance green buildings;

(II) evaluate renewable energy sources, such as the use of solar and small wind to supplement power consumption;

(III) secure financing to achieve energy efficiency or to design or construct high performance green buildings; and

(IV) implement energy efficiency projects;

(vii) assist owners of small business concerns with the development and commercialization of clean technology products, goods, services, and processes that use renewable energy sources, dramatically reduce the use of natural resources, and cut or eliminate greenhouse gas emissions through—

(I) technology assessment;

(II) intellectual property;

(III) Small Business Innovation Research submissions under section 9 of the Small Business Act (15 U.S.C. 638);

(IV) strategic alliances;

(V) business model development; and

(VI) preparation for investors; and

(viii) help small business concerns improve environmental performance by shifting to less hazardous materials and reducing waste and emissions, including by providing assistance for small business concerns to adapt the materials they use, the processes they operate, and the products and services they produce.

(B) REPORTS.—Each small business development center participating in the Efficiency Program shall submit to the Administrator and the Administrator of the Environmental Protection Agency an annual report that includes—

(i) a summary of the energy efficiency assistance provided by that center under the Efficiency Program;

(ii) the number of small business concerns assisted by that center under the Efficiency Program;

(iii) statistics on the total amount of energy saved as a result of assistance provided by that center under the Efficiency Program; and

(iv) any additional information determined necessary by the Administrator, in consultation with the association.

(C) REPORTS TO CONGRESS.—Not later than 60 days after the date on which all reports under subparagraph (B) relating to a year are submitted, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report summarizing the information regarding the Efficiency Program submitted by small business development centers participating in that program.

(3) ELIGIBILITY.—A small business development center shall be eligible to participate in the Efficiency Program only if that center is certified under section 21(k)(2) of the Small Business Act (15 U.S.C. 648(k)(2)).

(4) SELECTION OF PARTICIPATING STATE PROGRAMS.—From among small business development centers submitting applications to participate in the Efficiency Program, the Administrator—

(A) shall, to the maximum extent practicable, select small business development centers in such a manner so as to promote a nationwide distribution of centers participating in the Efficiency Program; and

(B) may not select more than 1 small business development center in a State to participate in the Efficiency Program.

(5) MATCHING REQUIREMENT.—Subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) shall apply to assistance made available under the Efficiency Program.

(6) GRANT AMOUNTS.—Each small business development center selected to participate in the Efficiency Program under paragraph (4) shall be eligible to receive a grant in an amount equal to—

(A) not less than $100,000 in each fiscal year; and

(B) not more than $300,000 in each fiscal year.

(7) EVALUATION AND REPORT.—The Comptroller General of the United States shall—

(A) not later than 30 months after the date of disbursement of the first grant under the Efficiency Program, initiate an evaluation of that program; and

(B) not later than 6 months after the date of the initiation of the evaluation under subparagraph (A), submit to the Administrator,

the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, a report containing—

(i) the results of the evaluation; and

(ii) any recommendations regarding whether the Efficiency Program, with or without modification, should be extended to include the participation of all small business development centers.

(8) GUARANTEE.—To the extent not inconsistent with State law, the Administrator may guarantee the timely payment of a loan made to a small business concern through an on-bill financing agreement on such terms and conditions as the Administrator shall establish through a formal rule making, after providing notice and an opportunity for comment.

(9) IMPLEMENTATION.—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)), the Administrator may make grants or enter into cooperative agreements to carry out this subsection.

(10) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to make grants and enter into cooperative agreements to carry out this subsection.

(11) TERMINATION.—The authority under this subsection shall terminate 4 years after the date of disbursement of the first grant under the Efficiency Program.

(d) SMALL BUSINESS TELECOMMUTING.—

(1) PILOT PROGRAM.—

(A) IN GENERAL.—The Administrator shall conduct, in not more than 5 of the regions of the Administration, a pilot program to provide information regarding telecommuting to employers that are small business concerns and to encourage such employers to offer telecommuting options to employees.

(B) SPECIAL OUTREACH TO INDIVIDUALS WITH DISABILITIES.—In carrying out the Telecommuting Pilot Program, the Administrator shall make a concerted effort to provide information to—

(i) small business concerns owned by or employing individuals with disabilities, particularly veterans who are individuals with disabilities;

(ii) Federal, State, and local agencies having knowledge and expertise in assisting individuals with disabilities, including veterans who are individuals with disabilities; and

(iii) any group or organization, the primary purpose of which is to aid individuals with disabilities or veterans who are individuals with disabilities.

(C) PERMISSIBLE ACTIVITIES.—In carrying out the Telecommuting Pilot Program, the Administrator may—

(i) produce educational materials and conduct presentations designed to raise awareness in the small business community of the benefits and the ease of telecommuting;

(ii) conduct outreach—

(I) to small business concerns that are considering offering telecommuting options; and

(II) as provided in subparagraph (B); and

(iii) acquire telecommuting technologies and equipment to be used for demonstration purposes.

(D) SELECTION OF REGIONS.—In determining which regions will participate in the Telecommuting Pilot Program, the Administrator shall give priority consideration to regions in which Federal agencies and private-sector employers have demonstrated a strong regional commitment to telecommuting.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date on which funds are first appropriated to carry out this subsection, the Administrator shall transmit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing the results of an evaluation of the Telecommuting Pilot Program and any recommendations regarding whether the pilot program, with or without modification, should be extended to include the participation of all regions of the Administration.

(3) TERMINATION.—The Telecommuting Pilot Program shall terminate 4 years after the date on which funds are first appropriated to carry out this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administration $5,000,000 to carry out this subsection.

(e) ENCOURAGING INNOVATION IN ENERGY EFFICIENCY.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(z) ENCOURAGING INNOVATION IN ENERGY EFFICIENCY.—

''(1) FEDERAL AGENCY ENERGY-RELATED PRIORITY.—In carrying out its duties under this section relating to SBIR and STTR solicitations by Federal departments and agencies, the Administrator shall—

''(A) ensure that such departments and agencies give high priority to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects; and

''(B) include in the annual report to Congress under subsection (b)(7) a determination of whether the priority described in subparagraph (A) is being carried out.

''(2) CONSULTATION REQUIRED.—The Administrator shall consult with the heads of other Federal departments and agencies in determining whether priority has been given to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects, as required by this subsection.

''(3) GUIDELINES.—The Administrator shall, as soon as is practicable after the date of enactment of this subsection, issue guidelines and directives to assist Federal agencies in meeting the requirements of this subsection.

''(4) DEFINITIONS.—In this subsection—

''(A) the term 'biomass'—

''(i) means any organic material that is available on a renewable or recurring basis, including—

''(I) agricultural crops;

''(II) trees grown for energy production;

''(III) wood waste and wood residues;

''(IV) plants (including aquatic plants and grasses);

''(V) residues;

''(VI) fibers;

''(VII) animal wastes and other waste materials; and

''(VIII) fats, oils, and greases (including recycled fats, oils, and greases); and

''(ii) does not include—

''(I) paper that is commonly recycled; or

''(II) unsegregated solid waste;

''(B) the term 'energy efficiency project' means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

''(C) the term 'renewable energy system' means a system of energy derived from—

''(i) a wind, solar, biomass (including biodiesel), or geothermal source; or

''(ii) hydrogen derived from biomass or water using an energy source described in clause (i).''.

SEC. 1204. LARGER 504 LOAN LIMITS TO HELP BUSINESS DEVELOP ENERGY EFFICIENT TECHNOLOGIES AND PURCHASES.

(a) ELIGIBILITY FOR ENERGY EFFICIENCY PROJECTS.—Section 501(d)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

(1) in subparagraph (G) by striking ''or'' at the end;

(2) in subparagraph (H) by striking the period at the end and inserting a comma;

(3) by inserting after subparagraph (H) the following:

''(I) reduction of energy consumption by at least 10 percent,

''(J) increased use of sustainable design, including designs that reduce the use of greenhouse gas emitting fossil fuels, or low-impact design to produce buildings that reduce the use of non-renewable resources and minimize environmental impact, or

''(K) plant, equipment and process upgrades of renewable energy sources such as the small-scale production of energy for individual buildings or communities consumption, commonly known as micropower, or renewable fuels producers including biodiesel and ethanol producers.''; and

(4) by adding at the end the following: ''In subparagraphs (J) and (K), terms have the meanings given those terms under the Leadership in Energy and Environmental Design (LEED) standard for green building certification, as determined by the Administrator.''.

(b) LOANS FOR PLANT PROJECTS USED FOR ENERGY-EFFICIENT PURPOSES.—Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (ii) by striking ''and'' at the end;

(2) in clause (iii) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(iv) $4,000,000 for each project that reduces the borrower's energy consumption by at least 10 percent; and

''(v) $4,000,000 for each project that generates renewable energy or renewable fuels, such as biodiesel or ethanol production.''.

SEC. 1205. ENERGY SAVING DEBENTURES.

(a) IN GENERAL.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end the following:

''(k) ENERGY SAVING DEBENTURES.—In addition to any other authority under this Act, a small business investment company licensed in the first fiscal year after the date of enactment of this subsection or any fiscal year thereafter may issue Energy Saving debentures.''.

(b) DEFINITIONS.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (16), by striking ''and'' at the end;

(2) in paragraph (17), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(18) the term 'Energy Saving debenture' means a deferred interest debenture that—

''(A) is issued at a discount;

''(B) has a 5-year maturity or a 10-year maturity;

''(C) requires no interest payment or annual charge for the first 5 years;

''(D) is restricted to Energy Saving qualified investments; and

''(E) is issued at no cost (as defined in section 502 of the Credit Reform Act of 1990) with respect to purchasing and guaranteeing the debenture; and

''(19) the term 'Energy Saving qualified investment' means investment in a small business concern that is primarily engaged in researching, manufacturing, developing, or providing products, goods, or services that reduce the use or consumption of non-renewable energy resources.''.

SEC. 1206. INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.

(a) MAXIMUM LEVERAGE.—Section 303(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 303(b)(2)) is amended by adding at the end the following:

''(D) INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.—

''(i) IN GENERAL.—Subject to clause (ii), in calculating the outstanding leverage of a company for purposes of subparagraph (A), the Administrator shall exclude the amount of the cost basis of any Energy Saving qualified investment in a smaller enterprise made in the first fiscal year after the date of enactment of this subparagraph or any fiscal year thereafter by a company licensed in the applicable fiscal year.

''(ii) LIMITATIONS.—

''(I) AMOUNT OF EXCLUSION.—The amount excluded under clause (i) for a company shall not exceed 33 percent of the private capital of that company.

''(II) MAXIMUM INVESTMENT.—A company shall not make an Energy Saving qualified investment in any one entity in an amount equal to more than 20 percent of the private capital of that company.

''(III) OTHER TERMS.—The exclusion of amounts under clause (i) shall be subject to such terms as the Administrator may impose to ensure that there is no cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) with respect to purchasing or guaranteeing any debenture involved.''.

(b) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—Section 303(b)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 303(b)(4)) is amended by adding at the end the following:

''(E) INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.—

''(i) IN GENERAL.—Subject to clause (ii), in calculating the aggregate outstanding leverage of a company for purposes of subparagraph (A), the Administrator shall exclude the amount of the cost basis of any Energy Saving qualified investment in a smaller enterprise made in the first fiscal year after the date of enactment of this subparagraph or any fiscal year thereafter by a company licensed in the applicable fiscal year.

''(ii) LIMITATIONS.—

''(I) AMOUNT OF EXCLUSION.—The amount excluded under clause (i) for a company shall not exceed 33 percent of the private capital of that company.

''(II) MAXIMUM INVESTMENT.—A company shall not make an Energy Saving qualified investment in any one entity in an amount equal to more than 20 percent of the private capital of that company.

''(III) OTHER TERMS.—The exclusion of amounts under clause (i) shall be subject to such terms as the Administrator may impose to ensure that there is no cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) with respect to purchasing or guaranteeing any debenture involved.''.

SEC. 1207. RENEWABLE FUEL CAPITAL INVESTMENT COMPANY.

Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

''PART C—RENEWABLE FUEL CAPITAL INVESTMENT PILOT PROGRAM

''SEC. 381. DEFINITIONS.

''In this part:

''(1) OPERATIONAL ASSISTANCE.—The term 'operational assistance' means management, marketing, and other technical assistance that assists a small business concern with business development.

''(2) PARTICIPATION AGREEMENT.—The term 'participation agreement' means an agreement, between the Administrator and a company granted final approval under section 384(e), that—

''(A) details the operating plan and investment criteria of the company; and

''(B) requires the company to make investments in smaller enterprises primarily engaged in researching, manufacturing, developing, producing, or bringing to market goods, products, or services that generate or support the production of renewable energy.

''(3) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from resources that are regenerative or that cannot be depleted, including solar, wind, ethanol, and biodiesel fuels.

''(4) RENEWABLE FUEL CAPITAL INVESTMENT COMPANY.—The term 'Renewable Fuel Capital Investment company' means a company—

''(A) that—

''(i) has been granted final approval by the Administrator under section 384(e); and

''(ii) has entered into a participation agreement with the Administrator; or

''(B) that has received conditional approval under section 384(c).

''(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

''(6) VENTURE CAPITAL.—The term 'venture capital' means capital in the form of equity capital investments, as that term is defined in section 303(g)(4).

''SEC. 382. PURPOSES.

''The purposes of the Renewable Fuel Capital Investment Program established under this part are—

''(1) to promote the research, development, manufacture, production, and bringing to market of goods, products, or services that generate or support the production of renewable energy by encouraging venture capital investments in smaller enterprises primarily engaged such activities; and

''(2) to establish a venture capital program, with the mission of addressing the unmet equity investment needs of smaller enterprises engaged in researching, developing, manufacturing, producing, and bringing to market goods, products, or services that generate or support the production of renewable energy, to be administered by the Administrator—

''(A) to enter into participation agreements with Renewable Fuel Capital Investment companies;

''(B) to guarantee debentures of Renewable Fuel Capital Investment companies to enable each such company to make venture capital investments in smaller enterprises engaged in the research, development, manufacture, production, and bringing to market of goods, products, or services that generate or support the production of renewable energy; and

''(C) to make grants to Renewable Fuel Investment Capital companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by such companies.

''SEC. 383. ESTABLISHMENT.

''The Administrator shall establish a Renewable Fuel Capital Investment Program, under which the Administrator may—

''(1) enter into participation agreements for the purposes described in section 382; and

''(2) guarantee the debentures issued by Renewable Fuel Capital Investment companies as provided in section 385.

''SEC. 384. SELECTION OF RENEWABLE FUEL CAPITAL INVESTMENT COMPANIES.

''(a) ELIGIBILITY.—A company is eligible to apply to be designated as a Renewable Fuel Capital Investment company if the company—

''(1) is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

''(2) has a management team with experience in alternative energy financing or relevant venture capital financing; and

''(3) has a primary objective of investment in smaller enterprises that research, manufacture, develop, produce, or bring to market goods, products, or services that generate or support the production of renewable energy.

''(b) APPLICATION.—A company desiring to be designated as a Renewable Fuel Capital Investment company shall submit an application to the Administrator that includes—

''(1) a business plan describing how the company intends to make successful venture capital investments in smaller enterprises primarily engaged in the research, manufacture, development, production, or bringing to market of goods, products, or services that generate or support the production of renewable energy;

''(2) information regarding the relevant venture capital qualifications and general reputation of the management of the company;

''(3) a description of how the company intends to seek to address the unmet capital needs of the smaller enterprises served;

''(4) a proposal describing how the company intends to use the grant funds provided under this part to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company has employees with appropriate professional licenses or will contract with another entity when the services of such an individual are necessary;

''(5) with respect to binding commitments to be made to the company under this part, an estimate of the ratio of cash to in-kind contributions;

''(6) a description of whether and to what extent the company meets the criteria under subsection (c)(2) and the objectives of the program established under this part;

''(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and

''(8) such other information as the Administrator may require.

''(c) CONDITIONAL APPROVAL.—

''(1) IN GENERAL.—From among companies submitting applications under subsection (b), the Administrator shall conditionally approve companies to operate as Renewable Fuel Capital Investment companies.

''(2) SELECTION CRITERIA.—In conditionally approving companies under paragraph (1), the Administrator shall consider—

''(A) the likelihood that the company will meet the goal of its business plan;

''(B) the experience and background of the management team of the company;

''(C) the need for venture capital investments in the geographic areas in which the company intends to invest;

''(D) the extent to which the company will concentrate its activities on serving the geographic areas in which it intends to invest;

''(E) the likelihood that the company will be able to satisfy the conditions under subsection (d);

''(F) the extent to which the activities proposed by the company will expand economic opportunities in the geographic areas in which the company intends to invest;

''(G) the strength of the proposal by the company to provide operational assistance under this part as the proposal relates to the ability of the company to meet applicable cash requirements and properly use in-kind contributions, including the use of resources

for the services of licensed professionals, when necessary, whether provided by employees or contractors; and

''(H) any other factor determined appropriate by the Administrator.

''(3) NATIONWIDE DISTRIBUTION.—From among companies submitting applications under subsection (b), the Administrator shall consider the selection criteria under paragraph (2) and shall, to the maximum extent practicable, approve at least one company from each geographic region of the Administration.

''(d) REQUIREMENTS TO BE MET FOR FINAL APPROVAL.—

''(1) IN GENERAL.—The Administrator shall grant each conditionally approved company 2 years to satisfy the requirements of this subsection.

''(2) CAPITAL REQUIREMENT.—Each conditionally approved company shall raise not less than $3,000,000 of private capital or binding capital commitments from 1 or more investors (which shall not be departments or agencies of the Federal Government) who meet criteria established by the Administrator.

''(3) NONADMINISTRATION RESOURCES FOR OPERATIONAL ASSISTANCE.—

''(A) IN GENERAL.—In order to provide operational assistance to smaller enterprises expected to be financed by the company, each conditionally approved company shall have binding commitments (for contribution in cash or in-kind)—

''(i) from sources other than the Administration that meet criteria established by the Administrator; and

''(ii) payable or available over a multiyear period determined appropriate by the Administrator (not to exceed 10 years).

''(B) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based upon a showing of special circumstances and good cause, consider an applicant to have satisfied the requirements of subparagraph (A) if the applicant has—

''(i) a viable plan that reasonably projects the capacity of the applicant to raise the amount (in cash or in-kind) required under subparagraph (A); and

''(ii) binding commitments in an amount equal to not less than 20 percent of the total amount required under paragraph (A).

''(C) LIMITATION.—The total amount of a in-kind contributions by a company shall be not more than 50 percent of the total contributions by a company.

''(e) FINAL APPROVAL; DESIGNATION.—The Administrator shall, with respect to each applicant conditionally approved under subsection (c)—

''(1) grant final approval to the applicant to operate as a Renewable Fuel Capital Investment company under this part and designate the applicant as such a company, if the applicant—

''(A) satisfies the requirements of subsection (d) on or before the expiration of the time period described in that subsection; and

''(B) enters into a participation agreement with the Administrator; or

''(2) if the applicant fails to satisfy the requirements of subsection (d) on or before the expiration of the time period described in paragraph (1) of that subsection, revoke the conditional approval granted under that subsection.

''SEC. 385. DEBENTURES.

''(a) IN GENERAL.—The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any Renewable Fuel Capital Investment company.

''(b) TERMS AND CONDITIONS.—The Administrator may make guarantees under this section on such terms and conditions as it determines appropriate, except that—

''(1) the term of any debenture guaranteed under this section shall not exceed 15 years; and

''(2) a debenture guaranteed under this section—

''(A) shall carry no front-end or annual fees;

''(B) shall be issued at a discount;

''(C) shall require no interest payments during the 5-year period beginning on the date the debenture is issued;

''(D) shall be prepayable without penalty after the end of the 1-year period beginning on the date the debenture is issued; and

''(E) shall require semiannual interest payments after the period described in subparagraph (C).

''(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

''(d) MAXIMUM GUARANTEE.—

''(1) IN GENERAL.—Under this section, the Administrator may guarantee the debentures issued by a Renewable Fuel Capital Investment company only to the extent that the total face amount of outstanding guaranteed debentures of such company does not exceed 150 percent of the private capital of the company, as determined by the Administrator.

''(2) TREATMENT OF CERTAIN FEDERAL FUNDS.—For the purposes of paragraph (1), private capital shall include capital that is considered to be Federal funds, if such capital is contributed by an investor other than a department or agency of the Federal Government.

''SEC. 386. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

''(a) ISSUANCE.—The Administrator may issue trust certificates representing ownership of all or a fractional part of debentures issued by a Renewable Fuel Capital Investment company and guaranteed by the Administrator under this part, if such certificates are based on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

''(b) GUARANTEE.—

''(1) IN GENERAL.—The Administrator may, under such terms and conditions as it determines appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

''(2) LIMITATION.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

''(3) PREPAYMENT OR DEFAULT.—If a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administrator only through the date of payment of the guarantee. At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

''(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee of a trust certificate issued by the Administrator or its agents under this section.

''(d) FEES.—The Administrator shall not collect a fee for any guarantee of a trust certificate under this section, but any agent of the Administrator may collect a fee approved by the Administrator for the functions described in subsection (f)(2).

''(e) SUBROGATION AND OWNERSHIP RIGHTS.—

''(1) SUBROGATION.—If the Administrator pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

''(2) OWNERSHIP RIGHTS.—No Federal, State, or local law shall preclude or limit the exercise by the Administrator of its ownership rights in the debentures residing in a trust or pool against which trust certificates are issued under this section.

''(f) MANAGEMENT AND ADMINISTRATION.—

''(1) REGISTRATION.—The Administrator may provide for a central registration of all trust certificates issued under this section.

''(2) CONTRACTING OF FUNCTIONS.—

''(A) IN GENERAL.—The Administrator may contract with an agent or agents to carry out on behalf of the Administrator the pooling and the central registration functions provided for in this section, including, not withstanding any other provision of law—

''(i) maintenance, on behalf of and under the direction of the Administrator, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

''(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

''(B) FIDELITY BOND OR INSURANCE REQUIREMENT.—Any agent performing functions on behalf of the Administrator under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administrator determines to be necessary to fully protect the interests of the United States.

''(3) REGULATION OF BROKERS AND DEALERS.—The Administrator may regulate brokers and dealers in trust certificates issued under this section.

''(4) ELECTRONIC REGISTRATION.—Nothing in this subsection may be construed to prohibit the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

''SEC. 387. FEES.

''(a) IN GENERAL.—Except as provided in section 386(d), the Administrator may charge such fees as it determines appropriate with respect to any guarantee or grant issued under this part, in an amount established annually by the Administrator, as necessary to reduce to zero the cost (as defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this part, which amounts shall be paid to and retained by the Administration.

''(b) OFFSET.—The Administrator may, as provided by section 388, offset fees charged and collected under subsection (a).

''SEC. 388. FEE CONTRIBUTION.

''(a) IN GENERAL.—To the extent that amounts are made available to the Administrator for the purpose of fee contributions, the Administrator shall contribute to fees paid by the Renewable Fuel Capital Investment companies under section 387.

''(b) ANNUAL ADJUSTMENT.—Each fee contribution under subsection (a) shall be effective for 1 fiscal year and shall be adjusted as necessary for each fiscal year thereafter to ensure that amounts under subsection (a) are fully used. The fee contribution for a fiscal year shall be based on the outstanding commitments made and the guarantees and grants that the Administrator projects will be made during that fiscal year, given the program level authorized by law for that fiscal year and any other factors that the Administrator determines appropriate.

''SEC. 389. OPERATIONAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—

''(1) AUTHORITY.—The Administrator may make grants to Renewable Fuel Capital Investment companies to provide operational assistance to smaller enterprises financed, or expected to be financed, by such companies or other entities.

''(2) TERMS.—A grant under this subsection shall be made over a multiyear period not to exceed 10 years, under such other terms as the Administrator may require.

''(3) GRANT AMOUNT.—The amount of a grant made under this subsection to a Renewable Fuel Capital Investment company shall be equal to the lesser of—

''(A) 10 percent of the resources (in cash or in kind) raised by the company under section 384(d)(2); or

''(B) $1,000,000.

''(4) PRO RATA REDUCTIONS.—If the amount made available to carry out this section is insufficient for the Administrator to provide grants in the amounts provided for in paragraph (3), the Administrator shall make pro rata reductions in the amounts otherwise payable to each company and entity under such paragraph.

''(5) GRANTS TO CONDITIONALLY APPROVED COMPANIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), upon the request of a company conditionally approved under section 384(c), the Administrator shall make a grant to the company under this subsection.

''(B) REPAYMENT BY COMPANIES NOT APPROVED.—If a company receives a grant under this paragraph and does not enter into a participation agreement for final approval, the company shall, subject to controlling Federal law, repay the amount of the grant to the Administrator.

''(C) DEDUCTION OF GRANT TO APPROVED COMPANY.—If a company receives a grant under this paragraph and receives final approval under section 384(e), the Administrator shall deduct the amount of the grant from the total grant amount the company receives for operational assistance.

''(D) AMOUNT OF GRANT.—No company may receive a grant of more than $100,000 under this paragraph.

''(b) SUPPLEMENTAL GRANTS.—

''(1) IN GENERAL.—The Administrator may make supplemental grants to Renewable Fuel Capital Investment companies and to other entities, as authorized by this part, under such terms as the Administrator may require, to provide additional operational assistance to smaller enterprises financed, or expected to be financed, by the companies.

''(2) MATCHING REQUIREMENT.—The Administrator may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide from resources (in a cash or in kind), other then those provided by the Administrator, a matching contribution equal to the amount of the supplemental grant.

''(c) LIMITATION.—None of the assistance made available under this section may be used for any overhead or general and administrative expense of a Renewable Fuel Capital Investment company.

''SEC. 390. BANK PARTICIPATION.

''(a) IN GENERAL.—Except as provided in subsection (b), any national bank, any member bank of the Federal Reserve System, and (to the extent permitted under applicable State law) any insured bank that is not a member of such system, may invest in any Renewable Fuel Capital Investment company, or in any entity established to invest solely in Renewable Fuel Capital Investment companies.

''(b) LIMITATION.—No bank described in subsection (a) may make investments described in such subsection that are greater than 5 percent of the capital and surplus of the bank.

''SEC. 391. FEDERAL FINANCING BANK.

''Notwithstanding section 318, the Federal Financing Bank may acquire a debenture issued by a Renewable Fuel Capital Investment company under this part.

''SEC. 392. REPORTING REQUIREMENT.

''Each Renewable Fuel Capital Investment company that participates in the program established under this part shall provide to the Administrator such information as the Administrator may require, including—

''(1) information related to the measurement criteria that the company proposed in its program application; and

''(2) in each case in which the company makes, under this part, an investment in, or a loan or a grant to, a business that is not primarily engaged in the research, development, manufacture, or bringing to market or renewable energy sources, a report on the nature, origin, and revenues of the business in which investments are made.

''SEC. 393. EXAMINATIONS.

''(a) IN GENERAL.—Each Renewable Fuel Capital Investment company that participates in the program established under this part shall be subject to examinations made at the direction of the Investment Division of the Administration in accordance with this section.

''(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—Examinations under this section may be conducted with the assistance of a private sector entity that has both the qualifications and the expertise necessary to conduct such examinations.

''(c) COSTS.—

''(1) ASSESSMENT.—

''(A) IN GENERAL.—The Administrator may assess the cost of examinations under this section, including compensation of the examiners, against the company examined.

''(B) PAYMENT.—Any company against which the Administrator assesses costs under this paragraph shall pay such costs.

''(2) DEPOSIT OF FUNDS.—Funds collected under this section shall be deposited in the account for salaries and expenses of the Administration.

''SEC. 394. MISCELLANEOUS.

''To the extent such procedures are not inconsistent with the requirements of this part, the Administrator may take such action as set forth in sections 309, 311, 312, and 314 and an officer, director, employee, agent, or other participant in the management or conduct of the affairs of a Renewable Fuel Capital Investment company shall be subject to the requirements of such sections.

''SEC. 395. REMOVAL OR SUSPENSION OF DIRECTORS OR OFFICERS.

''Using the procedures for removing or suspending a director or an officer of a licensee set forth in section 313 (to the extent such procedures are not inconsistent with the requirements of this part), the Administrator may remove or suspend any director or officer of any Renewable Fuel Capital Investment company.

''SEC. 396. REGULATIONS.

''The Administrator may issue such regulations as the Administrator determines necessary to carry out the provisions of this part in accordance with its purposes.

''SEC. 397. AUTHORIZATIONS OF APPROPRIATIONS.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator is authorized to make $15,000,000 in operational assistance grants under section 389 for each of fiscal years 2008 and 2009.

''(b) FUNDS COLLECTED FOR EXAMINATIONS.—Funds deposited under section 393(c)(2) are authorized to be appropriated only for the costs of examinations under section 393 and for the costs of other oversight activities with respect to the program established under this part.

''SEC. 398. TERMINATION.

''The program under this part shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the program under this part.''.

SEC. 1208. STUDY AND REPORT.

The Administrator of the Small Business Administration shall conduct a study of the Renewable Fuel Capital Investment Program under part C of title III of the Small Business Investment Act of 1958, as added by this Act. Not later than 3 years after the date of enactment of this Act, the Administrator shall complete the study under this section and submit to Congress a report regarding the results of the study.

TITLE XIII—SMART GRID

SEC. 1301. STATEMENT OF POLICY ON MODERNIZATION OF ELECTRICITY GRID.

It is the policy of the United States to support the modernization of the Nation's electricity transmission and distribution system to maintain a reliable and secure electricity infrastructure that can meet future demand growth and to achieve each of the following, which together characterize a Smart Grid:

(1) Increased use of digital information and controls technology to improve reliability, security, and efficiency of the electric grid.

(2) Dynamic optimization of grid operations and resources, with full cyber-security.

(3) Deployment and integration of distributed resources and generation, including renewable resources.

(4) Development and incorporation of demand response, demand-side resources, and energy-efficiency resources.

(5) Deployment of ''smart'' technologies (real-time, automated, interactive technologies that optimize the physical operation of appliances and consumer devices) for metering, communications concerning grid operations and status, and distribution automation.

(6) Integration of ''smart'' appliances and consumer devices.

(7) Deployment and integration of advanced electricity storage and peak-shaving technologies, including plug-in electric and hybrid electric vehicles, and thermal-storage air conditioning.

(8) Provision to consumers of timely information and control options.

(9) Development of standards for communication and interoperability of appliances and equipment connected to the electric grid, including the infrastructure serving the grid.

(10) Identification and lowering of unreasonable or unnecessary barriers to adoption of smart grid technologies, practices, and services.

SEC. 1302. SMART GRID SYSTEM REPORT.

The Secretary, acting through the Assistant Secretary of the Office of Electricity Delivery and Energy Reliability (referred to in this section as the ''OEDER'') and through the Smart Grid Task Force established in section 1303, shall, after consulting with any interested individual or entity as appropriate, no later than one year after enactment, and every two years thereafter, report to Congress concerning the status of smart grid deployments nationwide and any regulatory or government barriers to continued deployment. The report shall provide the current status and prospects of smart grid development, including information on technology penetration, communications network capabilities, costs, and obstacles. It may include recommendations for State and

Federal policies or actions helpful to facilitate the transition to a smart grid. To the extent appropriate, it should take a regional perspective. In preparing this report, the Secretary shall solicit advice and contributions from the Smart Grid Advisory Committee created in section 1303; from other involved Federal agencies including but not limited to the Federal Energy Regulatory Commission (''Commission''), the National Institute of Standards and Technology (''Institute''), and the Department of Homeland Security; and from other stakeholder groups not already represented on the Smart Grid Advisory Committee.

SEC. 1303. SMART GRID ADVISORY COMMITTEE AND SMART GRID TASK FORCE.

(a) SMART GRID ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish, within 90 days of enactment of this Part, a Smart Grid Advisory Committee (either as an independent entity or as a designated sub-part of a larger advisory committee on electricity matters). The Smart Grid Advisory Committee shall include eight or more members appointed by the Secretary who have sufficient experience and expertise to represent the full range of smart grid technologies and services, to represent both private and non-Federal public sector stakeholders. One member shall be appointed by the Secretary to Chair the Smart Grid Advisory Committee.

(2) MISSION.—The mission of the Smart Grid Advisory Committee shall be to advise the Secretary, the Assistant Secretary, and other relevant Federal officials concerning the development of smart grid technologies, the progress of a national transition to the use of smart-grid technologies and services, the evolution of widely-accepted technical and practical standards and protocols to allow interoperability and inter-communication among smart-grid capable devices, and the optimum means of using Federal incentive authority to encourage such progress.

(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Smart Grid Advisory Committee.

(b) SMART GRID TASK FORCE.—

(1) ESTABLISHMENT.—The Assistant Secretary of the Office of Electricity Delivery and Energy Reliability shall establish, within 90 days of enactment of this Part, a Smart Grid Task Force composed of designated employees from the various divisions of that office who have responsibilities related to the transition to smart-grid technologies and practices. The Assistant Secretary or his designee shall be identified as the Director of the Smart Grid Task Force. The Chairman of the Federal Energy Regulatory Commission and the Director of the National Institute of Standards and Technology shall each designate at least one employee to participate on the Smart Grid Task Force. Other members may come from other agencies at the invitation of the Assistant Secretary or the nomination of the head of such other agency. The Smart Grid Task Force shall, without disrupting the work of the Divisions or Offices from which its members are drawn, provide an identifiable Federal entity to embody the Federal role in the national transition toward development and use of smart grid technologies.

(2) MISSION.—The mission of the Smart Grid Task Force shall be to insure awareness, coordination and integration of the diverse activities of the Office and elsewhere in the Federal government related to smart-grid technologies and practices, including but not limited to: smart grid research and development; development of widely accepted smart-grid standards and protocols; the relationship of smart-grid technologies and practices to electric utility regulation; the relationship of smart-grid technologies and practices to infrastructure development, system reliability and security; and the relationship of smart-grid technologies and practices to other facets of electricity supply, demand, transmission, distribution, and policy. The Smart Grid Task Force shall collaborate with the Smart Grid Advisory Committee and other Federal agencies and offices. The Smart Grid Task Force shall meet at the call of its Director as necessary to accomplish its mission.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of this section such sums as are necessary to the Secretary to support the operations of the Smart Grid Advisory Committee and Smart Grid Task Force for each of fiscal years 2008 through 2020.

SEC. 1304. SMART GRID TECHNOLOGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) POWER GRID DIGITAL INFORMATION TECHNOLOGY.—The Secretary, in consultation with the Federal Energy Regulatory Commission and other appropriate agencies, electric utilities, the States, and other stakeholders, shall carry out a program—

(1) to develop advanced techniques for measuring peak load reductions and energy-efficiency savings from smart metering, demand response, distributed generation, and electricity storage systems;

(2) to investigate means for demand response, distributed generation, and storage to provide ancillary services;

(3) to conduct research to advance the use of wide-area measurement and control networks, including data mining, visualization, advanced computing, and secure and dependable communications in a highly-distributed environment;

(4) to test new reliability technologies, including those concerning communications network capabilities, in a grid control room environment against a representative set of local outage and wide area blackout scenarios;

(5) to identify communications network capacity needed to implement advanced technologies.

(6) to investigate the feasibility of a transition to time-of-use and real-time electricity pricing;

(7) to develop algorithms for use in electric transmission system software applications;

(8) to promote the use of underutilized electricity generation capacity in any substitution of electricity for liquid fuels in the transportation system of the United States; and

(9) in consultation with the Federal Energy Regulatory Commission, to propose interconnection protocols to enable electric utilities to access electricity stored in vehicles to help meet peak demand loads.

(b) SMART GRID REGIONAL DEMONSTRATION INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a smart grid regional demonstration initiative (referred to in this subsection as the ''Initiative'') composed of demonstration projects specifically focused on advanced technologies for use in power grid sensing, communications, analysis, and power flow control. The Secretary shall seek to leverage existing smart grid deployments.

(2) GOALS.—The goals of the Initiative shall be—

(A) to demonstrate the potential benefits of concentrated investments in advanced grid technologies on a regional grid;

(B) to facilitate the commercial transition from the current power transmission and distribution system technologies to advanced technologies;

(C) to facilitate the integration of advanced technologies in existing electric networks to improve system performance, power flow control, and reliability;

(D) to demonstrate protocols and standards that allow for the measurement and validation of the energy savings and fossil fuel emission reductions associated with the installation and use of energy efficiency and demand response technologies and practices; and

(E) to investigate differences in each region and regulatory environment regarding best practices in implementing smart grid technologies.

(3) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—In carrying out the initiative, the Secretary shall carry out smart grid demonstration projects in up to 5 electricity control areas, including rural areas and at least 1 area in which the majority of generation and transmission assets are controlled by a tax-exempt entity.

(B) COOPERATION.—A demonstration project under subparagraph (A) shall be carried out in cooperation with the electric utility that owns the grid facilities in the electricity control area in which the demonstration project is carried out.

(C) FEDERAL SHARE OF COST OF TECHNOLOGY INVESTMENTS.—The Secretary shall provide to an electric utility described in subparagraph (B) financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid technology investments made by the electric utility to carry out a demonstration project.

(D) INELIGIBILITY FOR GRANTS.—No person or entity participating in any demonstration project conducted under this subsection shall be eligible for grants under section 1306 for otherwise qualifying investments made as part of that demonstration project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), such sums as are necessary for each of fiscal years 2008 through 2012; and

(2) to carry out subsection (b), $100,000,000 for each of fiscal years 2008 through 2012.

SEC. 1305. SMART GRID INTEROPERABILITY FRAMEWORK.

(a) INTEROPERABILITY FRAMEWORK.—The Director of the National Institute of Standards and Technology shall have primary responsibility to coordinate the development of a framework that includes protocols and model standards for information management to achieve interoperability of smart grid devices and systems. Such protocols and standards shall further align policy, business, and technology approaches in a manner that would enable all electric resources, including demand-side resources, to contribute to an efficient, reliable electricity network. In developing such protocols and standards—

(1) the Director shall seek input and cooperation from the Commission, OEDER and its Smart Grid Task Force, the Smart Grid Advisory Committee, other relevant Federal and State agencies; and

(2) the Director shall also solicit input and cooperation from private entities interested in such protocols and standards, including but not limited to the Gridwise Architecture Council, the International Electrical and Electronics Engineers, the National Electric Reliability Organization recognized by the Federal Energy Regulatory Commission, and National Electrical Manufacturer's Association.

(b) SCOPE OF FRAMEWORK.—The framework developed under subsection (a) shall be flexible, uniform and technology neutral, including but not limited to technologies for managing smart grid information, and designed—

(1) to accommodate traditional, centralized generation and transmission resources

and consumer distributed resources, including distributed generation, renewable generation, energy storage, energy efficiency, and demand response and enabling devices and systems;

(2) to be flexible to incorporate—

(A) regional and organizational differences; and

(B) technological innovations;

(3) to consider the use of voluntary uniform standards for certain classes of mass-produced electric appliances and equipment for homes and businesses that enable customers, at their election and consistent with applicable State and Federal laws, and are manufactured with the ability to respond to electric grid emergencies and demand response signals by curtailing all, or a portion of, the electrical power consumed by the appliances or equipment in response to an emergency or demand response signal, including through—

(A) load reduction to reduce total electrical demand;

(B) adjustment of load to provide grid ancillary services; and

(C) in the event of a reliability crisis that threatens an outage, short-term load shedding to help preserve the stability of the grid; and

(4) such voluntary standards should incorporate appropriate manufacturer lead time.

(c) TIMING OF FRAMEWORK DEVELOPMENT.—The Institute shall begin work pursuant to this section within 60 days of enactment. The Institute shall provide and publish an initial report on progress toward recommended or consensus standards and protocols within one year after enactment, further reports at such times as developments warrant in the judgment of the Institute, and a final report when the Institute determines that the work is completed or that a Federal role is no longer necessary.

(d) STANDARDS FOR INTEROPERABILITY IN FEDERAL JURISDICTION.—At any time after the Institute's work has led to sufficient consensus in the Commission's judgment, the Commission shall institute a rulemaking proceeding to adopt such standards and protocols as may be necessary to insure smart-grid functionality and interoperability in interstate transmission of electric power, and regional and wholesale electricity markets.

(e) AUTHORIZATION.—There are authorized to be appropriated for the purposes of this section $5,000,000 to the Institute to support the activities required by this subsection for each of fiscal years 2008 through 2012.

SEC. 1306. FEDERAL MATCHING FUND FOR SMART GRID INVESTMENT COSTS.

(a) MATCHING FUND.—The Secretary shall establish a Smart Grid Investment Matching Grant Program to provide reimbursement of one-fifth (20 percent) of qualifying Smart Grid investments.

(b) QUALIFYING INVESTMENTS.—Qualifying Smart Grid investments may include any of the following made on or after the date of enactment of this Act:

(1) In the case of appliances covered for purposes of establishing energy conservation standards under part B of title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291 et seq.), the documented expenditures incurred by a manufacturer of such appliances associated with purchasing or designing, creating the ability to manufacture, and manufacturing and installing for one calendar year, internal devices that allow the appliance to engage in Smart Grid functions.

(2) In the case of specialized electricity-using equipment, including motors and drivers, installed in industrial or commercial applications, the documented expenditures incurred by its owner or its manufacturer of installing devices or modifying that equipment to engage in Smart Grid functions.

(3) In the case of transmission and distribution equipment fitted with monitoring and communications devices to enable smart grid functions, the documented expenditures incurred by the electric utility to purchase and install such monitoring and communications devices.

(4) In the case of metering devices, sensors, control devices, and other devices integrated with and attached to an electric utility system or retail distributor or marketer of electricity that are capable of engaging in Smart Grid functions, the documented expenditures incurred by the electric utility, distributor, or marketer and its customers to purchase and install such devices.

(5) In the case of software that enables devices or computers to engage in Smart Grid functions, the documented purchase costs of the software.

(6) In the case of entities that operate or coordinate operations of regional electric grids, the documented expenditures for purchasing and installing such equipment that allows Smart Grid functions to operate and be combined or coordinated among multiple electric utilities and between that region and other regions.

(7) In the case of persons or entities other than electric utilities owning and operating a distributed electricity generator, the documented expenditures of enabling that generator to be monitored, controlled, or otherwise integrated into grid operations and electricity flows on the grid utilizing Smart Grid functions.

(8) In the case of electric or hybrid-electric vehicles, the documented expenses for devices that allow the vehicle to engage in Smart Grid functions (but not the costs of electricity storage for the vehicle).

(9) The documented expenditures related to purchasing and implementing Smart Grid functions in such other cases as the Secretary shall identify. In making such grants, the Secretary shall seek to reward innovation and early adaptation, even if success is not complete, rather than deployment of proven and commercially viable technologies.

(c) INVESTMENTS NOT INCLUDED.—Qualifying Smart Grid investments do not include any of the following:

(1) Investments or expenditures for Smart Grid technologies, devices, or equipment that are eligible for specific tax credits or deductions under the Internal Revenue Code, as amended.

(2) Expenditures for electricity generation, transmission, or distribution infrastructure or equipment not directly related to enabling Smart Grid functions.

(3) After the final date for State consideration of the Smart Grid Information Standard under section 1307 (paragraph (17) of section 111(d) of the Public Utility Regulatory Policies Act of 1978), an investment that is not in compliance with such standard.

(4) After the development and publication by the Institute of protocols and model standards for interoperability of smart grid devices and technologies, an investment that fails to incorporate any of such protocols or model standards.

(5) Expenditures for physical interconnection of generators or other devices to the grid except those that are directly related to enabling Smart Grid functions.

(6) Expenditures for ongoing salaries, benefits, or personnel costs not incurred in the initial installation, training, or start up of smart grid functions.

(7) Expenditures for travel, lodging, meals or other personal costs.

(8) Ongoing or routine operation, billing, customer relations, security, and maintenance expenditures.

(9) Such other expenditures that the Secretary determines not to be Qualifying Smart Grid Investments by reason of the lack of the ability to perform Smart Grid functions or lack of direct relationship to Smart Grid functions.

(d) SMART GRID FUNCTIONS.—The term ''smart grid functions'' means any of the following:

(1) The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, nature of use, storage, or other information relevant to device, grid, or utility operations, to or from or by means of the electric utility system, through one or a combination of devices and technologies.

(2) The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, nature of use, storage, or other information relevant to device, grid, or utility operations to or from a computer or other control device.

(3) The ability to measure or monitor electricity use as a function of time of day, power quality characteristics such as voltage level, current, cycles per second, or source or type of generation and to store, synthesize or report that information by digital means.

(4) The ability to sense and localize disruptions or changes in power flows on the grid and communicate such information instantaneously and automatically for purposes of enabling automatic protective responses to sustain reliability and security of grid operations.

(5) The ability to detect, prevent, communicate with regard to, respond to, or recover from system security threats, including cyber-security threats and terrorism, using digital information, media, and devices.

(6) The ability of any appliance or machine to respond to such signals, measurements, or communications automatically or in a manner programmed by its owner or operator without independent human intervention.

(7) The ability to use digital information to operate functionalities on the electric utility grid that were previously electro-mechanical or manual.

(8) The ability to use digital controls to manage and modify electricity demand, enable congestion management, assist in voltage control, provide operating reserves, and provide frequency regulation.

(9) Such other functions as the Secretary may identify as being necessary or useful to the operation of a Smart Grid.

(e) The Secretary shall—

(1) establish and publish in the Federal Register, within one year after the enactment of this Act procedures by which applicants who have made qualifying Smart Grid investments can seek and obtain reimbursement of one-fifth of their documented expenditures;

(2) establish procedures to ensure that there is no duplication or multiple reimbursement for the same investment or costs, that the reimbursement goes to the party making the actual expenditures for Qualifying Smart Grid Investments, and that the grants made have significant effect in encouraging and facilitating the development of a smart grid;

(3) maintain public records of reimbursements made, recipients, and qualifying Smart Grid investments which have received reimbursements;

(4) establish procedures to provide, in cases deemed by the Secretary to be warranted, advance payment of moneys up to the full

amount of the projected eventual reimbursement, to creditworthy applicants whose ability to make Qualifying Smart Grid Investments may be hindered by lack of initial capital, in lieu of any later reimbursement for which that applicant qualifies, and subject to full return of the advance payment in the event that the Qualifying Smart Grid investment is not made; and

(5) have and exercise the discretion to deny grants for investments that do not qualify in the reasonable judgment of the Secretary.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the administration of this section and the grants to be made pursuant to this section for fiscal years 2008 through 2012.

SEC. 1307. STATE CONSIDERATION OF SMART GRID.

(a) Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(16) CONSIDERATION OF SMART GRID INVESTMENTS.—

''(A) IN GENERAL.—Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

''(i) total costs;

''(ii) cost-effectiveness;

''(iii) improved reliability;

''(iv) security;

''(v) system performance; and

''(vi) societal benefit.

''(B) RATE RECOVERY.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

''(C) OBSOLETE EQUIPMENT.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

''(17) SMART GRID INFORMATION.—

''(A) STANDARD.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

''(B) INFORMATION.—Information provided under this section, to the extent practicable, shall include:

''(i) PRICES.—Purchasers and other interested persons shall be provided with information on—

''(I) time-based electricity prices in the wholesale electricity market; and

''(II) time-based electricity retail prices or rates that are available to the purchasers.

''(ii) USAGE.—Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

''(iii) INTERVALS AND PROJECTIONS.—Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

''(iv) SOURCES.—Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

''(C) ACCESS.—Purchasers shall be able to access their own information at any time through the internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.''.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding the following at the end thereof:

''(6)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standards established by paragraphs (17) through (18) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (17) through (18) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding the following at the end:

''In the case of the standards established by paragraphs (16) through (19) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs.''.

(3) PRIOR STATE ACTIONS.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) is amended by inserting ''and paragraphs (17) through (18)'' before ''of section 111(d)''.

SEC. 1308. STUDY OF THE EFFECT OF PRIVATE WIRE LAWS ON THE DEVELOPMENT OF COMBINED HEAT AND POWER FACILITIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the States and other appropriate entities, shall conduct a study of the laws (including regulations) affecting the siting of privately owned electric distribution wires on and across public rights-of-way.

(2) REQUIREMENTS.—The study under paragraph (1) shall include—

(A) an evaluation of—

(i) the purposes of the laws; and

(ii) the effect the laws have on the development of combined heat and power facilities;

(B) a determination of whether a change in the laws would have any operating, reliability, cost, or other impacts on electric utilities and the customers of the electric utilities; and

(C) an assessment of—

(i) whether privately owned electric distribution wires would result in duplicative facilities; and

(ii) whether duplicative facilities are necessary or desirable.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

SEC. 1309. DOE STUDY OF SECURITY ATTRIBUTES OF SMART GRID SYSTEMS.

(a) DOE STUDY.—The Secretary shall, within 18 months after the date of enactment of this Act, submit a report to Congress that provides a quantitative assessment and determination of the existing and potential impacts of the deployment of Smart Grid systems on improving the security of the Nation's electricity infrastructure and operating capability. The report shall include but not be limited to specific recommendations on each of the following:

(1) How smart grid systems can help in making the Nation's electricity system less vulnerable to disruptions due to intentional acts against the system.

(2) How smart grid systems can help in restoring the integrity of the Nation's electricity system subsequent to disruptions.

(3) How smart grid systems can facilitate nationwide, interoperable emergency communications and control of the Nation's electricity system during times of localized, regional, or nationwide emergency.

(4) What risks must be taken into account that smart grid systems may, if not carefully created and managed, create vulnerability to security threats of any sort, and how such risks may be mitigated.

(b) CONSULTATION.—The Secretary shall consult with other Federal agencies in the development of the report under this section, including but not limited to the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Electric Reliability Organization certified by the Commission under section 215(c) of the Federal Power Act (16 U.S.C. 824o) as added by section 1211 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 941).

TITLE XIV—POOL AND SPA SAFETY

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Virginia Graeme Baker Pool and Spa Safety Act''.

SEC. 1402. FINDINGS.

Congress finds the following:

(1) Of injury-related deaths, drowning is the second leading cause of death in children aged 1 to 14 in the United States.

(2) In 2004, 761 children aged 14 and under died as a result of unintentional drowning.

(3) Adult supervision at all aquatic venues is a critical safety factor in preventing children from drowning.

(4) Research studies show that the installation and proper use of barriers or fencing, as well as additional layers of protection, could substantially reduce the number of childhood residential swimming pool drownings and near drownings.

SEC. 1403. DEFINITIONS.

In this title:

(1) ASME/ANSI.—The term ''ASME/ANSI'' as applied to a safety standard means such a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) BARRIER.—The term ''barrier'' includes a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.

(3) COMMISSION.—The term ''Commission'' means the Consumer Product Safety Commission.

(4) MAIN DRAIN.—The term ''main drain'' means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a re-circulating pump.

(5) SAFETY VACUUM RELEASE SYSTEM.—The term ''safety vacuum release system'' means a vacuum release system capable of providing vacuum release at a suction outlet

caused by a high vacuum occurrence due to a suction outlet flow blockage.

(6) SWIMMING POOL; SPA.—The term ''swimming pool'' or ''spa'' means any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools.

(7) UNBLOCKABLE DRAIN.—The term ''unblockable drain'' means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

SEC. 1404. FEDERAL SWIMMING POOL AND SPA DRAIN COVER STANDARD.

(a) CONSUMER PRODUCT SAFETY RULE.—The requirements described in subsection (b) shall be treated as a consumer product safety rule issued by the Consumer Product Safety Commission under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(b) DRAIN COVER STANDARD.—Effective 1 year after the date of enactment of this title, each swimming pool or spa drain cover manufactured, distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard regulating such swimming pool or drain cover.

(c) PUBLIC POOLS.—

(1) REQUIRED EQUIPMENT.—

(A) IN GENERAL.—Beginning 1 year after the date of enactment of this title—

(i) each public pool and spa in the United States shall be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI A112.19.8 performance standard, or any successor standard; and

(ii) each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped, at a minimum, with 1 or more of the following devices or systems designed to prevent entrapment by pool or spa drains that meets the requirements of subparagraph (B):

(I) SAFETY VACUUM RELEASE SYSTEM.—A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387.

(II) SUCTION-LIMITING VENT SYSTEM.—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(III) GRAVITY DRAINAGE SYSTEM.—A gravity drainage system that utilizes a collector tank.

(IV) AUTOMATIC PUMP SHUT-OFF SYSTEM.—An automatic pump shut-off system.

(V) DRAIN DISABLEMENT.—A device or system that disables the drain.

(VI) OTHER SYSTEMS.—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subclauses (I) through (V) of this clause at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(B) APPLICABLE STANDARDS.—Any device or system described in subparagraph (A)(ii) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

(2) PUBLIC POOL AND SPA DEFINED.—In this subsection, the term ''public pool and spa'' means a swimming pool or spa that is—

(A) open to the public generally, whether for a fee or free of charge;

(B) open exclusively to—

(i) members of an organization and their guests;

(ii) residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multi-family residential area (other than a municipality, township, or other local government jurisdiction); or

(iii) patrons of a hotel or other public accommodations facility; or

(C) operated by the Federal Government (or by a concessionaire on behalf of the Federal Government) for the benefit of members of the Armed Forces and their dependents or employees of any department or agency and their dependents.

(3) ENFORCEMENT.—Violation of paragraph (1) shall be considered to be a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)) and may also be enforced under section 17 of that Act (15 U.S.C. 2066).

SEC. 1405. STATE SWIMMING POOL SAFETY GRANT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations authorized by subsection (e), the Commission shall establish a grant program to provide assistance to eligible States.

(b) ELIGIBILITY.—To be eligible for a grant under the program, a State shall—

(1) demonstrate to the satisfaction of the Commission that it has a State statute, or that, after the date of enactment of this title, it has enacted a statute, or amended an existing statute, and provides for the enforcement of, a law that—

(A) except as provided in section 1406(a)(1)(A)(i), applies to all swimming pools in the State; and

(B) meets the minimum State law requirements of section 1406; and

(2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.

(c) AMOUNT OF GRANT.—The Commission shall determine the amount of a grant awarded under this title, and shall consider—

(1) the population and relative enforcement needs of each qualifying State; and

(2) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment, and, in making that allocation, shall give priority to States that have not received a grant under this title in a preceding fiscal year.

(d) USE OF GRANT FUNDS.—A State receiving a grant under this section shall use—

(1) at least 50 percent of amounts made available to hire and train enforcement personnel for implementation and enforcement of standards under the State swimming pool and spa safety law; and

(2) the remainder—

(A) to educate pool construction and installation companies and pool service companies about the standards;

(B) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law and about the prevention of drowning or entrapment of children using swimming pools and spas; and

(C) to defray administrative costs associated with such training and education programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of fiscal years 2009 and 2010 $2,000,000 to carry out this section, such sums to remain available until expended. Any amounts appropriated pursuant to this subsection that remain unexpended and unobligated at the end of fiscal year 2010 shall be retained by the Commission and credited to the appropriations account that funds enforcement of the Consumer Product Safety Act.

SEC. 1406. MINIMUM STATE LAW REQUIREMENTS.

(a) IN GENERAL.—

(1) SAFETY STANDARDS.—A State meets the minimum State law requirements of this section if—

(A) the State requires by statute—

(i) the enclosure of all outdoor residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the pool or spa;

(ii) that all pools and spas be equipped with devices and systems designed to prevent entrapment by pool or spa drains;

(iii) that pools and spas built more than 1 year after the date of the enactment of such statute have—

(I) more than 1 drain;

(II) 1 or more unblockable drains; or

(III) no main drain;

(iv) every swimming pool and spa that has a main drain, other than an unblockable drain, be equipped with a drain cover that meets the consumer product safety standard established by section 1404; and

(v) that periodic notification is provided to owners of residential swimming pools or spas about compliance with the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard; and

(B) the State meets such additional State law requirements for pools and spas as the Commission may establish after public notice and a 30-day public comment period.

(2) NO LIABILITY INFERENCE ASSOCIATED WITH STATE NOTIFICATION REQUIREMENT.—The minimum State law notification requirement under paragraph (1)(A)(v) shall not be construed to imply any liability on the part of a State related to that requirement.

(3) USE OF MINIMUM STATE LAW REQUIREMENTS.—The Commission—

(A) shall use the minimum State law requirements under paragraph (1) solely for the purpose of determining the eligibility of a State for a grant under section 1405 of this Act; and

(B) may not enforce any requirement under paragraph (1) except for the purpose of determining the eligibility of a State for a grant under section 1405 of this Act.

(4) REQUIREMENTS TO REFLECT NATIONAL PERFORMANCE STANDARDS AND COMMISSION GUIDELINES.—In establishing minimum State law requirements under paragraph (1), the Commission shall—

(A) consider current or revised national performance standards on pool and spa barrier protection and entrapment prevention; and

(B) ensure that any such requirements are consistent with the guidelines contained in the Commission's publication 362, entitled ''Safety Barrier Guidelines for Home Pools'', the Commission's publication entitled ''Guidelines for Entrapment Hazards: Making Pools and Spas Safer'', and any other pool safety guidelines established by the Commission.

(b) STANDARDS.—Nothing in this section prevents the Commission from promulgating standards regulating pool and spa safety or from relying on an applicable national performance standard.

(c) BASIC ACCESS-RELATED SAFETY DEVICES AND EQUIPMENT REQUIREMENTS TO BE CONSIDERED.—In establishing minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall consider the following requirements:

(1) COVERS.—A safety pool cover.

(2) GATES.—A gate with direct access to the swimming pool or spa that is equipped with a self-closing, self-latching device.

(3) DOORS.—Any door with direct access to the swimming pool or spa that is equipped with an audible alert device or alarm which sounds when the door is opened.

(4) POOL ALARM.—A device designed to provide rapid detection of an entry into the water of a swimming pool or spa.

(d) ENTRAPMENT, ENTANGLEMENT, AND EVISCERATION PREVENTION STANDARDS TO BE REQUIRED.—

(1) IN GENERAL.—In establishing additional minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall require, at a minimum, 1 or more of the following (except for pools constructed without a single main drain):

(A) SAFETY VACUUM RELEASE SYSTEM.—A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387, or any successor standard.

(B) SUCTION-LIMITING VENT SYSTEM.—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(C) GRAVITY DRAINAGE SYSTEM.—A gravity drainage system that utilizes a collector tank.

(D) AUTOMATIC PUMP SHUT-OFF SYSTEM.—An automatic pump shut-off system.

(E) DRAIN DISABLEMENT.—A device or system that disables the drain.

(F) OTHER SYSTEMS.—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subparagraphs (A) through (E) of this paragraph at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(2) APPLICABLE STANDARDS.—Any device or system described in subparagraphs (B) through (E) of paragraph (1) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

SEC. 1407. EDUCATION PROGRAM.

(a) IN GENERAL.—The Commission shall establish and carry out an education program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—

(1) educational materials designed for pool manufacturers, pool service companies, and pool supply retail outlets;

(2) educational materials designed for pool owners and operators; and

(3) a national media campaign to promote awareness of pool and spa safety.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of the fiscal years 2008 through 2012 $5,000,000 to carry out the education program authorized by subsection (a).

SEC. 1408. CPSC REPORT.

Not later than 1 year after the last day of each fiscal year for which grants are made under section 1405, the Commission shall submit to Congress a report evaluating the implementation of the grant program authorized by that section.

TITLE XV—REVENUE PROVISIONS

SEC. 1500. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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 1986.

SEC. 1501. EXTENSION OF ADDITIONAL 0.2 PERCENT FUTA SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of tax) is amended—

(1) by striking ''2007'' in paragraph (1) and inserting ''2008'', and

(2) by striking ''2008'' in paragraph (2) and inserting ''2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2007.

SEC. 1502. 7-YEAR AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR CERTAIN MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Subparagraph (A) of section 167(h)(5) (relating to special rule for major integrated oil companies) is amended by striking ''5-year'' and inserting ''7-year''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

TITLE XVI—EFFECTIVE DATE

SEC. 1601. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the date that is 1 day after the date of enactment of this Act.

SA 3851. Mr. HARKIN (for himself, Mr. CHAMBLISS, Mrs. FEINSTEIN, Mr. LEVIN, Ms. SNOWE, Mr. CRAPO, Mr. CONRAD, Ms. CANTWELL, Ms. COLLINS, Mr. DORGAN, Mr. DURBIN, Mr. LIEBERMAN, and Mr. SCHUMER) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; as follows:

At the end, add the following:

TITLE XIII—AMENDMENTS TO COMMODITY EXCHANGE ACT

SECTION 13101. SHORT TITLE.

This title may be cited as the ''CFTC Reauthorization Act of 2007''.

Subtitle A—General Provisions

SEC. 13102. CFTC AUTHORITY OVER OFF-EXCHANGE RETAIL FOREIGN CURRENCY TRANSACTIONS.

(a) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—

''(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that—

''(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))); and

''(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

''(aa) a financial institution;

''(bb)(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o-5); or

''(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o-5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(b), 78q(h));

''(cc) a futures commission merchant registered under this Act (that is not also a person described in item (bb)), or an affiliated person of such a futures commission merchant (that is not also a person described in item (bb)) if such futures commission merchant makes and keeps records under section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of such affiliated person;

''(dd) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated subsidiary or affiliate of such an insurance company;

''(ee) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956); or

''(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i))).

''(ii) Notwithstanding item (cc) of clause (i)(II) of this subparagraph, agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if the agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of items (aa), (bb), (dd), (ee), or (ff) of clause (i) of this subparagraph.

''(iii)(I) Notwithstanding item (cc) of clause (i)(II), a person shall not participate in the solicitation or recommendation of any agreement, contract, or transaction described in clause (i) entered into with or to be entered into with a person described in such item, unless the person—

''(aa) is registered in such capacity as the Commission by rule, regulation, or order shall determine; and

''(bb) is a member of a futures association registered under section 17.

''(II) Subclause (I) shall not apply to—

''(aa) any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

''(bb) any such person's associated persons.

''(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is—

''(aa) offered to, or entered into with, a person that is not an eligible contract participant (except that this subparagraph shall not apply if the counterparty, or the person offering to be the counterparty, of the person that is not an eligible contract participant is a person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and

''(bb) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

''(II) Subclause (I) shall not apply to—

''(aa) a security that is not a security futures product; or

''(bb) a contract of sale that—

''(AA) results in actual delivery within 2 days; or

''(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

''(ii)(I) Agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b).

''(II) Subclause (I) of this clause shall not apply to—

''(aa) any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

''(bb) any such person's associated persons.

''(iii)(I) A person shall not participate in the solicitation or recommendation of any agreement, contract, or transaction described in clause (i) of this subparagraph unless the person is registered in such capacity as the Commission by rule, regulation, or order shall determine, and is a member of a futures association registered under section 17.

''(II) Subclause (I) shall not apply to—

''(aa) any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

''(bb) any such person's associated persons.

''(iv)(I) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in clause (i) of this subparagraph as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

''(II) The Commission may, after issuing notice and soliciting comment, issue rules proscribing fraud in connection with any agreement, contract, or transaction described in clause (i) in an exempt commodity or an agricultural commodity. Nothing in this provision shall affect the determination of whether such agreement, contract, or transaction is a contract for the purchase or sale of a commodity for future delivery for purposes of section 4(a).

''(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.

''(vi) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products.''.

(b) EFFECTIVE DATE.—Clause (iii) of section 2(c)(2)(B) and clause (iii) of section 2(c)(2)(C) of the Commodity Exchange Act, as amended by subsection (a) of this section, shall be effective 120 days after the date of the enactment of this Act or such other time as the Commodity Futures Trading Commission shall determine.

SEC. 13103. LIAISON WITH DEPARTMENT OF JUSTICE.

Section 2(a)(9) of the Commodity Exchange Act (7 U.S.C. 2(a)(9)) is amended by adding at the end the following:

''(C) LIAISON WITH DEPARTMENT OF JUSTICE.—

''(i) IN GENERAL.—The Commission shall, in cooperation with the Attorney General, maintain a liaison between the Commission and the Department of Justice to coordinate civil and criminal investigations and prosecutions of violations of this Act as appropriate.

''(ii) DESIGNATION.—The Attorney General shall designate a person as liaison and take such steps as are necessary to facilitate communications described in clause (i).''.

SEC. 13104. ANTI-FRAUD AUTHORITY OVER PRINCIPAL-TO-PRINCIPAL TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. Section 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking ''SEC.4b.'' and all that follows through the end of subsection (a) and inserting the following:

''SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.

''(a) UNLAWFUL ACTIONS.—It shall be unlawful—

''(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

''(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

''(A) to cheat or defraud or attempt to cheat or defraud the other person;

''(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

''(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

''(D)(i) to bucket an order if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

''(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

''(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.''.

SEC. 13105. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF THE COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the 10th sentence—

(1) by inserting ''(A)'' after ''assess such person''; and

(2) by inserting after ''each such violation'' the following: '', or (B) in any case of manipulation or attempted manipulation in violation of this subsection, subsection (d), or section 9(a)(2), a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,''.

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: '', or, in any case of manipulation or attempted manipulation in violation of sections 6(c), 6(d), or 9(a)(2), a civil penalty of not more than $1,000,000 for each such violation''; and

(2) in the second sentence, by inserting before the period at the end the following: '', except that if the failure or refusal to obey or comply with the order involved any offense under section 9(a)(2), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(a)(2)''.

(c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a-1(d)) is amended by striking ''(d)'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) CIVIL PENALTIES.—

''(1) IN GENERAL.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

''(A) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

''(B) in any case of manipulation or attempted manipulation in violation of sections 6(c), 6(d), or 9(a)(2), a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.''.

(d) VIOLATIONS GENERALLY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by striking ''(or $500,000 in the case of a person who is an individual)''; and

(B) by striking ''five years'' and inserting ''10 years'';

(2) by re-designating subsection (f) as subsection (e); and

(3) in paragraph (1) of subsection (e) (as redesignated by paragraph (2)), by striking the period at the end and inserting ''; or''.

SEC. 13106. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

''(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of the fiscal years 2008 through 2013.''.

SEC. 13107. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended in the last proviso by striking ''section 9(c)'' and inserting ''section 9(a)(5)''.

(b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended by striking ''compiled'' and inserting ''complied''.

(c) Section 4k of such Act (7 U.S.C. 6k) is amended by redesignating the second paragraph (5) as paragraph (6).

(d) The Commodity Exchange Act is amended—

(1) by redesignating the first section 4p (7 U.S.C. 6o-1), as added by section 121 of the Commodity Futures Modernization Act of 2000, as section 4q; and

(2) by moving such section to after the second section 4p, as added by section 206 of Public Law 93-446.

(e) Subsections (a)(1) and (d)(1) of section 5c of such Act (7 U.S.C. 7a-2(a)(1), (d)(1)) are each amended by striking ''5b(d)(2)'' and inserting ''5b(c)(2)''.

(f) Sections 5c(f) and 17(r) of such Act (7 U.S.C. 7a-2(f), 21(r)) are each amended by striking ''4d(3)'' and inserting ''4d(c)''.

(g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1)) is amended in the matter following subparagraph (B)—

(1) by striking ''commenced'' in the 2nd place it appears; and

(2) by inserting ''commenced'' after ''in a judicial proceeding''.

(h) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2)) is amended by striking ''5b(b)(1)(E)'' and inserting ''5b(c)(2)(H)''.

SEC. 13108. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES.

(a) The agencies represented on the President's Working Group on Financial Markets shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit—

(1) by September 30, 2008, risk-based portfolio margining for security options and security futures products; and

(2) by June 30, 2008, the trading of futures on certain security indexes by resolving issues related to foreign security indexes.

Subtitle B—Significant Price Discovery Contracts on Exempt Commercial Markets

SEC. 13201. SIGNIFICANT PRICE DISCOVERY CONTRACTS.

(a) DEFINITIONS.—Section la of the Commodity Exchange Act (7 U.S.C. la) is amended—

(1) by redesignating paragraph (33) as paragraph (34); and

(2) by inserting after paragraph (32) the following:

''(33) SIGNIFICANT PRICE DISCOVERY CONTRACT.—The term 'significant price discovery contract' means an agreement, contract, or transaction subject to section 2(h)(7)(A).''.

(b) STANDARDS APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended by adding at the end the following:

''(7) STANDARDS APPLICABLE TO SIGNIFICANT PRICE DISCOVER CONTRACTS.—

''(A) IN GENERAL.—An agreement, contract, or transaction conducted in reliance on the exemption in paragraph (3) shall be subject to the provisions of subparagraphs (B) through (E), under such rules and regulations as the Commission may promulgate, provided that the Commission determines, in its discretion, that the agreement, contract, or transaction performs a significant price discovery function as described in subparagraph (B).

''(B) SIGNIFICANT PRICE DISCOVERY DETERMINATION.—In making a determination whether an agreement, contract, or transaction performs a significant price discovery function, the Commission shall consider, as appropriate:

''(i) PRICE LINKAGE.—The extent to which the agreement, contract, or transaction uses or otherwise relies on a daily or final settlement price, or other major price parameter, of a contract or contracts listed, for trading on or subject to the rules of a designated contract market or a derivatives transaction execution facility, or a significant price discovery contract traded on an electronic trading facility, to value a position, transfer or convert a position, cash or financially settle a position, or close out a position.

''(ii) ARBITRAGE.—The extent to which the price for the agreement, contract, or transaction is sufficiently related to the price of a contract or contracts listed for trading on or subject to the rules of a designated contract market or derivatives transaction execution facility so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the contracts on the electronic trading facility and the designated contract market or derivatives transaction execution facility on a frequent and recurring basis.

''(iii) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a commodity are directly based on, or are determined by referencing, the prices generated by agreements, contracts, or transactions being traded or executed on the electronic trading facility.

''(iv) MATERIAL LIQUIDITY.—The extent to which the volume of agreements, contracts, or transactions in the commodity being traded on the electronic trading facility is sufficient to have a material impact on other agreements, contracts, or transactions listed for trading on or subject to the rules of a designated contract market, a derivatives trading execution facility, or an electronic trading facility operating in reliance on the exemption in paragraph (3).

''(v) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule as relevant to determine whether an agreement, contract, or transaction serves a significant price discovery function.

''(C) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

''(i) IN GENERAL.—An electronic trading facility on which significant price discovery contracts are traded or executed shall, with respect to those contracts, comply with the core principles specified in this subparagraph.

''(ii) CORE PRINCIPLES.—The electronic trading facility shall have reasonable discretion in establishing the manner in which it complies with the following core principles:

''(I) CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The electronic trading facility shall list only significant price discovery contracts that are not readily susceptible to manipulation.

''(II) MONITORING OF TRADING.—The electronic trading facility shall monitor trading in significant price discovery contracts to prevent market manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(III) ABILITY TO OBTAIN INFORMATION.—The electronic trading facility shall—

''(aa) establish and enforce rules that will allow the electronic trading facility to obtain any necessary information to perform any of the functions described in this subparagraph;

''(bb) provide such information to the Commission upon request; and

''(cc) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(IV) POSITION LIMITATIONS OR ACCOUNTABILITY.—The electronic trading facility shall adopt position limitations or position accountability for speculators in significant price discovery contracts, where necessary and appropriate, to reduce the potential threat of market manipulation, price distortion, and disruptions of the delivery or cash-settlement process or congestion, especially during trading in the delivery month.

''(V) EMERGENCY AUTHORITY.—The electronic trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority—

''(aa) to liquidate open positions in a significant price discovery contract; and

''(bb) to suspend or curtail trading in a significant price discovery contract.

''(VI) DAILY PUBLICATION OF TRADING INFORMATION.—The electronic trading facility shall make public daily information on price, trading volume, and other trading data for significant price discovery contracts, as the Commission considers appropriate.

''(VII) COMPLIANCE WITH RULES.—The electronic trading facility shall monitor and enforce compliance with any rules of the electronic trading facility applicable to significant price discovery contracts, including the terms and conditions of such contracts and any limitations on access to the electronic trading facility with respect to such contracts.

''(VIII) CONFLICT OF INTEREST.—The electronic trading facility shall—

''(aa) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

''(bb) establish a process for resolving the conflicts.

''(IX) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the electronic trading facility shall endeavor to avoid—

''(aa) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

''(bb) imposing any material anticompetitive burden on trading on the electronic trading facility.

''(D) IMPLEMENTATION.—The electronic trading facility shall have discretion to take into account differences between cleared and uncleared significant price discovery contracts in applying core principles in subclauses (IV) and (V) of subparagraph (C), and the Commission shall take such differences into consideration when reviewing the implementation of such core principles by an electronic trading facility.

''(E) NEW SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

''(i) NOTIFICATION.—An electronic trading facility shall notify the Commission whenever the electronic trading facility has reason to believe that an agreement, contract, or transaction conducted in reliance on the exemption provided in paragraph (3) displays any of the factors relating to a significant price discovery function as described in subparagraph (B) (including regulations under this paragraph).

''(ii) REVIEW.—In addition to any review conducted upon receiving a notification pursuant to clause (i), at any other such time the Commission determines to be appropriate, but at least on an annual basis, the Commission shall conduct an evaluation, appropriate to the agreement, contract, or transaction, to determine whether any agreement, contract, or transaction conducted on an electronic trading facility in reliance on the exemption provided in paragraph (3) is performing a significant price discovery function.''.

SEC. 13202. LARGE TRADER REPORTING.

(a) REPORTING AND RECORDKEEPING.—Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended in subsection (a) by striking ''elsewhere;'' and inserting ''elsewhere, and in any significant price discovery contract traded or executed on an electronic trading facility;''.

(b) REPORTS OF POSITIONS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of

the Commodity Exchange Act (7 U.S.C. 6i) is amended—

(1) by inserting '', or any significant price discovery contract on an electronic trading facility'' after ''subject to the rules of any contract market or derivatives transaction execution facility'' ; and

(2) by inserting in the matter following paragraph (2), ''or electronic trading facility'' after ''subject to the rules of any other board of trade''.

SEC. 13203. CONFORMING AMENDMENTS.

(a) Section 1a(12)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(x)) is amended by inserting ''(other than an electronic trading facility with respect to a significant price discovery contract)'' after ''registered entity''.

(b) Section 1a(29) of the Commodity Exchange Act (7 U.S.C. 1a(29)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(E) with respect to a contract that the Commission determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded.''.

(c)(1) Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) is amended by inserting after ''section 19 of this Act'' the following: '', and significant price discovery contracts traded or executed on an electronic trading facility''.

(2) Nothing contained in this subtitle or amendments made by this subtitle shall be construed to affect the jurisdiction that the Commission or any regulatory authority may otherwise have under any other provision of law with respect to contracts, agreements, or transactions that are not significant price discovery contracts.

(d) Section 2(h)(3) of the Commodity Exchange Act (7 U.S.C. 2(h)(3)) is amended by striking ''paragraph (4)'' and inserting ''paragraphs (4) and (7)''.

(e) Section 2(h)(4) of the Commodity Exchange Act (7 U.S.C. 2(h)(4)) is amended by striking subparagraph (D) and inserting the following:

''(D) such rules, regulations, and orders as the Commission may issue to ensure timely compliance with any of the provisions of this Act applicable to a significant price discovery contract traded on or executed on any electronic trading facility.''.

(f) Section 2(h)(5)(B)(iii)(I) of the Commodity Exchange Act (7 U.S.C. 2(h)(5)(B)(iii)(I)) is amended by inserting ''or to make the determination described in subparagraph (B) of paragraph (7)'' after ''paragraph (4)''.

(g) Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting '', or on electronic trading facilities with respect to a significant price discovery contract'' after ''derivatives transaction execution facilities''; and

(B) in the second sentence, by inserting '', or on an electronic trading facility with respect to a significant price discovery contract,'' after ''derivatives transaction execution facility''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''or electronic trading facility with respect to a significant price discovery contract'' after ''facility or facilities''; and

(B) in paragraph (2), by inserting ''or electronic trading facility with respect to a significant price discovery contract'' after ''derivatives transaction execution facility''; and

(3) in subsection (e)—

(A) in the first sentence—

(i) by inserting ''or by any electronic trading facility'' after ''registered by the Commission'';

(ii) by inserting ''or on an electronic trading facility'' after ''derivatives transaction execution facility'' the second place it appears; and

(iii) by inserting ''or electronic trading facility'' before ''or such board of trade'' each place it appears; and

(B) in the second sentence, by inserting ''or electronic trading facility with respect to a significant price discovery contract'' after ''registered by the Commission''.

(h) Section 5a(d) of the Commodity Exchange Act (7 U.S.C. 7a(d)(1)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10); and

(2) by inserting after paragraph (3) the following:

''(4) POSITION LIMITS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation, price distortion, and disruption of the delivery or cash-settled process or congestion, especially during trading in the delivery month, the derivatives transaction execution facility shall adopt position limits or position accountability for speculators, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply.''.

(i) Section 5c(a) of the Commodity Exchange Act (7 U.S.C. 7a–2(a)) is amended in paragraph (1) by inserting '', and section 2(h)(7) with respect to significant price discovery contracts,'' after '', and 5b(d)(2)''.

(j) Section 5c(b) of the Commodity Exchange Act (7 U.S.C. 7a–2(b)) is amended—

(1) by striking paragraph (1) and inserting following:

''(1) IN GENERAL.—A contract market, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract may comply with any applicable core principle through delegation of any relevant function to a registered futures association or a registered entity that is not an electronic trading facility.'';

(2) in paragraph (2), by striking ''contract market or derivatives transaction execution facility'' and inserting ''contract market, derivatives transaction execution facility, or electronic trading facility''; and

(3) in paragraph (3), by striking ''contract market or derivatives transaction execution facility'' each place it appears and inserting ''contract market, derivatives transaction execution facility, or electronic trading facility''.

(k) Section 5c(d)(1) of the Commodity Exchange Act (7 U.S.C. 7a–2(d)(1)) is amended by inserting ''or 2(h)(7)(C) with respect to a significant price discovery contract traded or executed on an electronic trading facility,'' after ''5b(d)(2)''.

(l) Section 5e of the Commodity Exchange Act (7 U.S.C. 7b) is amended by inserting '', or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,'' after ''revocation of designation as a registered entity'' ;

(m) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended by striking the first sentence and all that follows through ''resubmitted in completed form: Provided,'' and inserting the following:

''The Commission is authorized to suspend for a period not to exceed 6 months or to revoke the designation or registration of any contract market or derivatives transaction execution facility, or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract, on a showing that the contract market or derivatives transaction execution facility is not enforcing or has not enforced its rules of government, made a condition of its designation or registration as set forth in sections 5 through 5b or section 5f, or that the contract market or derivatives transaction execution facility or electronic trading facility, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be made after a notice to the officers of the contract market or derivatives transaction execution facility or electronic trading facility affected and upon a hearing on the record: Provided,''.

SEC. 13204. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, this subtitle shall become effective on the date of enactment of this Act.

(b) SIGNIFICANT PRICE DISCOVERY STANDARDS RULEMAKING.—The Commission shall—

(1) not later than 180 days after the date of the enactment of this Act, issue a proposed rule regarding the significant price discovery standards in section 13201; and

(2) not later than 270 days after the date of enactment of this Act, issue a final rule.

(c) SIGNIFICANT PRICE DISCOVERY DETERMINATIONS.—With respect to any electronic trading facility operating on the effective date of the final rule regarding significant price discovery standards, the Commission shall complete a review of the agreements, contracts, and transactions of such facilities not later than 180 days after that effective date to determine whether any such agreement, contract, or transaction performs a significant price discovery function.

SA 3852. Mr. HARKIN (for Mr. DODD) proposed an amendment to the bill S. 1858, to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Newborn Screening Saves Lives Act of 2007''.

SEC. 2. IMPROVED NEWBORN AND CHILD SCREENING FOR HERITABLE DISORDER.

Section 1109 of the Public Health Service Act (42 U.S.C. 300b–8) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) AUTHORIZATION OF GRANT PROGRAM.—From amounts appropriated under subsection (j), the Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the 'Administrator') and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children (referred to in this section as the 'Advisory Committee'), shall award grants to eligible entities to enable such entities—

''(1) to enhance, improve or expand the ability of State and local public health agencies to provide screening, counseling, or health care services to newborns and children having or at risk for heritable disorders;

''(2) to assist in providing health care professionals and newborn screening laboratory

personnel with education in newborn screening and training in relevant and new technologies in newborn screening and congenital, genetic, and metabolic disorders;

''(3) to develop and deliver educational programs (at appropriate literacy levels) about newborn screening counseling, testing, follow-up, treatment, and specialty services to parents, families, and patient advocacy and support groups; and

''(4) to establish, maintain, and operate a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders.

''(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a State or a political subdivision of a State;

''(2) a consortium of 2 or more States or political subdivisions of States;

''(3) a territory;

''(4) a health facility or program operated by or pursuant to a contract with or grant from the Indian Health Service; or

''(5) any other entity with appropriate expertise in newborn screening, as determined by the Secretary.

''(c) APPROVAL FACTORS.—An application submitted for a grant under subsection (a)(1) shall not be approved by the Secretary unless the application contains assurances that the eligible entity has adopted and implemented, is in the process of adopting and implementing, or will use amounts received under such grant to adopt and implement the guidelines and recommendations of the Advisory Committee that are adopted by the Secretary and in effect at the time the grant is awarded or renewed under this section, which shall include the screening of each newborn for the heritable disorders recommended by the Advisory Committee and adopted by the Secretary.'';

(2) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(3) by inserting after subsection (c), the following:

''(d) COORDINATION.—The Secretary shall take all necessary steps to coordinate programs funded with grants received under this section and to coordinate with existing newborn screening activities.''; and

(4) by striking subsection (j) (as so redesignated) and inserting the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

''(1) to provide grants for the purpose of carrying activities under section (a)(1), $15,000,000 for fiscal year 2008; $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012; and

''(2) to provide grant for the purpose of carrying out activities under paragraphs (2), (3), and (4) of subsection (a), $15,000,000 for fiscal year 2008, $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012.''.

SEC. 3. EVALUATING THE EFFECTIVENESS OF NEWBORN AND CHILD SCREENING PROGRAMS.

Section 1110 of the Public Health Service Act (42 U.S.C. 300b–9) is amended by adding at the end the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.''.

SEC. 4. ADVISORY COMMITTEE ON HERITABLE DISORDERS IN NEWBORNS AND CHILDREN.

Section 1111 of the Public Health Service Act (42 U.S.C. 300b–10) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (6);

(B) in paragraph (2), by striking ''and'' after the semicolon;

(C) by inserting after paragraph (2) the following:

''(3) make systematic evidence-based and peer-reviewed recommendations that include the heritable disorders that have the potential to significantly impact public health for which all newborns should be screened, including secondary conditions that may be identified as a result of the laboratory methods used for screening;

''(4) develop a model decision-matrix for newborn screening expansion, including an evaluation of the potential public health impact of such expansion, and periodically update the recommended uniform screening panel, as appropriate, based on such decision-matrix;

''(5) consider ways to ensure that all States attain the capacity to screen for the conditions described in paragraph (3), and include in such consideration the results of grant funding under section 1109; and'';

(D) in paragraph (6) (as so redesignated by subparagraph (A)), by striking the period at the end and inserting '', which may include recommendations, advice, or information dealing with—

''(A) follow-up activities, including those necessary to achieve rapid diagnosis in the short-term, and those that ascertain long-term case management outcomes and appropriate access to related services;

''(B) implementation, monitoring, and evaluation of newborn screening activities, including diagnosis, screening, follow-up, and treatment activities;

''(C) diagnostic and other technology used in screening;

''(D) the availability and reporting of testing for conditions for which there is no existing treatment;

''(E) conditions not included in the recommended uniform screening panel that are treatable with Food and Drug Administration-approved products or other safe and effective treatments, as determined by scientific evidence and peer review;

''(F) minimum standards and related policies and procedures used by State newborn screening programs, such as language and terminology used by State newborn screening programs to include standardization of case definitions and names of disorders for which newborn screening tests are performed;

''(G) quality assurance, oversight, and evaluation of State newborn screening programs, including ensuring that tests and technologies used by each State meet established standards for detecting and reporting positive screening results;

''(H) public and provider awareness and education;

''(I) the cost and effectiveness of newborn screening and medical evaluation systems and intervention programs conducted by State-based programs;

''(J) identification of the causes of, public health impacts of, and risk factors for heritable disorders; and

''(K) coordination of surveillance activities, including standardized data collection and reporting, harmonization of laboratory definitions for heritable disorders and testing results, and confirmatory testing and verification of positive results, in order to assess and enhance monitoring of newborn diseases.''; and

(2) in subsection (c)(2)—

(A) by redesignating subparagraphs (E), (F) and (G) as subparagraphs (F), (H), and (I);

(B) by inserting after subparagraph (D) the following:

''(E) the Commissioner of the Food and Drug Administration;''; and

(C) by inserting after subparagraph (F), as so redesignated, the following:

''(G) individuals with expertise in ethics and infectious diseases who have worked and published material in the area of newborn screening;''; and

(3) by adding at the end the following:

''(d) DECISION ON RECOMMENDATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the Advisory Committee issues a recommendation pursuant to this section, the Secretary shall adopt or reject such recommendation.

''(2) PENDING RECOMMENDATIONS.—The Secretary shall adopt or reject any recommendation issued by the Advisory Committee that is pending on the date of enactment of the Newborn Screening Saves Lives Act of 2007 by not later than 180 days after the date of enactment of such Act.

''(3) DETERMINATIONS TO BE MADE PUBLIC.—The Secretary shall publicize any determination on adopting or rejecting a recommendation of the Advisory Committee pursuant to this subsection, including the justification for the determination.

''(e) ANNUAL REPORT.—Not later than 3 years after the date of enactment of the Newborn Screening Saves Lives Act of 2007, and each fiscal year thereafter, the Advisory Committee shall—

''(1) publish a report on peer-reviewed newborn screening guidelines, including follow-up and treatment, in the United States;

''(2) submit such report to the appropriate committees of Congress, the Secretary, the Interagency Coordinating Committee established under Section 1114, and the State departments of health; and

''(3) disseminate such report on as wide a basis as practicable, including through posting on the internet clearinghouse established under section 1112.

''(f) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall continue to operate during the 5-year period beginning on the date of enactment of the Newborn Screening Saves Lives Act of 2007.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.''.

SEC. 5. INFORMATION CLEARINGHOUSE.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.) is amended by adding at the end the following:

''SEC. 1112. CLEARINGHOUSE OF NEWBORN SCREENING INFORMATION.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this part as the 'Administrator'), in consultation with the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall establish and maintain a central clearinghouse of current educational and family support and services information, materials, resources, research, and data on newborn screening to—

''(1) enable parents and family members of newborns, health professionals, industry representatives, and other members of the public to increase their awareness, knowledge, and understanding of newborn screening;

''(2) increase awareness, knowledge, and understanding of newborn diseases and screening services for expectant individuals and families; and

''(3) maintain current data on quality indicators to measure performance of newborn

screening, such as false-positive rates and other quality indicators as determined by the Advisory Committee under section 1111.

''(b) INTERNET AVAILABILITY.—The Secretary, acting through the Administrator, shall ensure that the clearinghouse described under subsection (a)—

''(1) is available on the Internet;

''(2) includes an interactive forum;

''(3) is updated on a regular basis, but not less than quarterly; and

''(4) provides—

''(A) links to Government-sponsored, nonprofit, and other Internet websites of laboratories that have demonstrated expertise in newborn screening that supply research-based information on newborn screening tests currently available throughout the United States;

''(B) information about newborn conditions and screening services available in each State from laboratories certified under subpart 2 of part F of title III, including information about supplemental screening that is available but not required, in the State where the infant is born;

''(C) current research on both treatable and not-yet treatable conditions for which newborn screening tests are available;

''(D) the availability of Federal funding for newborn and child screening for heritable disorders including grants authorized under the Newborn Screening Saves Lives Act of 2007; and

''(E) other relevant information as determined appropriate by the Secretary.

''(c) NONDUPLICATION.—In developing the clearinghouse under this section, the Secretary shall ensure that such clearinghouse minimizes duplication and supplements, not supplants, existing information sharing efforts.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for fiscal year 2008, $2,531,250 for fiscal year 2009, $2,562,500 for fiscal year 2010, $2,593,750 for fiscal year 2011, and $2,625,000 for fiscal year 2012.''.

SEC. 6. LABORATORY QUALITY AND SURVEILLANCE.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 5, is further amended by adding at the end the following:

''SEC. 1113. LABORATORY QUALITY.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children established under section 1111, shall provide for—

''(1) quality assurance for laboratories involved in screening newborns and children for heritable disorders, including quality assurance for newborn-screening tests, performance evaluation services, and technical assistance and technology transfer to newborn screening laboratories to ensure analytic validity and utility of screening tests; and

''(2) appropriate quality control and other performance test materials to evaluate the performance of new screening tools.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.

''SEC. 1114. INTERAGENCY COORDINATING COMMITTEE ON NEWBORN AND CHILD SCREENING.

''(a) PURPOSE.—It is the purpose of this section to—

''(1) assess existing activities and infrastructure, including activities on birth defects and developmental disabilities authorized under section 317C, in order to make recommendations for programs to collect, analyze, and make available data on the heritable disorders recommended by the Advisory Committee on Heritable Disorders in Newborns and Children under section 1111, including data on the incidence and prevalence of, as well as poor health outcomes resulting from, such disorders; and

''(2) make recommendations for the establishment of regional centers for the conduct of applied epidemiological research on effective interventions to promote the prevention of poor health outcomes resulting from such disorders as well as providing information and education to the public on such effective interventions.

''(b) ESTABLISHMENT.—The Secretary shall establish an Interagency Coordinating Committee on Newborn and Child Screening (referred to in this section as the 'Interagency Coordinating Committee') to carry out the purpose of this section.

''(c) COMPOSITION.—The Interagency Coordinating Committee shall be composed of the Director of the Centers for Disease Control and Prevention, the Administrator, the Director of the Agency for Healthcare Research and Quality, and the Director of the National Institutes of Health, or their designees.

''(d) ACTIVITIES.—The Interagency Coordinating Committee shall—

''(1) report to the Secretary and the appropriate committees of Congress on its recommendations related to the purpose described in subsection (a); and

''(2) carry out other activities determined appropriate by the Secretary.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.''.

SEC. 7. CONTINGENCY PLANNING.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 6, is further amended by adding at the end the following:

''SEC. 1115. NATIONAL CONTINGENCY PLAN FOR NEWBORN SCREENING.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator and State departments of health (or related agencies), shall develop a national contingency plan for newborn screening for use by a State, region, or consortia of States in the event of a public health emergency.

''(b) CONTENTS.—The contingency plan developed under subsection (a) shall include a plan for—

''(1) the collection and transport of specimens;

''(2) the shipment of specimens to State newborn screening laboratories;

''(3) the processing of specimens;

''(4) the reporting of screening results to physicians and families;

''(5) the diagnostic confirmation of positive screening results;

''(6) ensuring the availability of treatment and management resources;

''(7) educating families about newborn screening; and

''(8) carrying out other activities determined appropriate by the Secretary.

''SEC. 1116. HUNTER KELLY RESEARCH PROGRAM.

''(a) NEWBORN SCREENING ACTIVITIES.—

''(1) IN GENERAL.—The Secretary, in conjunction with the Director of the National Institutes of Health and taking into consideration the recommendations of the Advisory Committee, may continue carrying out, coordinating, and expanding research in newborn screening (to be known as 'Hunter Kelly Newborn Screening Research Program') including—

''(A) identifying, developing, and testing the most promising new screening technologies, in order to improve already existing screening tests, increase the specificity of newborn screening, and expand the number of conditions for which screening tests are available;

''(B) experimental treatments and disease management strategies for additional newborn conditions, and other genetic, metabolic, hormonal and or functional conditions that can be detected through newborn screening for which treatment is not yet available; and

''(C) other activities that would improve newborn screening, as identified by the Director.

''(2) ADDITIONAL NEWBORN CONDITION.—For purposes of this subsection, the term 'additional newborn condition' means any condition that is not one of the core conditions recommended by the Advisory Committee and adopted by the Secretary.

''(b) FUNDING.—In carrying out the research program under this section, the Secretary and the Director shall ensure that entities receiving funding through the program will provide assurances, as practicable, that such entities will work in consultation with the appropriate State departments of health, and, as practicable, focus their research on screening technology not currently performed in the States in which the entities are located, and the conditions on the uniform screening panel (or the standard test existing on the uniform screening panel).

''(c) REPORTS.—The Director is encouraged to include information about the activities carried out under this section in the biennial report required under section 403 of the National Institutes of Health Reform Act of 2006. If such information is included, the Director shall make such information available to be included on the Internet Clearinghouse established under section 1112.

''(d) NONDUPLICATION.—In carrying out programs under this section, the Secretary shall minimize duplication and supplement, not supplant, existing efforts of the type carried out under this section.

''(e) PEER REVIEW.—Nothing in this section shall be construed to interfere with the scientific peer-review process at the National Institutes of Health.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the Session of the Senate on December 13, 2007. At 10:30 a.m., in order to conduct a hearing entitled ''Shopping Smart and Avoiding Scams: Financial Literacy During the Holiday Season.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and

Transportation be authorized to meet during the session of the Senate on Thursday, December 13, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building, for the purposes of conducting a hearing.

At this hearing, the committee members will hear from the five Federal Communications Commission comissioners on current proceedings involving media and telecommunications policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, December 13, 2007, at 2:30 p.m., in room SD366 of the Dirksen Senate Office Building in order to conduct a hearing. At this hearing, the committee will hear testimony regarding forest restoration and hazardous fuels reduction efforts in the forests of Oregon and Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, December 13, 2007, at 9 a.m. in room SD–406 of the Dirksen Senate Office Building in order to conduct a hearing entitled, ''The Clean Water Act following the recent Supreme Court decisions in Solid Waste Agency of Northern Cook County and Rapanos-Carabell.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, December 13, 2007. at 10 a.m., in room SD–215 of the Dirksen Senate Office Building, in order to conduct a hearing entitled ''The Housing Decline: The Extent of the Problem and Potential Remedies.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, December 13, 2007, at a time to be determined in room SD–215 of the Dirksen Senate Office Building, to consider the nominations of Christopher A. Padilla, to be Under Secretary of Commerce for International Trade; Christina H. Pearson, to be Assistant Secretary Public Affairs, U.S. Department of Health and Human Services; Benjamin Eric Sasse, to be Assistant Secretary Planning and Evaluation, U.S. Department of Health and Human Services; and Charles E.F. Millard, to be Director of the Pension Benefit Guaranty Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 13, 2007, at 2:30 p.m. in order to hold a hearing on global fight against AIDS, tuberculosis, and malaria.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate in order to conduct an Executive Business meeting on Thursday, December 13, 2007, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building.

Agenda

I. Resolutions of Contempt
II. Bills

S. 2402, FISA Intelligence Surveillance Substitution Act of 2007, (Specter); S. 344, A bill to permit the televising of Supreme Court Proceedings, (Specter, Grassley, Durbin, Schumer, Feingold, Cornyn); S. 1638, Federal Judicial Salary Restoration Act of 2007, (Leahy, Hatch, Feinstein, Graham, Kennedy); S. 1829, Protect Our Children First Act of 2007, (Leahy, Hatch, Schumer); S. 431, Keeping the Internet Devoid of Sexual Predators Act of 2007, (Schumer, McCain, Grassley, Specter, Kyl); S. 2344, Internet Safety Education Act of 2007, (Menendez).

III. Resolution

S. Res. 388, Designating the week of February 4 through February 8, 2008, as ''National Teen Dating Violence Awareness and Prevention Week'', (Crapo, Biden).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Thursday, December 13, 2007. The Committee will meet off the Senate Floor in the Reception room to consider the nomination of LTG James B. Peake (Ret.) for Secretary of Veterans Affairs after the first Floor vote that occurs on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 13, 2007, at 2:30 p.m. in order to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on Thursday, December 13, 2007, at 10:00 a.m. in order to conduct a hearing entitled, ''Prioritizing Management: Implementing Chief Management Officers at Federal Agencies.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Tess Mullen of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 392, 397, 398, 399, and 400; and the Coast Guard nominations at the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Amul R. Thapar, of Kentucky, to be United States District Judge for the Eastern District of Kentucky, vice Joseph M. Hood, retiring.

DEPARTMENT OF JUSTICE

Ronald Jay Tenpas, of Maryland, to be an Assistant Attorney General.

Gregory A. Brower, of Nevada, to be United States Attorney for the District of Nevada for the term of four years.

Diane J. Humetewa, of Arizona, to be United States Attorney for the District of Arizona for the term of four years.

Edmund A. Booth, Jr., of Georgia, to be United States Attorney for the Southern District of Georgia for the term of four years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE COAST GUARD

PN1039 COAST GUARD nominations (271) beginning STEVEN C. ACOSTA, and ending Marc A. Zlomek, which nominations were received by the Senate and appeared in the Congressional Record of November 7, 2007.

PN1055 COAST GUARD nominations (4) beginning Damon L. Bentley, and ending Tanya C. Saunders, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 2007.

NOMINATION OF AMUL R. THAPAR

Mr. LEAHY. Mr. President, the Senate continues, as we have all year, to make progress filling judicial vacancies by considering yet another nomination reported out of committee this month. The nomination before us today for a lifetime appointment to the Federal bench is Amul R. Thapar, to the Eastern District of Kentucky. He has the support of both home State Senators. I acknowledge the support of Senators MCCONNELL and BUNNING, and want to thank Senator WHITEHOUSE for chairing the hearing on this nomination.

In November, the Judiciary Committee reached a milestone by voting to report our 40th judicial nominee this year. That exceeds the totals reported in each of the previous 2 years, when a Republican-led Judiciary Committee was considering this President's nominees.

I am delighted to promptly consider the nomination of Mr. Thapar. The National Asian Pacific American Bar Association wrote to us in support of his nomination, which is the first of a South Asian American to be an Article III judge by this President. When confirmed, he would become only the seventh Asian Pacific American Article III judge in our Nation's history.

Amul R. Thapar is the U.S. Attorney for the Eastern District of Kentucky in Lexington, KY. Before that, he served as an Assistant U.S. Attorney in the Southern District of Ohio and in the District of Columbia. He worked in private practice at the law firms of Squire, Sanders & Dempsey and Williams & Connolly LLP and worked as a general counsel for Equalfooting.com. Mr. Thapar served as a law clerk for Judge Nathaniel R. Jones on the U.S. Court of Appeals for the Sixth Circuit and for Judge S. Arthur Spiegel on the District Court for the Southern District of Ohio. He graduated from Boston College and the University of California, Berkeley Boalt Hall School of Law.

When we confirm the nomination we consider today, the Senate will have confirmed 37 nominations for lifetime appointments to the Federal bench this session alone. That exceeds the totals confirmed in all of 2004, 2005, and 2006 when a Republican-led Senate was considering this President's nominees; all of 1989; all of 1993, when a Democratic-led Senate was considering President Clinton's nominees; all of 1997 and 1999, when a Republican-led Senate was considering President Clinton's nominees; and all of 1996, when the Republican-led Senate did not confirm a single one of President Clinton's circuit nominees.

When this nomination is confirmed, the Senate will have confirmed 137 total Federal judicial nominees in my tenure as Judiciary chairman. During the Bush Presidency, more circuit judges, more district judges—more total judges—were confirmed in the first 24 months that I served as Judiciary chairman than during the 2-year tenures of either of the two Republican chairmen working with Republican Senate majorities.

The Administrative Office of the U.S. Courts will list 45 judicial vacancies and 14 circuit court vacancies after today's confirmations. Compare that to the numbers at the end of the 109th Congress, when the total vacancies under a Republican-controlled Judiciary Committee were 51 judicial vacancies and 15 circuit court vacancies. That means that despite the additional vacancies that arose at the beginning of the 110th Congress and throughout this year, the current vacancy totals under my chairmanship of the Judiciary Committee are below where they were under a Republican led-Judiciary Committee. They are almost half of what they were at the end of President Clinton's term, when Republican pocket filibusters allowed judicial vacancies to rise above 100 before settling at 80. Twenty-six of them were for circuit courts.

When the President consults and sends the Senate well-qualified, consensus nominations, we can work together and continue to make progress as we are today.

I congratulate the nominee and his family on his confirmation today.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

UNANIMOUS CONSENT AGREEMENT—S. 2338

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate may proceed to the consideration of Calendar No. 481, S. 2338, at a time to be determined by the majority leader following consultation with the Republican leader, and that when the bill is considered, it be considered under the following limitations: that the only first-degree amendments in order be the following, and that the time for debate for the Coburn amendment be limited to 60 minutes equally divided and controlled in the usual form; that there be 30 minutes of general debate on the bill equally divided and controlled; Dodd-Shelby amendment relating to a moratorium; Coburn amendment relating to reverse mortgages; that upon the use or yielding back of all time, the disposition of all amendments, the bill be read a third time and the Senate proceed to vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BREAST CANCER STAMP REAUTHORIZATION

Mr. HARKIN. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to S. 597, Breast Cancer Stamp Reauthorization.

The PRESIDING OFFICER laid before the Senate the following message:

S. 597

Resolved, That the bill from the Senate (S. 597) entitled ''An Act to extend the special postage stamp for breast cancer research for 4 years'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. EXTENSION OF AUTHORITY.

Section 414(h) of title 39, United States Code, is amended by striking ''2007'' and inserting ''2011''.

SEC. 2. REPORTING REQUIREMENTS.

The National Institutes of Health and the Department of Defense shall each submit to Congress and the Government Accountability Office an annual report concerning the use of any amounts that it received under section 414(c) of title 39, United States Code, including a description of any significant advances or accomplishments, during the year covered by the report, that were funded, in whole or in part, with such amounts.

Amend the title so as to read: ''An Act to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.''.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate concur in the House amendments and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATING THE C. CLYDE ATKINS U.S. COURTHOUSE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2671 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2671) to designate the United States Court House located at 301 North Miami Avenue, Miami, Florida, as the ''C. Clyde Atkins U.S. Courthouse.''

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2671) was ordered to a third reading, was read the third time, and passed.

CHIMPANZEE SANCTUARY ACT

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 536, S. 1916.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1916) to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chimp Haven is Home Act''.

SEC. 2. SANCTUARY SYSTEM FOR SURPLUS CHIMPANZEES; TERMINATION OF AUTHORITY FOR REMOVAL FROM SYSTEM FOR RESEARCH PURPOSES.

(a) IN GENERAL.—The first section 481C of the Public Health Service Act (42 U.S.C. 287a–3a) (added by section 2 of Public Law 106–551) is amended in subsection (d)—

(1) in paragraph (2), in subparagraph (J), by striking ''If any chimpanzee is removed'' and all that follows; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking clause (ii); and

(ii) by striking ''except as provided'' in the matter preceding clause (i) and all that follows through ''behavioral studies'' and inserting the following: ''except that the chimpanzee may be used for noninvasive behavioral studies'';

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B) (as so redesignated), by striking ''under subparagraphs (A) and (B)'' and inserting ''under subparagraph (A)''.

(b) TECHNICAL CORRECTION.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by redesignating the second section 481C (added by section 204(a) of Public Law 106–505) as section 481D.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee-reported amendment be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 1916), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1916

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chimp Haven is Home Act''.

SEC. 2. SANCTUARY SYSTEM FOR SURPLUS CHIMPANZEES; TERMINATION OF AUTHORITY FOR REMOVAL FROM SYSTEM FOR RESEARCH PURPOSES.

(a) IN GENERAL.—The first section 481C of the Public Health Service Act (42 U.S.C. 287a–3a) (added by section 2 of Public Law 106–551) is amended in subsection (d)—

(1) in paragraph (2), in subparagraph (J), by striking ''If any chimpanzee is removed'' and all that follows; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking clause (ii); and

(ii) by striking ''except as provided'' in the matter preceding clause (i) and all that follows through ''behavioral studies'' and inserting the following: ''except that the chimpanzee may be used for noninvasive behavioral studies'';

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B) (as so redesignated), by striking ''under subparagraphs (A) and (B)'' and inserting ''under subparagraph (A)''.

(b) TECHNICAL CORRECTION.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by redesignating the second section 481C (added by section 204(a) of Public Law 106–505) as section 481D.

RECOGNIZING THE LIFE AND CONTRIBUTIONS OF HENRY JOHN HYDE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 405, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 405) recognizing the life and contributions of Henry John Hyde.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HARKIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 405) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 405

Whereas Representative Henry John Hyde of Illinois was born in Chicago, Cook County, Illinois, on April 18, 1924;

Whereas Henry Hyde excelled as a student both at Georgetown University, at which he helped take the Hoyas basketball team to the National Collegiate Athletic Association semifinals in 1943 and from which he graduated with a bachelor of science degree in 1947, and at Loyola University Chicago School of Law, from which he graduated in 1949;

Whereas Henry Hyde served his country for his entire adult life, as an officer of the United States Navy from 1944 to 1946, where he served in combat in the Philippines during World War II, in the United States Navy Reserve from 1946 to 1968, from which he retired at the rank of Commander, as a member of the Illinois House of Representatives from 1967 to 1974 and Majority Leader of that body from 1971 to 1972, as a delegate to the Illinois Republican State Conventions from 1958 to 1974, and as a Republican Member of the United States House of Representatives for 16 Congresses, over 3 decades from January 3, 1975, to January 3, 2007;

Whereas Henry Hyde served as the Ranking Member on the Select Committee on Intelligence of the House of Representatives from 1985 to 1991, in the 99th through 101st Congresses, and as chairman of the Committee on the Judiciary of the House of Representatives from the 104th through 106th Congresses and the Committee on International Relations from the 107th through 109th Congresses;

Whereas, in his capacity as a United States Representative, Henry Hyde tirelessly served as a champion for children, both born and unborn, and relentlessly defended the rule of law;

Whereas Henry Hyde demonstrated his commitment to the rule of law during his tenure in the House of Representatives, once stating, ''The rule of law is no pious aspiration from a civics textbook. The rule of law is what stands between us and the arbitrary exercise of power by the state. The rule of law is the safeguard of our liberties. The rule of law is what allows us to live our freedom in ways that honor the freedom of others while strengthening the common good. . . If across the river in Arlington Cemetery there are American heroes who died in defense of the rule of law, can we give less than the full measure of our devotion to that great cause?'';

Whereas Henry Hyde was a key player in some of the highest level debates concerning the response to the terrorist attacks on our Nation on September 11, 2001;

Whereas Henry Hyde received the Presidential Medal of Freedom, the Nation's highest civilian honor, on November 5, 2007, at a ceremony at which President George W. Bush explained about Representative Hyde, ''He used his persuasive powers for noble causes. He stood for a strong and purposeful America—confident in freedom's advance, and firm in freedom's defense. He stood for limited, accountable government, and the equality of every person before the law. He was a gallant champion of the weak and forgotten, and a fearless defender of life in all its seasons.'';

Whereas Henry Hyde's greatest legacy is as the author, during his freshman term in the House of Representatives, of an amendment to the 1976 Departments of Labor and Health, Education, and Welfare Appropriations Act—commonly referred to as the Hyde Amendment—that prohibits Federal dollars from being used to pay for the abortion of unborn babies, which conservative figures estimate has saved at least 1,000,000 lives;

Whereas Henry Hyde lived by the belief that we will all be judged by our Creator in the end for our actions here on Earth, which he once explained on the floor of the House of Representatives by saying, ''Our moment in history is marked by a mortal conflict between a culture of life and a culture of death. God put us in the world to do noble things, to love and to cherish our fellow human beings, not to destroy them. Today we must choose sides.'';

Whereas Henry Hyde selflessly battled for the causes that formed the core of his beliefs until the end of his life, and was greatly respected by his friends and adversaries alike for his dedication and will remain a role model for advocates of those causes by virtue of his conviction, passion, wisdom, and character; and

Whereas Henry Hyde was preceded in death by his first wife, Jeanne, and his son Hank, and is survived by his second wife, Judy, his sons Robert and Anthony and daughter Laura, 3 stepchildren, Susan, Mitch, and Stephen, 7 grandchildren, and 7 step-grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) notes with deep sorrow the death of Henry John Hyde on November 29, 2007, in Chicago;

(2) extends its heartfelt sympathy to the family of Henry Hyde;

(3) recognizes the life of service and the outstanding contributions of Henry Hyde; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the family of Henry Hyde.

EUNICE KENNEDY SHRIVER NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2484, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2484) to rename the National Institute of Child Health and Human Development as the Eunice Kennedy Shriver National Institute of Child Health and Human Development.

There being no objection, the Senate proceeded to consider the bill.

NAME CHANGE

Mr. HATCH. Mr. President, I am hopeful we will approve tonight a bill I have authored with Senators MIKULSKI, ENZI and HARKIN, The Eunice Kennedy Shriver National Institute of Child Health and Development Act. This act will change the name of the National Institute of Child Health and Development to the Eunice Kennedy Shriver National Institute of Child Health and Development.

Our bill honors a truly great American who has played a unique role in advancing children's health, and particularly in shaping how we treat individuals with intellectual disabilities. Few Americans have ever played such a profound role as Ms. Shriver has played in her life and it is entirely fitting that we rename NICHD on her behalf.

Mr. ENZI. Mr. President, I thank Mr. HATCH for introducing this legislation, which I have joined as an original cosponsor. Ms. Shriver's contribution stands alone, both in terms of what she has done in terms of individuals with intellectual disabilities and their meaningful contribution in society as well as in advancing basic research at the National Institutes of Health. The National Institute of Child Health and Development was launched in the beginning of the Kennedy Administration and Ms. Shriver and her husband Sargent advocated for the institute when many knowledgeable scientists were willing to write off these individuals and advocated that the money spent at the NICHD would be better spent studying adult diseases. Ms. Shriver advocated for this research and I think it is fair to say without her advocacy the Institute would not be what it is today.

Mr. KENNEDY. I thank my colleagues for their support of this legislation. I also thank Senators MIKULSKI and HARKIN, who were other original cosponsors of this legislation. I will speak at a later time on the extraordinary difference that my sister, Eunice, has made in the lives of millions of Americans, but for now, I wish to comment on an aspect of the legislation before us. As we enact this legislation, I did want to make clear, that it is my understanding that nothing in this bill changes any authorities that we provided NIH and its director in the NIH Reform Act that we passed last Congress. Specifically, this does not change any of the authorities of the Scientific Management Review Board or any other provisions provided in section 401 of that act.

Is that the intent and understanding of my colleagues as well?

Mr. HATCH. Yes, this legislation is only meant to change the name of the single institute within NIH and to have no other effect on the NIH or its organization.

Mr. ENZI. I agree. We do not intend this to change or signal any other change at NIH.

Mr. ENZI. Mr. President, I rise today in support of the legislation before us, S. 2484. This bill renames the National Institute of Child Health and Development at the NIH as the ''Eunice Kennedy Shriver National Institute of Child Health and Development''.

This renaming bill was added during the HELP Committee markup to S. 1011, given that S. 1011 renamed two other Institutes at the National Institutes of Health. Senator HATCH, Senator MIKULSKI, and I sponsored this amendment, and it was unanimously accepted by the HELP Committee. Then, S. 1011 was unanimously voted out of Committee. We would like to have moved the entire bill, but unfortunately, we are not able to do that today due to some objections. Therefore, we are trying to get done what we can get done at the end of this session and simply moving the amendment that does not raise concerns with other members of this body.

I understand that it is unusual to rename an institute at NIH after an individual, but this is an unusual case. Ms. Shriver has long been associated with the National Institute of Child Health and Development, NICHD, and was an early champion of it.

NICHD was established in the 1960s by President Kennedy when he ushered in a ''New Frontier'' focusing on science and its potential for improving everyone's life. During the 1960s, we also learned of the biological causes of intellectual disabilities. At the same time, Ms. Shriver was an advocate for people with intellectual disabilities. With the help of her husband, Sargent, Ms. Shriver took on the challenge of improving the lives of people with intellectual disabilities and pursued that goal as a senior adviser to the President.

I suspect other Members will note her work with the Special Olympics. That is only a small portion of what she has done for individuals with intellectual disabilities. At the time of NICHD's creation, many leaders in the scientific community felt that money spent to research topics related to human development and intellectual disability would be better spent elsewhere. Ms. Shriver played a seminal role helping the scientific community, policymakers, and the general public recognize the importance of such research. She recognized that it was not just important for those with intellectual disabilities, but the research was a bridge to understanding broader, more general aspects of human development. Therefore, it would not be an overstatement to say that, without Ms. Shriver's contribution, this institute would not exist.

Therefore, Mr. President, I rise today and ask for the support of my colleagues in recognizing the contributions of Ms. Shriver through quick enactment of this legislation, S. 2484.

Mr. HARKIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2484) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2484

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

SECTION 1. EUNICE KENNEDY SHRIVER NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) FINDINGS.—Congress makes the following findings:

(1) Since it was established by Congress in 1962 at the request of President John F. Kennedy, the National Institute of Child Health and Human Development has achieved an outstanding record of achievement in catalyzing a concentrated attack on the unsolved health problems of children and of mother-infant relationships by fulfilling its mission to—

(A) ensure that every individual is born healthy and wanted, that women suffer no harmful effects from reproductive processes, and that all children have the chance to achieve their full potential for healthy and productive lives, free from disease or disability; and

(B) ensure the health, productivity, independence, and well-being of all individuals through optimal rehabilitation.

(2) The National Institute of Child Health and Human Development has made unparalleled contributions to the advancement of child health and human development, including significant efforts to—

(A) reduce dramatically the rates of Sudden Infant Death Syndrome, infant mortality, and maternal HIV transmission;

(B) develop the Haemophilus Influenza B (Hib) vaccine, credited with nearly eliminating the incidence of mental retardation; and

(C) conduct intramural research, support extramural research, and train thousands of child health and human development researchers who have contributed greatly to dramatic gains in child health throughout the world.

(3) The vision, drive, and tenacity of one woman, Eunice Kennedy Shriver, was instrumental in proposing, passing, and enacting legislation to establish the National Institute of Child Health and Human Development (Public Law 87–838) on October 17, 1962.

(4) It is befitting and appropriate to recognize the substantial achievements of Eunice Kennedy Shriver, a tireless advocate for children with special needs, whose foresight in creating the National Institute of Child Health and Human Development gave life to the words of President Kennedy, who wished to ''encourage imaginative research into the complex processes of human development from conception to old age.''.

(b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 401(b)(7) (42 U.S.C. 281(b)(7)), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(2) in section 404B (42 U.S.C. 283d), by striking ''National Institute for Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(3) in section 404E(a) (42 U.S.C. 283g(a)), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(4) in section 409D(c)(1) (42 U.S.C. 284h(c)(1)), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(5) in section 424(c)(3)(B)(vi) (42 U.S.C. 285b–7(c)(3)(B)(vi)), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(6) in section 430(b)(2)(B) (42 U.S.C. 285c–4(b)(2)(B)), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(7) in the heading of subpart 7 of part C of title IV (42 U.S.C. 285g et seq.), by striking the term ''National Institute of Child Health and Human Development'' each place such term appears and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(8) in section 487B(a) (42 U.S.C. 288–2(a)), by striking ''National Institute on Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'';

(9) in section 519C(g)(2) (42 U.S.C. 290bb–25c(g)(2)), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development''; and

(10) in section 1122 (42 U.S.C. 300c–12), by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development''.

(c) AMENDMENTS TO OTHER ACTS.—

(1) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3(b)(1)(A) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)(1)(A)) is amended by striking ''National Institute of Child Health and Human Development'' and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development''.

(2) ADULT EDUCATION AND FAMILY LITERACY ACT.—Sections 242 and 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9252 and 9253) are amended by striking the term ''National Institute of Child Health and Human Development'' each place such term appears and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development''.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended by striking the terms ''National Institute of Child Health and Human Development'' and ''National Institute for Child Health and Human Development'' each place either term appears and inserting ''Eunice Kennedy Shriver National Institute of Child Health and Human Development''.

(d) REFERENCE.—Any reference in any law, regulation, order, document, paper, or other record of the United States to the ''National Institute of Child Health and Human Development'' shall be deemed to be a reference to the ''Eunice Kennedy Shriver National Institute of Child Health and Human Development''.

CALLING FOR PRESIDENTIAL DISCUSSION WITH THE LEADERS OF THE REPUBLIC OF GEORGIA

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Res. 391, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 391) calling on the President of the United States to engage in an open discussion with the leaders of the Republic of Georgia to express support for the planned presidential elections and the expectation that such elections will be held in a manner consistent with democratic principles.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HARKIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 391) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 391

Whereas the Republic of Georgia, which is an emerging democracy strategically located between Turkey and Russia, is an important political and geopolitical ally of the United States;

Whereas Georgia has made significant economic progress since 2000, with an economic growth rate that now exceeds 9 percent on an annual basis, and was named the top economic reformer in the world by the World Bank in 2006;

Whereas the Government of Georgia has been a leader in addressing the proliferation of weapons of mass destruction under the Nunn-Lugar Cooperative Threat Reduction Program;

Whereas the Government of Georgia is working to become a candidate for membership in the North Atlantic Treaty Organization (NATO) and the European Union;

Whereas the United States Government strongly supports the territorial integrity of Georgia and works actively toward a peaceful settlement of the Abkhazia and South Ossetia conflicts that might lead those regions toward greater autonomy within a unified Georgia;

Whereas the popular uprising in Georgia in 2003, the Rose Revolution, led to the establishment of democracy in that country;

Whereas opposition parties in Georgia engaged in demonstrations lasting several days beginning on November 2, 2007;

Whereas the President of Georgia, Mikheil Saakashvili, declared a state of emergency on November 7, 2007, after which the country's main opposition television station, Imedi, was closed;

Whereas Deputy Assistant Secretary of State Matthew Bryza visited Georgia on November 10–11, 2007, and urged the Government of Georgia to reopen its private television stations, stating on Georgian state television: ''A cornerstone of democracy is that all TV stations should remain open.'';

Whereas President Saakashvili ended emergency rule on November 17, 2007, and announced presidential elections to be held on January 5, 2008;

Whereas the Government of Georgia has announced the reopening of the major opposition television station, Imedi;

Whereas the Government of Georgia has invited international election monitors to oversee the elections and thereby contribute to greater international recognition of the Georgian political process; and

Whereas freedom of the press, freedom of political expression, and a fair and impartial judiciary are among the most fundamental tenets of democracy: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should publicly state strong support for free and fair elections to be held in Georgia on January 5, 2008, in accordance with democratic principles; and

(2) the Government of Georgia, in order to restore faith in the democratic evolution of the country—

(A) must conduct free and fair elections, without government interference; and

(B) must permit all independent media to remain open and report on the elections.

MILO C. HUEMPFNER DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. HARKIN. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 2408 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 2408) to designate the Department of Veterans Affairs outpatient clinic in Green Bay, Wisconsin, as the ''Milo C. Huempfner Department of Veterans Affairs Outpatient Clinic''.

There being no objection, the committee proceeded to consider the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2408) was ordered to a third reading, was read the third time, and passed.

TO MODERNIZE VETERANS AFFAIRS MEDICAL CENTER IN ATLANTA, GEORGIA

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of S. 1396 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1396) to authorize a major medical facility project to modernize inpatient wards at the Department of Veterans Affairs Medical Center in Atlanta, Georgia.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1396) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1396

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

SECTION 1. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECT, ATLANTA, GEORGIA.

The Secretary of Veterans Affairs may carry out a major medical facility project for modernization of inpatient wards at the Department of Veterans Affairs Medical Center, Atlanta, Georgia, in an amount not to exceed $20,534,000.

ERNEST CHILDERS DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of S. 1585 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1585) to designate the Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, as the ''Ernest Childers Department of Veterans Affairs Outpatient Clinic.''

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1585) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1585

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

SECTION 1. DESIGNATION OF ERNEST CHILDERS DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

(a) DESIGNATION.—The Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, shall be known and designated as the ''Ernest Childers Department of Veterans Affairs Outpatient Clinic''.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the ''Ernest Childers Department of Veterans Affairs Outpatient Clinic''.

LIEUTENANT COLONEL CLEMENT C. VAN WAGONER DEPARTMENT OF VETERANS AFFAIRS CLINIC

Mr. HARKIN. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of S. 2339, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2339) to designate the Department of Veterans Affairs clinic in Alpena, Michigan, as the ''Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic.''

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. I ask unanimous consent that the bill be read a third time, passed, the motions to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2339) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 2339

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

SECTION 1. DESIGNATION OF LIEUTENANT COLONEL CLEMENT C. VAN WAGONER DEPARTMENT OF VETERANS AFFAIRS CLINIC.

(a) DESIGNATION.—The Department of Veterans Affairs clinic located in Alpena, Michigan, shall after the date of the enactment of this Act be known and designated as the ''Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic''.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the clinic referred to in subsection (a) shall be considered to be a reference to the Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic.

NEWBORN SCREENING SAVES LIVES ACT OF 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 522, S. 1858.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1858) to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Newborn Screening Saves Lives Act of 2007''.

SEC. 2. IMPROVED NEWBORN AND CHILD SCREENING FOR HERITABLE DISORDER.

Section 1109 of the Public Health Service Act (42 U.S.C. 300b–8) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) AUTHORIZATION OF GRANT PROGRAM.—From amounts appropriated under subsection (j), the Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the 'Administrator') and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children (referred to in this section as the 'Advisory Committee'), shall award grants to eligible entities to enable such entities—

''(1) to enhance, improve or expand the ability of State and local public health agencies to provide screening, counseling, or health care services to newborns and children having or at risk for heritable disorders;

''(2) to assist in providing health care professionals and newborn screening laboratory personnel with education in newborn screening and training in relevant and new technologies in newborn screening and congenital, genetic, and metabolic disorders;

''(3) to develop and deliver educational programs (at appropriate literacy levels) about newborn screening counseling, testing, followup, treatment, and specialty services to parents, families, and patient advocacy and support groups; and

''(4) to establish, maintain, and operate a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders

''(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a State or a political subdivision of a State;

''(2) a consortium of 2 or more States or political subdivisions of States;

''(3) a territory;

''(4) a health facility or program operated by or pursuant to a contract with or grant from the Indian Health Service; or

''(5) any other entity with appropriate expertise in newborn screening, as determined by the Secretary.

''(c) APPROVAL FACTORS.—An application submitted for a grant under subsection (a)(1) shall not be approved by the Secretary unless the application contains assurances that the eligible entity has adopted and implemented, is in the process of adopting and implementing, or will use amounts received under such grant to adopt and implement the guidelines and recommendations of the Advisory Committee that are adopted by the Secretary and in effect at the time the grant is awarded or renewed under this section, which shall include the screening of each newborn for the heritable disorders recommended by the Advisory Committee and adopted by the Secretary.'';

(2) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(3) by inserting after subsection (c), the following:

''(d) COORDINATION.—The Secretary shall take all necessary steps to coordinate programs funded with grants received under this section and to coordinate with existing newborn screening activities.''; and

(4) by striking subsection (j) (as so redesignated) and inserting the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

''(1) to provide grants for the purpose of carrying activities under section (a)(1), $15,000,000 for fiscal year 2008; $15,187,500 for fiscal year

2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012; and

''(2) to provide grant for the purpose of carrying out activities under paragraphs (2), (3), and (4) of subsection (a), $15,000,000 for fiscal year 2008, $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012.''.

SEC. 3. EVALUATING THE EFFECTIVENESS OF NEWBORN AND CHILD SCREENING PROGRAMS.

Section 1110 of the Public Health Service Act (42 U.S.C. 300b–9) is amended by adding at the end the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.''.

SEC. 4. ADVISORY COMMITTEE ON HERITABLE DISORDERS IN NEWBORNS AND CHILDREN.

Section 1111 of the Public Health Service Act (42 U.S.C. 300b–10) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (6);

(B) in paragraph (2), by striking ''and'' after the semicolon;

(C) by inserting after paragraph (2) the following:

''(3) make systematic evidence-based and peer-reviewed recommendations that include the heritable disorders that have the potential to significantly impact public health for which all newborns should be screened, including secondary conditions that may be identified as a result of the laboratory methods used for screening;

''(4) develop a model decision-matrix for newborn screening expansion, including an evaluation of the potential public health impact of such expansion, and periodically update the recommended uniform screening panel, as appropriate, based on such decision-matrix;

''(5) consider ways to ensure that all States attain the capacity to screen for the conditions described in paragraph (3), and include in such consideration the results of grant funding under section 1109; and'';

(E) in paragraph (6) (as so redesignated by subparagraph (A)), by striking the period at the end and inserting '', which may include recommendations, advice, or information dealing with—

''(A) follow-up activities, including those necessary to achieve rapid diagnosis in the short-term, and those that ascertain long-term case management outcomes and appropriate access to related services;

''(B) implementation, monitoring, and evaluation of newborn screening activities, including diagnosis, screening, follow-up, and treatment activities;

''(C) diagnostic and other technology used in screening;

''(D) the availability and reporting of testing for conditions for which there is no existing treatment;

''(E) conditions not included in the recommended uniform screening panel that are treatable with Food and Drug Administration-approved products or other safe and effective treatments, as determined by scientific evidence and peer review;

''(F) minimum standards and related policies and procedures used by State newborn screening programs, such as language and terminology used by State newborn screening programs to include standardization of case definitions and names of disorders for which newborn screening tests are performed;

''(G) quality assurance, oversight, and evaluation of State newborn screening programs, including ensuring that tests and technologies used by each State meet established standards for detecting and reporting positive screening results;

''(H) public and provider awareness and education;

''(I) the cost and effectiveness of newborn screening and medical evaluation systems and intervention programs conducted by State-based programs;

''(J) identification of the causes of, public health impacts of, and risk factors for heritable disorders; and

''(K) coordination of surveillance activities, including standardized data collection and reporting, harmonization of laboratory definitions for heritable disorders and testing results, and confirmatory testing and verification of positive results, in order to assess and enhance monitoring of newborn diseases.''; and

(2) in subsection (c)(2)—

(A) by redesignating subparagraphs (E), (F) and (G) as subparagraphs (F), (H), and (I);

(B) by inserting after subparagraph (D) the following:

''(E) the Commissioner of the Food and Drug Administration;''; and

(C) by inserting after subparagraph (F), as so redesignated, the following:

''(G) individuals with expertise in ethics and infectious diseases who have worked and published material in the area of newborn screening;''; and

(3) by adding at the end the following:

''(d) DECISION ON RECOMMENDATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the Advisory Committee issues a recommendation pursuant to this section, the Secretary shall adopt or reject such recommendation.

''(2) PENDING RECOMMENDATIONS.—The Secretary shall adopt or reject any recommendation issued by the Advisory Committee that is pending on the date of enactment of the Newborn Screening Saves Lives Act of 2007 by not later than 180 days after the date of enactment of such Act.

''(3) DETERMINATIONS TO BE MADE PUBLIC.—The Secretary shall publicize any determination on adopting or rejecting a recommendation of the Advisory Committee pursuant to this subsection, including the justification for the determination.

''(e) ANNUAL REPORT.—Not later than 3 years after the date of enactment of the Newborn Screening Saves Lives Act of 2007, and each fiscal year thereafter, the Advisory Committee shall—

''(1) publish a report on peer-reviewed newborn screening guidelines, including follow-up and treatment, in the United States;

''(2) submit such report to the appropriate committees of Congress, the Secretary, and the State departments of health; and

''(3) disseminate such report on as wide a basis as practicable, including through posting on the internet clearinghouse established under section 1112.

''(f) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall continue to operate during the 5-year period beginning on the date of enactment of the Newborn Screening Saves Lives Act of 2007.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.''.

SEC. 5. INFORMATION CLEARINGHOUSE.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.) is amended by adding at the end the following:

''SEC. 1112. CLEARINGHOUSE OF NEWBORN SCREENING INFORMATION.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this part as the 'Administrator'), in consultation with the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall establish and maintain a central clearinghouse of current educational and family support and services information, materials, resources, research, and data on newborn screening to—

''(1) enable parents and family members of newborns, health professionals, industry representatives, and other members of the public to increase their awareness, knowledge, and understanding of newborn screening;

''(2) increase awareness, knowledge, and understanding of newborn diseases and screening services for expectant individuals and families; and

''(3) maintain current data on quality indicators to measure performance of newborn screening, such as false-positive rates and other quality indicators as determined by the Advisory Committee under section 1111.

''(b) INTERNET AVAILABILITY.—The Secretary, acting through the Administrator, shall ensure that the clearinghouse described under subsection (a)—

''(1) is available on the Internet;

''(2) includes an interactive forum;

''(3) is updated on a regular basis, but not less than quarterly; and

''(4) provides—

''(A) links to Government-sponsored, nonprofit, and other Internet websites of laboratories that have demonstrated expertise in newborn screening that supply research-based information on newborn screening tests currently available throughout the United States;

''(B) information about newborn conditions and screening services available in each State from laboratories certified under subpart 2 of part F of title III, including information about supplemental screening that is available but not required, in the State where the infant is born;

''(C) current research on both treatable and not-yet treatable conditions for which newborn screening tests are available;

''(D) the availability of Federal funding for newborn and child screening for heritable disorders including grants authorized under the Newborn Screening Saves Lives Act of 2007; and

''(E) other relevant information as determined appropriate by the Secretary.

''(c) NONDUPLICATION.—In developing the clearinghouse under this section, the Secretary shall ensure that such clearinghouse minimizes duplication and supplements, not supplants, existing information sharing efforts.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for fiscal year 2008, $2,531,250 for fiscal year 2009, $2,562,500 for fiscal year 2010, $2,593,750 for fiscal year 2011, and $2,625,000 for fiscal year 2012.''.

SEC. 6. LABORATORY QUALITY AND SURVEILLANCE.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 5, is further amended by adding at the end the following:

''SEC. 1113. LABORATORY QUALITY.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children established under section 1111, shall provide for—

''(1) quality assurance for laboratories involved in screening newborns and children for heritable disorders, including quality assurance for newborn-screening tests, performance evaluation services, and technical assistance and technology transfer to newborn screening laboratories to ensure analytic validity and utility of screening tests; and

''(2) appropriate quality control and other performance test materials to evaluate the performance of new screening tools.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.

''SEC. 1114. SURVEILLANCE PROGRAMS FOR HERITABLE DISORDERS SCREENING.

''(a) IN GENERAL.—The Secretary, acting through an Interagency Group consisting of the Director of the Agency for Healthcare Research and Quality, the Director of the Centers for Disease Control and Prevention, the Administrator, and the Director of the National Institutes of Health, shall build upon existing activities and infrastructure to carry out programs—

''(1) to collect, analyze, and make available data on the heritable disorders recommended by the Advisory Committee on Heritable Disorders in Newborns and Children established under section 1111, including data on the incidence and prevalence of, as well as poor health outcomes resulting from, such disorders;

''(2) to identify regional centers for the conduct of applied epidemiological research on effective interventions for such disorders for the prevention of poor health outcomes;

''(3) to provide information and education to the public on effective interventions for the prevention of poor health outcomes resulting from such disorders; and

''(4) to conduct research on and to promote the prevention of poor health outcomes resulting from such disorders, and secondary health conditions among individuals with such disorders.

''(b) GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—In carrying out subsection (a), the Secretary may make grants to and enter into contracts with public and nonprofit private entities.

''(2) SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.—

''(A) IN GENERAL.—Upon the request of a recipient of an award of a grant or contract under paragraph (1), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

''(B) REDUCTION.—With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

''(3) APPLICATION FOR AWARD.—The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

''(c) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall submit to the relevant committees of Congress reports—

''(A) containing information under paragraph (1) that is specific to various racial, ethnic, and socioeconomic groups;

''(B) containing an assessment of the extent to which various approaches of preventing heritable disorders and secondary health conditions among individuals with such disorders have been effective;

''(C) describing the activities carried out under this section;

''(D) containing information on the incidence and prevalence of individuals living with heritable disorders, information on the health status of individuals with such disorders including the extent to which such disorders have contributed to the incidence and prevalence of infant mortality, information on any health disparities experienced by such individuals, and recommendations for improving the health and wellness and quality of life of such individuals;

''(E) containing a summary of recommendations from all heritable disorders research conferences sponsored by the Centers for Disease Control and Prevention or the National Institutes of Health; and

''(F) containing any recommendations of the Secretary regarding this section.

''(2) TIMING OF REPORTS.—The Secretary shall submit—

''(A) an interim report that includes the information described in paragraph (1), not later than 30 months after the date on which the first grant funds are awarded under this section; and

''(B) a subsequent report that includes the information described in paragraph (1), not later than 60 months after the date on which the first grant funds are awarded under this section.

''(d) COORDINATION.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall coordinate, to the extent practicable, programs under this section with programs on birth defects and developmental disabilities authorized under section 317C.

''(2) PRIORITY IN GRANTS AND CONTRACTS.—In making grants and contracts under this section, the Secretary shall give priority to entities that demonstrate the ability to coordinate activities under a grant or contract made under this section with existing birth defects surveillance activities.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for fiscal year 2008, $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012.''.

SEC. 7. CONTINGENCY PLANNING.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 6, is further amended by adding at the end the following:

''SEC. 1115. NATIONAL CONTINGENCY PLAN FOR NEWBORN SCREENING.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator and State departments of health (or related agencies), shall develop a national contingency plan for newborn screening for use by a State, region, or consortia of States in the event of a public health emergency.

''(b) CONTENTS.—The contingency plan developed under subsection (a) shall include a plan for—

''(1) the collection and transport of specimens;

''(2) the shipment of specimens to State newborn screening laboratories;

''(3) the processing of specimens;

''(4) the reporting of screening results to physicians and families;

''(5) the diagnostic confirmation of positive screening results;

''(6) ensuring the availability of treatment and management resources;

''(7) educating families about newborn screening; and

''(8) carrying out other activities determined appropriate by the Secretary.

''SEC. 1116. HUNTER KELLY RESEARCH PROGRAM.

''(a) NEWBORN SCREENING ACTIVITIES.—

''(1) IN GENERAL.—The Secretary, in conjunction with the Director of the National Institutes of Health and taking into consideration the recommendations of the Advisory Committee, may continue carrying out, coordinating, and expanding research in newborn screening (to be known as 'Hunter Kelly Newborn Screening Research Program') including—

''(A) identifying, developing, and testing the most promising new screening technologies, in order to improve already existing screening tests, increase the specificity of newborn screening, and expand the number of conditions for which screening tests are available;

''(B) experimental treatments and disease management strategies for additional newborn conditions, and other genetic, metabolic, hormonal and or functional conditions that can be detected through newborn screening for which treatment is not yet available; and

''(C) other activities that would improve newborn screening, as identified by the Director.

''(2) ADDITIONAL NEWBORN CONDITION.—For purposes of this subsection, the term 'additional newborn condition' means any condition that is not one of the core conditions recommended by the Advisory Committee and adopted by the Secretary.

''(b) FUNDING.—In carrying out the research program under this section, the Secretary and the Director shall ensure that entities receiving funding through the program will provide assurances, as practicable, that such entities will work in consultation with the appropriate State departments of health, and, as practicable, focus their research on screening technology not currently performed in the States in which the entities are located, and the conditions on the uniform screening panel (or the standard test existing on the uniform screening panel).

''(c) REPORTS.—The Director is encouraged to include information about the activities carried out under this section in the biennial report required under section 403 of the National Institutes of Health Reform Act of 2006. If such information is included, the Director shall make such information available to be included on the Internet Clearinghouse established under section 1112.

''(d) NONDUPLICATION.—In carrying out programs under this section, the Secretary shall minimize duplication and supplement, not supplant, existing efforts of the type carried out under this section.

''(e) PEER REVIEW.—Nothing in this section shall be construed to interfere with the scientific peer-review process at the National Institutes of Health.''.

Mr. HARKIN. I ask unanimous consent that the amendment at the desk be considered and agreed to, the committee reported substitute, as amended, be agreed to, the bill as amended be read a third time, passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3852) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1858), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1858

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Newborn Screening Saves Lives Act of 2007''.

SEC. 2. IMPROVED NEWBORN AND CHILD SCREENING FOR HERITABLE DISORDER.

Section 1109 of the Public Health Service Act (42 U.S.C. 300b–8) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) AUTHORIZATION OF GRANT PROGRAM.—From amounts appropriated under subsection (j), the Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the 'Administrator') and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children (referred to in this section as the 'Advisory Committee'), shall award grants to eligible entities to enable such entities—

''(1) to enhance, improve or expand the ability of State and local public health agencies to provide screening, counseling, or health care services to newborns and children having or at risk for heritable disorders;

''(2) to assist in providing health care professionals and newborn screening laboratory personnel with education in newborn screening and training in relevant and new technologies in newborn screening and congenital, genetic, and metabolic disorders;

''(3) to develop and deliver educational programs (at appropriate literacy levels) about newborn screening counseling, testing, follow-up, treatment, and specialty services to parents, families, and patient advocacy and support groups; and

''(4) to establish, maintain, and operate a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders.

''(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a State or a political subdivision of a State;

''(2) a consortium of 2 or more States or political subdivisions of States;

''(3) a territory;

''(4) a health facility or program operated by or pursuant to a contract with or grant from the Indian Health Service; or

''(5) any other entity with appropriate expertise in newborn screening, as determined by the Secretary.

''(c) APPROVAL FACTORS.—An application submitted for a grant under subsection (a)(1) shall not be approved by the Secretary unless the application contains assurances that the eligible entity has adopted and implemented, is in the process of adopting and implementing, or will use amounts received under such grant to adopt and implement the guidelines and recommendations of the Advisory Committee that are adopted by the Secretary and in effect at the time the grant is awarded or renewed under this section, which shall include the screening of each newborn for the heritable disorders recommended by the Advisory Committee and adopted by the Secretary.'';

(2) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(3) by inserting after subsection (c), the following:

''(d) COORDINATION.—The Secretary shall take all necessary steps to coordinate programs funded with grants received under this section and to coordinate with existing newborn screening activities.''; and

(4) by striking subsection (j) (as so redesignated) and inserting the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

''(1) to provide grants for the purpose of carrying activities under section (a)(1), $15,000,000 for fiscal year 2008; $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012; and

''(2) to provide grant for the purpose of carrying out activities under paragraphs (2), (3), and (4) of subsection (a), $15,000,000 for fiscal year 2008, $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012.''.

SEC. 3. EVALUATING THE EFFECTIVENESS OF NEWBORN AND CHILD SCREENING PROGRAMS.

Section 1110 of the Public Health Service Act (42 U.S.C. 300b–9) is amended by adding at the end the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.''.

SEC. 4. ADVISORY COMMITTEE ON HERITABLE DISORDERS IN NEWBORNS AND CHILDREN.

Section 1111 of the Public Health Service Act (42 U.S.C. 300b–10) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (6);

(B) in paragraph (2), by striking ''and'' after the semicolon;

(C) by inserting after paragraph (2) the following:

''(3) make systematic evidence-based and peer-reviewed recommendations that include the heritable disorders that have the potential to significantly impact public health for which all newborns should be screened, including secondary conditions that may be identified as a result of the laboratory methods used for screening;

''(4) develop a model decision-matrix for newborn screening expansion, including an evaluation of the potential public health impact of such expansion, and periodically update the recommended uniform screening panel, as appropriate, based on such decision-matrix;

''(5) consider ways to ensure that all States attain the capacity to screen for the conditions described in paragraph (3), and include in such consideration the results of grant funding under section 1109; and'';

(D) in paragraph (6) (as so redesignated by subparagraph (A)), by striking the period at the end and inserting '', which may include recommendations, advice, or information dealing with—

''(A) follow-up activities, including those necessary to achieve rapid diagnosis in the short-term, and those that ascertain long-term case management outcomes and appropriate access to related services;

''(B) implementation, monitoring, and evaluation of newborn screening activities, including diagnosis, screening, follow-up, and treatment activities;

''(C) diagnostic and other technology used in screening;

''(D) the availability and reporting of testing for conditions for which there is no existing treatment;

''(E) conditions not included in the recommended uniform screening panel that are treatable with Food and Drug Administration-approved products or other safe and effective treatments, as determined by scientific evidence and peer review;

''(F) minimum standards and related policies and procedures used by State newborn screening programs, such as language and terminology used by State newborn screening programs to include standardization of case definitions and names of disorders for which newborn screening tests are performed;

''(G) quality assurance, oversight, and evaluation of State newborn screening programs, including ensuring that tests and technologies used by each State meet established standards for detecting and reporting positive screening results;

''(H) public and provider awareness and education;

''(I) the cost and effectiveness of newborn screening and medical evaluation systems and intervention programs conducted by State-based programs;

''(J) identification of the causes of, public health impacts of, and risk factors for heritable disorders; and

''(K) coordination of surveillance activities, including standardized data collection and reporting, harmonization of laboratory definitions for heritable disorders and testing results, and confirmatory testing and verification of positive results, in order to assess and enhance monitoring of newborn diseases.''; and

(2) in subsection (c)(2)—

(A) by redesignating subparagraphs (E), (F) and (G) as subparagraphs (F), (H), and (I);

(B) by inserting after subparagraph (D) the following:

''(E) the Commissioner of the Food and Drug Administration;''; and

(C) by inserting after subparagraph (F), as so redesignated, the following:

''(G) individuals with expertise in ethics and infectious diseases who have worked and published material in the area of newborn screening;''; and

(3) by adding at the end the following:

''(d) DECISION ON RECOMMENDATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the Advisory Committee issues a recommendation pursuant to this section, the Secretary shall adopt or reject such recommendation.

''(2) PENDING RECOMMENDATIONS.—The Secretary shall adopt or reject any recommendation issued by the Advisory Committee that is pending on the date of enactment of the Newborn Screening Saves Lives Act of 2007 by not later than 180 days after the date of enactment of such Act.

''(3) DETERMINATIONS TO BE MADE PUBLIC.—The Secretary shall publicize any determination on adopting or rejecting a recommendation of the Advisory Committee pursuant to this subsection, including the justification for the determination.

''(e) ANNUAL REPORT.—Not later than 3 years after the date of enactment of the Newborn Screening Saves Lives Act of 2007, and each fiscal year thereafter, the Advisory Committee shall—

''(1) publish a report on peer-reviewed newborn screening guidelines, including follow-up and treatment, in the United States;

''(2) submit such report to the appropriate committees of Congress, the Secretary, the Interagency Coordinating Committee established under Section 1114, and the State departments of health; and

''(3) disseminate such report on as wide a basis as practicable, including through posting on the internet clearinghouse established under section 1112.

''(f) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall continue to operate during the 5-year period beginning on the date of enactment of the Newborn Screening Saves Lives Act of 2007.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.''.

SEC. 5. INFORMATION CLEARINGHOUSE.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.) is amended by adding at the end the following:

''SEC. 1112. CLEARINGHOUSE OF NEWBORN SCREENING INFORMATION.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this part as the 'Administrator'), in consultation with the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall establish and maintain a central clearinghouse of current educational and family support and services information, materials, resources, research, and data on newborn screening to—

''(1) enable parents and family members of newborns, health professionals, industry representatives, and other members of the public to increase their awareness, knowledge, and understanding of newborn screening;

''(2) increase awareness, knowledge, and understanding of newborn diseases and screening services for expectant individuals and families; and

''(3) maintain current data on quality indicators to measure performance of newborn screening, such as false-positive rates and other quality indicators as determined by the Advisory Committee under section 1111.

''(b) INTERNET AVAILABILITY.—The Secretary, acting through the Administrator, shall ensure that the clearinghouse described under subsection (a)—

''(1) is available on the Internet;

''(2) includes an interactive forum;

''(3) is updated on a regular basis, but not less than quarterly; and

''(4) provides—

''(A) links to Government-sponsored, nonprofit, and other Internet websites of laboratories that have demonstrated expertise in newborn screening that supply research-based information on newborn screening tests currently available throughout the United States;

''(B) information about newborn conditions and screening services available in each State from laboratories certified under subpart 2 of part F of title III, including information about supplemental screening that is available but not required, in the State where the infant is born;

''(C) current research on both treatable and not-yet treatable conditions for which newborn screening tests are available;

''(D) the availability of Federal funding for newborn and child screening for heritable disorders including grants authorized under the Newborn Screening Saves Lives Act of 2007; and

''(E) other relevant information as determined appropriate by the Secretary.

''(c) NONDUPLICATION.—In developing the clearinghouse under this section, the Secretary shall ensure that such clearinghouse minimizes duplication and supplements, not supplants, existing information sharing efforts.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for fiscal year 2008, $2,531,250 for fiscal year 2009, $2,562,500 for fiscal year 2010, $2,593,750 for fiscal year 2011, and $2,625,000 for fiscal year 2012.''.

SEC. 6. LABORATORY QUALITY AND SURVEILLANCE.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 5, is further amended by adding at the end the following:

''SEC. 1113. LABORATORY QUALITY.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children established under section 1111, shall provide for—

''(1) quality assurance for laboratories involved in screening newborns and children for heritable disorders, including quality assurance for newborn-screening tests, performance evaluation services, and technical assistance and technology transfer to newborn screening laboratories to ensure analytic validity and utility of screening tests; and

''(2) appropriate quality control and other performance test materials to evaluate the performance of new screening tools.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.

''SEC. 1114. INTERAGENCY COORDINATING COMMITTEE ON NEWBORN AND CHILD SCREENING.

''(a) PURPOSE.—It is the purpose of this section to—

''(1) assess existing activities and infrastructure, including activities on birth defects and developmental disabilities authorized under section 317C, in order to make recommendations for programs to collect, analyze, and make available data on the heritable disorders recommended by the Advisory Committee on Heritable Disorders in Newborns and Children under section 1111, including data on the incidence and prevalence of, as well as poor health outcomes resulting from, such disorders; and

''(2) make recommendations for the establishment of regional centers for the conduct of applied epidemiological research on effective interventions to promote the prevention of poor health outcomes resulting from such disorders as well as providing information and education to the public on such effective interventions.

''(b) ESTABLISHMENT.—The Secretary shall establish an Interagency Coordinating Committee on Newborn and Child Screening (referred to in this section as the 'Interagency Coordinating Committee') to carry out the purpose of this section.

''(c) COMPOSITION.—The Interagency Coordinating Committee shall be composed of the Director of the Centers for Disease Control and Prevention, the Administrator, the Director of the Agency for Healthcare Research and Quality, and the Director of the National Institutes of Health, or their designees.

''(d) ACTIVITIES.—The Interagency Coordinating Committee shall—

''(1) report to the Secretary and the appropriate committees of Congress on its recommendations related to the purpose described in subsection (a); and

''(2) carry out other activities determined appropriate by the Secretary.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.''.

SEC. 7. CONTINGENCY PLANNING.

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 6, is further amended by adding at the end the following:

''SEC. 1115. NATIONAL CONTINGENCY PLAN FOR NEWBORN SCREENING.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator and State departments of health (or related agencies), shall develop a national contingency plan for newborn screening for use by a State, region, or consortia of States in the event of a public health emergency.

''(b) CONTENTS.—The contingency plan developed under subsection (a) shall include a plan for—

''(1) the collection and transport of specimens;

''(2) the shipment of specimens to State newborn screening laboratories;

''(3) the processing of specimens;

''(4) the reporting of screening results to physicians and families;

''(5) the diagnostic confirmation of positive screening results;

''(6) ensuring the availability of treatment and management resources;

''(7) educating families about newborn screening; and

''(8) carrying out other activities determined appropriate by the Secretary.

''SEC. 1116. HUNTER KELLY RESEARCH PROGRAM.

''(a) NEWBORN SCREENING ACTIVITIES.—

''(1) IN GENERAL.—The Secretary, in conjunction with the Director of the National Institutes of Health and taking into consideration the recommendations of the Advisory Committee, may continue carrying out, coordinating, and expanding research in newborn screening (to be known as 'Hunter Kelly Newborn Screening Research Program') including—

''(A) identifying, developing, and testing the most promising new screening technologies, in order to improve already existing screening tests, increase the specificity of newborn screening, and expand the number of conditions for which screening tests are available;

''(B) experimental treatments and disease management strategies for additional newborn conditions, and other genetic, metabolic, hormonal and or functional conditions that can be detected through newborn screening for which treatment is not yet available; and

''(C) other activities that would improve newborn screening, as identified by the Director.

''(2) ADDITIONAL NEWBORN CONDITION.—For purposes of this subsection, the term 'additional newborn condition' means any condition that is not one of the core conditions recommended by the Advisory Committee and adopted by the Secretary.

''(b) FUNDING.—In carrying out the research program under this section, the Secretary and the Director shall ensure that entities receiving funding through the program will provide assurances, as practicable, that such entities will work in consultation with the appropriate State departments of health, and, as practicable, focus their research on screening technology not currently performed in the States in which the entities are located, and the conditions on the uniform screening panel (or the standard test existing on the uniform screening panel).

''(c) REPORTS.—The Director is encouraged to include information about the activities carried out under this section in the biennial report required under section 403 of the National Institutes of Health Reform Act of 2006. If such information is included, the Director shall make such information available to be included on the Internet Clearinghouse established under section 1112.

''(d) NONDUPLICATION.—In carrying out programs under this section, the Secretary shall minimize duplication and supplement, not supplant, existing efforts of the type carried out under this section.

''(e) PEER REVIEW.—Nothing in this section shall be construed to interfere with the scientific peer-review process at the National Institutes of Health.''.

ORDER FOR STAR PRINT—S. 2407

Mr. HARKIN. Mr. President, I ask unanimous consent that S. 2407 be star printed, with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2461

Mr. HARKIN. Mr. President, I understand that S. 2461 is at the desk and due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2461) to authorize the transfer of certain earmarked funds to accounts for operations and activities in Iraq and Afghanistan.

Mr. HARKIN. I object to any further proceedings with respect to the bill.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

MEASURE READ THE FIRST TIME—S. 2483

Mr. HARKIN. Mr. President, I understand S. 2483, introduced earlier today by Senator BINGAMAN, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2483) to authorize certain programs and activities in the Forest Service, the Department of the Interior, and the Department of Energy, and for other purposes.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for a second time on the next legislative day.

ORDERS FOR FRIDAY, DECEMBER 14, 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Friday, December 14; that on Friday, following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 2419, and that all time during any recess or adjournment count postcloture; further, that upon disposition of H.R. 2419, the Senate then turn to the consideration of Calendar No. 481, S. 2338, as provided for under a previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. HARKIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 10:48 p.m., adjourned until Friday, December 14, 2007, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, December 13, 2007:

DEPARTMENT OF JUSTICE

RONALD JAY TENPAS, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

GREGORY A. BROWER, OF NEVADA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEVADA FOR THE TERM OF FOUR YEARS.

DIANE J. HUMETEWA, OF ARIZONA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF FOUR YEARS.

EDMUND A. BOOTH, JR., OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

AMUL R. THAPAR, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING WITH STEVEN C. ACOSTA AND ENDING WITH MARC A. ZLOMEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 7, 2007.

COAST GUARD NOMINATIONS BEGINNING WITH DAMON L. BENTLEY AND ENDING WITH TANYA C. SAUNDERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2007.