United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, WEDNESDAY, DECEMBER 12, 2007 No. 190

Senate

The Senate met at 9 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Eternal God, You are true to Your promises, for You surround Your people with the shield of Your favor. We trust Your love and celebrate Your goodness. Forgive us when we ignore You, when we are so preoccupied with the transitory that we neglect the eternal.

Guide our lawmakers. Keep them from imputing absolute value to that which is of relative importance. May they never presume upon Your generous provisions or live as if they are independent of You. Instead, infuse them with Your love, wisdom, and power, and teach them to speak words that will bring healing and hope.

We pray in the Name of the Prince of Peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 12, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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.

Printed on recycled paper.

Mr. CARDIN 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, the Senate will be in a period of morning business for 3 hours this morning. The reason for the inordinate amount of time is that—I will make a presentation in a little bit to get this started—we have more than 100 pieces of legislation that are held up, legislation that could move so very quickly, in a matter of minutes. But we cannot do that because there are Republican holds on these bills.

So we are going to go through our period of time this morning, asking consent to move to these bills. We hope some of them will pass. Some of them we should get done.

The leading cause of death in 20 States in the United States for children under age 14 is getting caught in the drains of swimming pools. It has been somewhat noted because John Edwards had one of the first legal cases in that regard.

Alaska, where you would not think there are a lot of swimming pools, or at least I would not, but there obviously are lots of swimming pools, that is the leading cause of death in Alaska for children.

We have a hold on that bill. It passed the House with three dissenting votes, 418 to 3. We cannot pass that. There are children dying while we are not able to proceed on something such as that. There are over 100 issues similar to that. It is not right. So if people wonder why we are spending so much time, that is the reason. Maybe we will get some of these people who are on the other side of the aisle who object to this to come, rather than these hidden holds, and speak.

It is not good for the body. If there are problems with a piece of legislation, that is one thing. But take that one case as an example. Following morning business, we will conduct two rollcall votes in relation to the two Gregg amendments. Other amendments will be debated following the Gregg votes and more rollcall votes will occur through the day and into the evening.

I would like to commend Senators HARKIN and CHAMBLISS for their work they have accomplished in getting an agreement with respect to the amendments. As to the list of amendments right now, all 20 Republican amendments have been offered; the Democrats have offered 8 or 9.

The work they have done in the last few days I think has been exemplary. While they were successful in getting agreements on these amendments, other amendments will still need to be debated and voted on or accepted by the two managers.

As the year comes to a close, and the first year of the 110th Congress winds down, there is no doubt, if we continue in the current direction, this will be known as the Congress of Republican obstruction.

Already, in 1 year, Republicans have arrived at the all-time obstruction record for a full 2-year session. What we are seeing this year from Republicans is not ordinary obstruction, it is obstruction on steroids. It is terribly damaging to the American people. I do not question the right of Republicans to block bills, in fact, block bill after bill; that is how the Senate has worked. And we all play by the same rules. But because you have the right does not make it right.

On a daily basis, Republican Senators talk about the lack of progress this year. For all we have done, why have we not done more, they say. The answer is obstruction, Republican obstruction. It is disingenuous for Republicans to complain about a lack of progress and then make a concerted effort to block change——

Obstruction of the prescription drug bill, to make medicines more affordable. We have been able to accomplish a lot, but it has been difficult when we have had to file about 60 cloture petitions.

We have been able to do some good things with the minimum wage, 9/11 Commission recommendations, the landmark ethics and lobbying reform, we have done some good work with mine resistant combat vehicles, we have given the National Guard equipment they need, we have stepped in and looked at the plight of American veterans based on the Walter Reed scandal.

We have revitalized the Gulf Coast after Katrina, disaster relief for small business and farmers, Western wildfire relief. We have looked into the scandal relating to the U.S. attorneys. We passed legislation to help correct that. We have passed the WRDA, Water Resources Development Act, and a competitiveness bill led by Senators BINGAMAN and ALEXANDER, we have been able to get that done.

We have done the most significant change to college education since the GI Bill of Rights. We have been able to do some good things regarding the Internet, keeping the Internet tax free, expanding Head Start. We have done some good things.

But we have been stopped from doing other important things. The prescription drug bill is a perfect example. As we speak, companies can go negotiate for lower priced drugs for their employees. The Veterans' Administration can negotiate for lower prices for veterans but Medicare cannot. There is a prohibition that Medicare cannot negotiate for lower priced drugs. That should be changed. We tried to change it. It was blocked; obstruction of our efforts to change the course in Iraq; obstruction of our efforts to pass an AMT fix in a fiscally responsible way; obstruction of our FHA bill, a bill that President Bush has called upon us to pass that would help Americans save their homes from foreclosure.

These are a few of the well-known examples. My Democratic colleagues and I this morning are going to talk about some of the lesser known priorities Republicans have blocked. These bills might not make headlines, but they will make a difference in people's lives, such as the swimming pool drains I talked about.

All these bills we will seek to pass today will make our country stronger. Every single one of them has fallen victim to Republican obstruction. There are no serious complaints about the bills which we seek to pass this morning, at least I do not think so. Many of them have already more than 50 cosponsors, Democrats and Republicans—we acknowledge mostly Democrats but Democrats and Republicans.

Many have already been overwhelmingly passed by the House of Representatives and could be sent to the President's desk this afternoon. This morning's bills, though, are the tip of the iceberg. We can come to the floor tomorrow or the next day and days after that and seek action on bills similar to these that we are going to talk about.

So we hope in the coming hours, the Republican minority will call off their needless holds, call off their obstruction, call off their political posturing and start working with us to make life better for the American people.

As I indicated, a number of my colleagues will follow. What I am going to talk about now, I am going to talk about the ALS registry—ALS, Amyotrophic Lateral Sclerosis, the Lou Gehrig's disease, this great first baseman for the New York Yankees who was a man of iron who could not overcome this disease.

Similar to all people who get this disease, from the time it is discovered until you die is an average of 18 months. We have all had friends and relatives who have suffered and died from this disease. It is caused by a degeneration of the nerve cells that control voluntary muscle, which causes muscle weakness and atrophy. It is nearly always fatal. It may give victims, as I have indicated, a short time to live.

Once in a while you find someone who lives several years, and that is a blessing in their lives. Early this year, a woman named Kathie Barrett and her husband Martin traveled to Washington, DC, from Sparks, NV, to advocate on behalf of the ALS registry.

What is a registry? It is the first step to solve the problems of disease. Many years ago, they developed a cancer registry. I was involved in setting up one for a disease called interstitial cystitis. It is a disease that afflicts mostly women; 90 percent of the people who

have the disease are women. It is a bladder disease that is tremendously debilitating. I had three women visit me in my Las Vegas office. They did not want to be there. They were there out of desperation. They all had this disease, which was thought for many years to be psychosomatic.

It is best described as shoving slivers of glass up and down one's bladder. What was the first thing we had to do? We developed a registry. As a result of that, 40 percent of the people who have this disease are no longer suffering. They are symptom free.

Medicine was developed. It does not take care of everyone, but because of the registry, they were able to determine how people are affected, where they are affected, in different parts of the country, and how different medicines work. That is what we are trying to do here, develop, on behalf of Lou Gehrig's disease, a registry.

Kathie was diagnosed with this disease in May of 2002. She is still alive, which is a miracle. Despite having a breathing capacity of about 60 percent of normal, with considerable muscle loss in her neck and back, she made the long trip from Sparks, 2,600 miles. She and her husband made that trip because they believe passage of this registry is essential to the search for a cure for this devastating illness.

Every year about 6,000 people learn they have this disease, for which there is no cure, and only one specific FDA-approved drug. That drug works on 20 percent of the patients, and even for them, it extends life for usually less than a year. So for a number of reasons, ALS has proven particularly difficult for scientists and doctors to make progress upon.

One of the reasons is there is not a centralized place for data collected on the disease. Right now, that is the case. There is only a patchwork of data about ALS available to researchers. So this legislation, the ALS Registry Act, will do something that is both simple and crucial. It would create an ALS registry at the Centers for Disease Control to help arm our Nation's researchers and clinicians with the tools and information they need to make progress in the fight against this dread disease.

The data made available by a registry will potentially allow scientists to identify causes of the disease and maybe even lead to the discovery of a new treatment, a cure for ALS or even a way to prevent the disease in the first place.

This may not lead to a cure overnight, but it will give those who suffer reason for hope, real scientific hope. If you are looking for bipartisanship, look no further. The House recently passed a similar measure, H.R. 2295, by a vote of 411 to 3. How often does anything pass the House by such a large margin?

Before the Thanksgiving recess, the HELP Committee in the Senate followed suit by reporting the ALS Registry Act unanimously. What is more, two-thirds of the Senate, Democrats and Republicans alike, are cosponsors. I am appreciative of the work of my Republican colleagues, Senators WARNER and ENZI, as well, of course, Senator KENNEDY, who is always out front on these issues.

Unfortunately, despite the nearly unanimous support of the House of Representatives, the unanimous committee vote, and the overwhelming support of 67 cosponsors, we have objections—all over here, of course. For Kathie and Martin Barrett of Sparks and many thousands just like them, hope remains unfulfilled. Why has this happened? This crucial bill has been subjected to Republican holds. While some Republicans stand in the way, people's lives hang in the balance. Let's not forget the average life expectancy for an individual with this disease, after it is diagnosed, is 18 months, a year and a half. This is not a moment when we should stall. We don't have a moment to spare. We should send this bill to the President today. I ask my Republicans, please end their holds, end this senseless obstruction. The eyes of the Barretts and tens of thousands of Americans suffering are upon us. Let's honor their courage and grace by fulfilling their hope for a cure.

Mr. President, I ask unanimous consent that the ALS bill that is now before the Senate be read three times, passed, and any statements related thereto be printed in the RECORD at the appropriate place.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CORNYN. Reserving the right to object, would the Senator modify his request to include the passage of S. 2340, the troop funding bill?

Mr. REID. Mr. President, isn't this something? Would I modify my request for the Barretts from Sparks to get billions of dollars for the troops in Iraq? The answer is no. We have just appropriated $470 billion, and there will be appropriate measures before we leave here to direct, if the Senate wills, funding for the troops. I think the American people should see this. Would I modify my request to allow for more money for the war in Iraq at this time? The answer is no. This is an issue dealing with Lou Gehrig's disease, not a debate on the war in Iraq. It deals with people who are sick.

I had in my office last night two marines. One of them lost both his legs, a wonderful young man, 21 years old. With him was a man who had just gotten out of bed to come to my office. He was on his fourth tour of duty before he got blown up in Iraq. We care about those people in Iraq. We care about them a lot. That is why we appropriated $470 billion for the military. That is why we are well aware of the need to take a look at funding for more in Iraq. We have given the troops everything they have needed. We, the Democrats, have given them more than the President has requested, with money for MRAPs, for veterans coming home. I hope everyone sees this for what it is.

Will I agree to modify my request to allow for more money for Iraq at this time? The answer is no.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I am sorry the majority leader has objected. The fact is, unless we act promptly, the Department of Defense will be forced to issue potential furlough notices to almost 100,000 civilian employees at the Department of Defense, since they are required to do so at least 60 days in advance—hardly something anyone would welcome during the holiday season. Our Army will be out of funds by mid-February, the Marine Corps by March. This demonstrates almost sort of an attention deficit disorder when it comes to finishing the work of the Congress. We have been on the farm bill. Now we are off the farm bill to do something else without finishing the work before us. I am disappointed, but the Senator does have a right to object. I respect that.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CORNYN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, the Secretary of Defense, Mr. Gates, told all of us the Wednesday before we broke for Thanksgiving that the troops would be fine—the Army until the first of March, the Marines until the middle of March. That is what he told us. I believe him. I have talked to him since then. He has confirmed that. I know there is spin from the White House that they are going to start laying people off. Let's be realistic.

We have a request before the Senate to allow a registry to be created so we can try to find a cure for a dread disease. We are going to be out of here hopefully in a few days, hopefully a week or 10 days. We are going to complete the funding for our country prior to that time. Part of that consideration—I have spoken to my colleagues on the other side of the aisle—is what do we do about the President's request, his $196 billion request for more money for Iraq. We have to take a look at that. We want to take a look at that.

I am concerned that we fund the Government. We don't want a Government shutdown. Maybe some people in the White House would like that. We don't want a Government shutdown. We are going to work very hard to accomplish that.

Today, there are going to be a number of requests for pieces of legislation that are important. I believe people with Lou Gehrig's disease deserve a few minutes of our time today. That is what I asked that we pass. It was objected to. I understand that, but that is really too bad. That is legislation creating a registry so people can try to find out what causes this disease,

where the disease occurs in our country. It was objected to. That is too bad.

RECOGNITION OF THE MINORITY LEADER

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

POLITICAL EXERCISES

Mr. MCCONNELL. Mr. President, what we are going to witness for the next 3 hours is the kind of thing that gives the public such a low impression of Congress. Looking at the new Gallup poll that just came out, the President has a 37-percent approval rating—certainly not anything to applaud if you are a Republican. But the Democratic Congress has a 22-percent approval rating, 15 percent below the President. Why is that? I think it is because the American public thought they sent us here to legislate. Obviously, in a body such as the Senate, in order to legislate you have to do things on a bipartisan basis. We are very different from the House of Representatives. We are actually beginning to make progress on the farm bill, although I must say we have only had one vote this entire week. It is Wednesday morning, and we have had one vote. The farm bill now is ready to move forward, and we are taking, at the insistence of the majority, 3 hours this morning to finger-point and make excuses and try to explain to the American people why we haven't been able to do enough on a bipartisan basis to achieve anything on their behalf.

It is now December 12, nearly a quarter of the way through the fiscal year. To date, we have had only one spending bill signed into law. The troops in the field haven't been funded. The Energy bill is still pending. Updates to the laws governing our terrorist surveillance program so that we can track terrorists and prevent attacks haven't been addressed.

As I indicated, we are spending 3 hours this morning engaged in what will essentially be a finger-pointing exercise instead of making further progress on the farm bill, which is poised to be completed if we will just stay on it. Christmas is less than 2 weeks away. You would think there would be a flurry of activity on the floor. You would think we would be doing everything possible so we could finish our work before New Year's Eve. But, as I indicated earlier, so far this week we have had one vote, and this is Wednesday.

Surely the majority has scheduled votes all day today; right? Wrong. We will not even consider the pending business, the farm bill, until at least this afternoon. And why do we have to wait until this afternoon? Is it so we can spend the morning addressing tax relief or the cost of gasoline or our troops and veterans? None of the above. We are gathered here this morning so the majority can spend hours of valuable floor time trying to score political points instead of trying to make law.

As I indicated earlier, they have set aside 3 hours to try to show that this session's very limited accomplishments haven't been their fault, that the endless investigations and midnight Iraq votes were not the cause. They have set aside this time as if magically in the next 3 hours they will somehow pass the litany of things they have not been able to accomplish over the past 3 months.

Let's not waste even more time relearning the lessons of the past. Partisanship and refusal to work with the minority may get you a headline, but it won't get bills signed into law. If you are serious about accomplishments, let's get back to work. Let's work together so that instead of pointing fingers, this Congress can actually point to some accomplishments. It is December 12. There is simply no time for political exercises on the Senate floor. We simply don't have the luxury of putting off our fundamental responsibilities any longer.

If the majority is serious about finishing our work and not merely about making a political point, they will not object to the following unanimous consent request which I will now make.

I ask unanimous consent that we return to the pending business of the farm bill in order to make further progress on this important measure.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business for 3 hours, with the time equally divided and controlled between the two leaders or their designees and with Senators permitted to speak up to 10 minutes each, with the majority controlling the first half and Republicans controlling the final half.

The assistant majority leader.

OBSTRUCTION BY FILIBUSTER

Mr. DURBIN. Isn't this perfect? The minority leader on the Republican side comes to the floor, lamenting the fact that we aren't moving to the farm bill immediately. I think there is something in the water in the U.S. Capitol that leads to political amnesia. The Senator from Kentucky has obviously forgotten that we sat on the floor and languished for more than 2 weeks because the Republicans presented us with 200 amendments to the farm bill and wouldn't narrow them down to a reasonable number we could consider. We sat here for 2 straight weeks and did nothing. Now the Senator from Kentucky has great angst over the thought that we might even talk about anything else before we return to the farm bill at noon.

Trust me, we will return at noon. We should have finished it weeks ago. We could have finished it weeks ago if the Senator from Kentucky had gathered his Republican conference together and said: Please, once every 5 years we consider a farm bill. We don't consider amendments of everything under the sun—the Tax Code, medical malpractice. We focus on the farm bill, on nutrition and rural development and agricultural programs. If he had done that, if he had gathered his Republicans together and asked for a modicum of cooperation, we would have finished the farm bill weeks ago.

Now he comes to the Senate floor with a heavy heart that we might spend the next 2½ hours talking about something other than the farm bill. He has forgotten, obviously, what has transpired. But the CONGRESSIONAL RECORD tells the story. The record is there for America to see.

This Republican minority has taken us to a new place in the Senate. They have broken a record. I don't think another Congress will be able to match what they have been able to do, at least I hope not. There is something in the Senate called a filibuster. A filibuster is a time-honored tradition where an individual Senator can virtually stop debate on a measure by standing and speaking. Most people are familiar with it because of the popular movie of 50 or 60 years ago, ''Mr. Smith Goes to Washington.'' Jimmy Stewart stood at his desk, this brandnew Senator, fighting against the odds and against the establishment until he crumbled in exhaustion. His filibuster ended as he was physically spent. That was an image emblazoned on the minds of many across America of a Senate where one person can stand and fight to the bitter end.

There is some truth to that movie. In a filibuster, any Senator can take the floor on an amendable measure and hold the floor as long as they are physically able to do so. The record may be held by Senator Thurmond of South Carolina. If I am not mistaken, he spent some 24 hours once in the midst of one of these filibusters.

I remember reading an account, incidentally. The first man I ever worked for in the Senate was a Senator from Illinois named Paul Douglas. They knew Strom Thurmond was going to initiate this filibuster. They also knew they might be able to end the filibuster early if he had to take a break for a trip to the restroom. They knew Senator Thurmond was partial to orange juice, and they brought a pitcher of orange juice on the Senate floor next to his desk, hoping he would drink it and

it would end the filibuster. It did not work. He went on for 24 hours.

You can do it, and the only way to stop it is to file a motion to close off that debate called a cloture motion. So in the history of the Senate, the record is, in the course of 2 years, 61 filibusters—roughly 30 filibusters a year. That is the record. Rarely have we reached that number—until this year. The Republican minority has now broken the all-time record for filibusters in the Senate. I believe the number is 58—58—filibusters. So 58 times they have stopped the Senate, sometimes for the required 30 hours, but sometimes for weeks at a time. They have taken the role of the Senate—a deliberative body—and turned it into an obstacle course where they toss filibusters in front of every suggestion we make.

Well, I respect this place. I respect this institution. I am honored to serve here. But I think the Republican minority has abused the tradition of the Senate. Fifty-eight filibusters in 1 year—and we are not even finished. This is an indication of their fear—their fear of change, their fear of new legislation, their fear that perhaps we would put together a bipartisan answer to some of the challenges facing America, their fear we will write a record of accomplishment that they failed to write when they were in charge. That is what drives this—fear, fear of the future, fear of change. They are a party without an identity. It is the party of the past using the tactics of the past, and America can see it.

I listened to Senator REID of Nevada, our majority leader. He came to the Senate floor to talk about one piece of legislation which he asked to bring up for a vote. It is not a radical idea. It is not a big government program. It is not an increase in taxes or anything like it. Simply put, it is a registry for those afflicted with ALS, Lou Gehrig's disease, in the hopes that gathering that information about the victims—where they live, how old they are, and their circumstances—will help us not only provide medication for them but learn about this disease.

Can you think of anything more bipartisan than that? The first victim I ever personally saw with Lou Gehrig's disease was a man who served in this Chamber. He was a man who was a Senator from the State of New York. I mentioned Paul Douglas earlier, who I thought was one of the best who ever served in our State. I once asked him, as a college student: Who were the greatest U.S. Senators?

He said: I think Wayne Morse is one of the greatest. And he said: Of course, Jacob Javits—a Republican Senator from New York, who was honored and respected by my mentor and hero, Paul Douglas, a Democrat from Illinois.

Well, when I came to the House of Representatives, Jacob Javits had retired and was a victim of ALS. I would see him in this heroic role, coming to Washington, lobbying Members of the House and the Senate for research funds on Lou Gehrig's disease. He was in a wheelchair. He had lost the use of his arms and legs but for just a minor amount of function he had in one hand, and he was on a respirator. He was moving around in a motorized wheelchair, on a respirator, begging for funds for research for Lou Gehrig's disease.

How could you ever forget that image? I cannot.

I think of my neighbor in Springfield, IL, Mary Winning. She lives a block away. Her husband Jim was my law partner for years. Mary came to me one day half in anger and half in tears over a diagnosis in her family of ALS and the fact that she did not think our Government was doing enough for research on Lou Gehrig's disease. I know how much it meant to her and her family.

I think of going through the Springfield airport last year and seeing a young man who had been a volunteer in one of my early campaigns. I said hello to him. He was not there the next week, and I asked what happened. He said, well, he had to quit. He has a history of Lou Gehrig's disease in his family, and he has been diagnosed. Senator REID said he has, perhaps, 18 months to live.

So Senator REID comes to the floor and asks the Republicans to take off the hold on the bill for Lou Gehrig's disease. He asked them to stop the obstruction, to give the bill a chance—not to just guarantee it is going to pass. He would have accepted a rollcall, I am sure. Just give us a chance to bring that up on the Senate floor. How much time would it take? Thirty minutes? Of course, there was an objection. The Senator from Texas, Mr. CORNYN, objected to bringing up the bill on the Lou Gehrig's disease registry in America—objected to bringing up the bill. His reason? He will not let us bring up that bill until we are prepared——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent to extend my remarks under morning business for an additional 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DURBIN. He, of course, wants us to only allow a registry for Lou Gehrig's patients if we will allow a debate on providing $50 billion, $60 billion, $70 billion more for the war in Iraq—not paid for—and that it happen immediately, even though we have been told by the military they have enough funds to continue this war until at least the end of February, the first of March.

Well, that is the price we would have to pay under the Republican agenda to bring up a bill for the Lou Gehrig's registry. That is sad, and it shows you the extremes they will go to to stop even the most benign and bipartisan bill we can think of.

VETERANS TRAUMATIC BRAIN INJURY AND HEALTH PROGRAMS IMPROVEMENT ACT OF 2007 AND VETERANS' BENEFITS ENHANCEMENT ACT OF 2007

Mr. DURBIN. Last month, Mr. President, I came to the floor and asked unanimous consent for two bills from the Senate Veterans' Affairs Committee—I did not ask that the bills be passed, only that they be brought to the floor and considered. I talked to Senator REID of Nevada about this and wanted to give Senator REID the option to determine the amount of time in the debate, in consultation with the Republican minority.

At that time, just as this morning, a Republican Senator—in that case, Senator LARRY CRAIG of Idaho—objected. Why? Well, they objected because they did not want us to move to issues involving America's veterans. I think our veterans deserve to have legislation such as the bills I have asked to be considered.

The first of the two bills is the Veterans Traumatic Brain Injury and Health Programs Improvement Act of 2007. That bill would allow 1.3 million middle-income veterans to enroll for VA health care and increase the VA's beneficiary travel reimbursement rate—the first time that travel reimbursement rate would be increased in 30 years—to help veterans living in rural and remote areas.

There are programs, as well, for the treatment of veterans with traumatic brain injuries, the signature injury of the Iraq war.

Finally, the bill provides aid for homeless veterans, which is especially important at a time when one out of four homeless people you see on the streets in America are veterans.

I asked that this bill be brought up, that we agree on a time limit, consider it, and pass it.

Do you know how many speeches have been given on the floor of the Senate by Members on both sides of the aisle about our devotion to our soldiers, our men and women in uniform? Do you know how many speeches have been given on this floor on both sides of the aisle about how much we care and owe to our veterans? I am sure you could fill many CONGRESSIONAL RECORDS.

So if this job is about more than just speeches and is about doing something to actually help our veterans, how could the Republicans continue to object? Object to helping veterans make it to the VA clinics and hospitals? Object to finding ways to eliminate homelessness among veterans? Object to the idea of expanding medical care for veterans who are the victims of traumatic brain injury?

If you want to vote against it, so be it. But to not even let us bring the bill to the floor for consideration? They did.

The second bill is the Veterans' Benefits Enhancement Act. This comprehensive legislation would improve

benefits for all veterans, especially for those with disabilities, and it would also correct a sad historical injustice for Filipino World War II vets.

Again, I asked for unanimous consent. The Republicans objected. However, if the Republican objections are based on substantive provisions in the bill, then they should be all the more willing to enter into the unanimous consent request I proposed last month and will propose again today.

If we can limit amendments to those that are actually relevant to veterans issues, it will give an opportunity for all Senators to come to the floor and actually speak to an issue that means so much to our soldiers, to our veterans, and all of their families.

Mr. President, I ask unanimous consent that the Senate may proceed to the consideration of Calendar No. 335, S. 1233, Veterans Traumatic Brain Injury and Health Programs Improvement Act of 2007, at any time determined by the majority leader, following consultation with the Republican leader; that when the bill is considered, the only amendments in order to the bill, other than the committee-reported amendment, be first-degree amendments that are relevant to the subject matter of the bill, and that they be subject to relevant second-degree amendments; that upon the disposition of all amendments, the committee-reported substitute amendment, as amended, if amended, be agreed to, the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to, and the motions to reconsider be laid upon the table en bloc; that any statements relating thereto be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Texas.

Mr. CORNYN. Mr. President, reserving the right to object, I personally have no objection to the request, but there is objection by Senator COBURN on our side. But I believe if the Senator would modify the request to include a similar time agreement immediately following the time agreement he has requested on this bill to debate and vote on S. 2340, the troop funding bill, that we might be able to reach some agreement. So I would ask him to modify his request to include that.

Mr. DURBIN. Mr. President, without yielding the floor, would the Senator from Texas yield for a question?

Mr. CORNYN. I would be happy to.

Mr. DURBIN. I would like to ask the Senator from Texas, did he attend the meeting in room 407, the closed meeting, where Secretary Gates, the Secretary of Defense, told us there was sufficient money in the current appropriations bill for the Department of Defense to continue the war in Iraq until at least the end of February or the middle of March so that it was unnecessary to pass the bill, which you have just asked me to consider, immediately?

Mr. CORNYN. Well, Mr. President, responding through the Chair, I would say I did attend that meeting, at which time we were told that civilian employees at the Department of Defense would, at about the middle of December, receive a notice that they would be laid off just prior to Christmas because of 60-day notice requirements, and that, in fact, the military was only able to sustain the effort in Iraq fighting al-Qaida—the same people who killed 3,000 Americans on September 11, 2001—by moving money from one account to another, causing a lot of disruption, increased expense, and a lot of other problems.

I do not know why our colleagues on the other side of the aisle, after having 63 votes on Iraq so far, attempting to propose surrender dates and to countermand the orders of our generals in the field, are resisting supporting our troops during a time of war. It is unthinkable to me.

So I am sorry they are continuing to block this necessary funding for our troops and putting 100,000 employees at the Department of Defense—civilian employees—in jeopardy during the holiday season. But I was there, and I did hear those comments, in addition to the comments I have just added.

Mr. DURBIN. Mr. President, I ask for regular order at this point.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CORNYN. Mr. President, there is objection by Senator COBURN on our side. I asked for a modification, and I have not heard an objection to that.

The ACTING PRESIDENT pro tempore. Is the Senator from Texas raising an objection?

Mr. CORNYN. I have asked the Senator to modify—I have asked unanimous consent to modify his request to include a time agreement debate, and a vote on S. 2340, the troop funding bill, as a modification of his unanimous consent request.

Mr. DURBIN. I ask for regular order, Mr. President.

Mr. CORNYN. I have not heard an objection to that.

The ACTING PRESIDENT pro tempore. The pending request by the Senator from Illinois is before us. Is there objection to that request?

Mr. CORNYN. Mr. President, I see Senator COBURN on the floor. I believe there is an objection on this side. Perhaps it is appropriate to ask Senator COBURN to respond. But let me just say I believe we could reach an agreement, a time agreement on both bills if the Senator would consider modifying his request. Until we can have a chance to discuss that further, there is objection on this side of the aisle.

The ACTING PRESIDENT pro tempore. The Senator from Illinois has asked for regular order. Is there objection to his request?

Mr. CORNYN. There is an objection, as I explained.

The ACTING PRESIDENT pro tempore. Objection is heard from the Senator from Texas.

Mr. CORNYN. Mr. President, I would ask the Senator to——

The ACTING PRESIDENT pro tempore. The Senator from Illinois has the floor.

Mr. DURBIN. Mr. President, I will respond to the Senator from Texas, as he is deserving of a response.

Look what has just happened. Senator REID of Nevada has asked for a registry for those in the United States afflicted with Lou Gehrig's disease. He wants us to at least get the names and identities of people who are dying from this disease so that we can start to find treatments and cures. The objection came from the Republican side from Senator CORNYN of Texas to a registry for patients suffering from Lou Gehrig's disease because he insists that we have to also agree to go to a debate on funding for the war in Iraq—$50, $60, $70 billion.

The Senator from Texas conceded my point that we were told by the Secretary of Defense there is adequate money to continue this war until the end of February or first of March. So to say we have to move to this immediately is hardly a compelling argument when those are the positions taken by the Secretary of Defense.

Then I came in with a request—my own unanimous consent request—to go to a veterans bill to deal with traumatic brain injury, the signature injury of this war in Iraq, and again the Senator from Texas, saying he was speaking on behalf of the Senator from Oklahoma, Mr. COBURN, objected to taking up this veterans legislation to provide additional health care to deal with the homelessness problem among veterans and to increase the travel rate for veterans living in remote and rural areas who have to go to clinics and hospitals far from home.

I think it is pretty clear: Almost any excuse will do on the Republican side of the aisle to object to moving to legislation. I am going to give them one more chance.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DURBIN. I ask unanimous consent for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, one of the bills Republicans are stopping is the Emmett Till Unsolved Civil Rights Crime Act, which I cosponsored. This is one of the key civil rights bills of this Congress, creating new positions at the Department of Justice in the Civil Rights Division and in the FBI to strengthen the Government's ability to investigate and prosecute race-based murders that took place in our country before 1970 and which have gone unsolved. The bill would also create a grant program for State and local prosecutors for additional resources to pursue these heinous crimes.

The story of Emmett Till is a legend in America—and a sad legend. It was one of the most infamous acts of racial

violence in our Nation's history. A 14-year-old African American from the city of Chicago, which I am honored to represent, was murdered in 1955 when he was visiting in Mississippi and allegedly flirted with a White woman in a grocery store. His body was found floating in the Tallahatchie River with a 70-pound gin mill fan tied to his neck with barbed wire. Emmett Till's body was returned to Chicago, and his mother, despite her grief, insisted that there be a public display of his mutilated corpse. It was a transforming moment in American racial history. Friends of mine who are African American said that was the moment when they decided they couldn't take it anymore.

Emmett Till's killers were never brought to justice. They were prosecuted and acquitted by an all-White jury. In a 1956 magazine article, two men confessed to the murder. They said they had committed the murder because they ''decided it was time a few people got put on notice,'' in their words.

There were at least 114 race-related killings between 1952 and 1968, and in many cases, no prosecutions, no convictions. In recent years, there have been a handful of successful prosecutions, but time surely is not on our side. These cases are old, and so are the defendants and witnesses.

Congressman JOHN LEWIS, one of my personal heroes in Congress, is the sponsor of this bill that the House passed by a rollcall vote of 422 to 2. Here is what he said about the bill:

> The time has come. For the sake of history, for the sake of justice, for the sake of closure, the 110th Congress must pass this legislation.

The Emmett Till Unsolved Civil Rights Crime Act should not be controversial. The Senate Judiciary Committee passed an identical version by voice vote and no dissent. It has bipartisan support, 16 cosponsors, and authorizes $13.5 million a year but doesn't appropriate it. It will have to go through the regular appropriations process.

At this time, I ask unanimous consent that the Senate proceed to Calendar No. 237, H.R. 923, the Emmett Till Unsolved Civil Rights Crime Act, that the bill be read the third time and passed and the motion to reconsider be laid on the table without intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Mr. President, reserving the right to object. The Senator from Illinois had the opportunity to fund this program fully with an amendment he voted against that I offered on the Commerce-State-Justice bill. The fact is that the Bush administration has already started work on this; they have 30 active cases going now. The complaint was there wasn't enough money. I offered an amendment, which the Senator from Illinois—even the author in the Senate, Mr. DODD, wasn't even here to vote for—to fund at a level greater than what this bill authorizes. Instead, we chose earmarks and pork instead of funding this bill. On the basis of that—I also agree that we ought to be about this.

Mr. DURBIN. Mr. President, I will insist on regular order for only one point. I would ask unanimous consent that if the Senator from Oklahoma or the Senator from Texas wants to express his objection to a unanimous consent request, that the time he uses in expressing his objection be taken from the leader's time or from the time remaining for the Republicans in morning business.

Mr. COBURN. I have no problem with that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COBURN. So on that basis, do we want to solve the crimes? Yes. Did they have an opportunity to fund that? Yes. They chose not to. The sponsors of the bill chose not to put the money in.

What they want is to play bait and switch. There is no question that these should be adequately funded. The Bush administration started on its own, initiated this program on its own in the Justice Department. They had an opportunity to vote for the money to fund this. They refused to do it—not an authorization, actual dollars. So on the basis of that, I object.

Mr. DURBIN. Mr. President, I will close because I see other colleagues on the floor.

The ACTING PRESIDENT pro tempore. Was an objection made?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DURBIN. Mr. President, I respect my colleague from Oklahoma. There is one simple fact of legislative rule and law that he does not express accurately. There is a world of difference between an authorization and an appropriation. An authorization gives you permission to ask for money to spend. The appropriations bill spends the money. This is an authorization bill. It would have to go through the regular appropriations process. What he refers to was an attempt at appropriating money to the Department of Justice without enacting the underlying law. It is totally different.

Again, for the third time this morning, the Republicans have obstructed and stood in the way of bringing up legislation, first Senator CORNYN of Texas on a registry for the victims of Lou Gehrig's disease, then Senator CORNYN on behalf of Senator COBURN for a veterans bill to deal with traumatic brain injury, and finally Senator COBURN of Oklahoma objecting to considering even moving to a bill that would deal with solving these civil rights crimes which so sadly reflect on a period of American history that should be closed in the right way.

Mr. President, I yield the floor.

Mr. CORNYN. Mr. President, will the Senator yield for a question?

Mr. SCHUMER. Addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I rise in support of my friend and colleague from Illinois, as well as our leader, Senator REID, about what is going on here. This is unbelievable. What we have, in fact, is the folks from the other side of the aisle are in disarray. Their basic tenet and philosophy which govern them, which they use to govern, which they have used to win elections starting with Ronald Reagan, is falling apart. There is dissension in the Republican Party. There are different wings all over the place. Most importantly, the Republican base which says, basically, shrink Government, get rid of Government, is very far away from where the American mainstream is—not just far away from where Democrats are but far away from the mainstream.

But my colleagues on the other side of the aisle have nowhere to go. They cannot put forward a positive program because their positive program is out of date with the needs of 21st century America. So they have come up with a strategy of obstruction: 57, 58, 59, and soon they will set the record in numbers of filibusters—not just obstructing on the most major of issues but on just about everything. Their view is: We can block things and show we count. Well, the rules of the Senate certainly allow them to block anything they want as long as they prevent us from getting 60 votes. That is true, but that is hardly a sign of strength. That is hardly a sign of resoluteness. It is a sign, in my judgment, of weakness, of an inability to do anything positive, and therefore a unity around just being negative.

In 1980, a lot of people felt Government was too big and out of control. In 2008, with our health care system needing help, with our education system needing help, with our energy policy in a shambles, with our foreign policy—I heard my colleague from Texas mention fighting al-Qaida. What percentage of the troops in Iraq are fighting al-Qaida? We all know that is a misstatement of what is going on there. The vast majority of those who are fighting are fighting in the war between the Sunnis and the Shiites. So our present needs in America are different. The world has been hit by a technological revolution. The world has been hit by globalization.

In 2000, we sat astride the globe. We had a budget surplus. We had a prosperous economy. We were respected in the world. Over the last 7 years, under the leadership of President Bush, that has been squandered. That is not just Democrats speaking; that is America speaking. Close to 70 percent of America thinks we are headed in the wrong direction. A majority of not only Democrats but Independents and a near majority of Republicans think we are headed in the wrong direction. But my

colleagues across the aisle, clinging to their base, narrower and narrower, further and further away from the American mainstream and what the American people want, have come up with a policy of obstruction because they can't come up with anything else.

So we come to the floor and ask for reasonable debates on the major issues facing us, whether it be weaning us away from oil and fossil fuels, whether it be improving health care for children, whether it be a change in course in Iraq, which the vast majority of America demands, and they block it, and then they block it again, and then they block it again. My good colleagues from Illinois and from Nevada even brought up the most noncontroversial bill: a registry on ALS. My uncle, who was a well-known obstetrician, the head of Columbia Presbyterian Hospital's Department of Obstetrics, died of ALS. I care about this. I watched him waste away. They blocked that too.

This strategy, which creates a feeling of false strength among my colleagues on the other side of the aisle, is doomed to failure. This strategy, I predict, will help create the demise of even the large minority they have right now.

There will be a Democratic nominee; there will be a Presidential campaign in the summer and the fall. That Presidential Democratic nominee, whoever she or he may be, will be campaigning and saying we need change. We cannot get change unless we increase the number of people who want change in the Senate. Senator X and Senator Y and Senator Z on the other side of the aisle have stood in the way of change, and they will continue to. So put in a new Senator who will vote for change. My Republican colleagues are filibustering themselves out of their seats come 2008. This strategy—short term, narrow, and shortsighted—will not stand because the American people demand change.

I want to talk about one area I have been asked to talk about, the subprime loan crisis. I have said time and time again we need to do something about this crisis. I have been talking about it for a long time. The Bush administration and Senate Republicans have ideological handcuffs on: Government should not be involved, no matter what. If hundreds of thousands of innocent people are losing their homes, no Government. If our financial markets are shaking and quaking, no Government. If housing prices are going down for the first time across America so that even if you fully paid your mortgage, you are suffering from this subprime crisis, no Government, no matter what, no matter the consequences.

Guess what that sounds like. It sounds like the Republican platform of the 1890s or 1920s. I thought we had learned something since then. Government is not the only answer, and it probably should not even be the first answer, in most instances, but it is often the only answer. What we have seen is this administration comes up with the sort of plans and schemes that twist themselves into a pretzel to try to say they are helping with this crisis and avoiding any Government involvement. It hasn't worked. Confidence in our credit markets declines. The number of foreclosures goes up. Housing prices continue to go down. The shame of it all is there are simple solutions.

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

Mr. SCHUMER. I will be happy to yield when I finish my remarks.

Now here is what we Democrats are asking for: commonsense solutions, designed to help people save their homes at an absolute minimum cost, designed to curtail the drop in housing prices, designed to restore the faith that Americans, investors, and world investors have in our credit market.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCHUMER. Mr. President, I ask unanimous consent for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. We are not asking for a bailout; far from it. We are asking for simple things. The simplest thing passed the House with a large number of Republican votes, and it is FHA modernization. President Bush is for FHA modernization. Secretary Paulson came and met with the Finance Committee last week, with Democrats and Republicans—Senator BAUCUS and Senator GRASSLEY were there—and urged us to pass FHA modernization. I haven't heard what the objection is, because FHA modernization passed the Banking, Housing and Urban Affairs Committee in the Senate by a vote of 20 to 1. We sought to pass the bill on the floor and Senate Republicans objected on November 15. On December 6, we tried again, and again the legislation was blocked. What has happened since November 15 and today, about a month later? Hundreds, probably a hundred thousand, certainly tens of thousands more homes have gone into foreclosure, housing prices have declined further, credit markets are shaky, and the plan that the administration came up with, which assiduously, ideologically, and narrowly avoided any Government involvement, has been widely discredited and has brought no confidence in the credit market. The President's program became even more critical yesterday—the need for the FHA modernization—when it was revealed that the administration's signature subprime program, FHA Secure, activated in November—guess how many borrowers it helped. Hundreds of thousands? Tens of thousands? Thousands? No. It helped 541, when we are expecting 2 million foreclosures in the next 2 years. Helping only a few hundred families and saying you are doing something is incomprehensible.

I hope we will move this FHA legislation. As I said, it is supported by the President and by Secretary Paulson. It is the mildest of measures. It can't be too bad if President Bush is for it. That is not my view, but I am trying to perhaps win over some of my colleagues on the other side of the aisle. This FHA modernization will help in a small way. We have to do other things. The bill Senator BROWN, Senator CASEY, and I have put in the appropriations bill, with Senator MURRAY's help, for $200 million to help families get out of foreclosure makes sense. Congressman FRANK and I have a bill to help Fannie and Freddie to help with the foreclosures, which is legislation that is needed as well. But at least this is a first step. Yes, it is Government, and if you are a hard right ideologue, I guess you say the ideological purity of keeping Government away from everything is more important than helping innocent victims keep their homes, more important than keeping housing prices stable, more important than keeping our credit markets in good shape.

I hope my colleagues will join me. I hope so for the good of the country, even though I believe, frankly, politically they are marching down a path to oblivion and in the longer run it will help us get a better Senate to get things done—things that the American people demand.

At this point, I make a plea to my colleagues that this rather noncontroversial—if you judge by the breadth of its support—legislation goes through on FHA modernization.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 481, S. 2338, the FHA Modernization Act of 2007; that the Dodd-Shelby amendment at the desk be considered and agreed to; the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Mr. President, parliamentary inquiry: Under the rules of the Senate, when we ask for unanimous consent, as has just been asked, are we not saying we will not debate the bill, we will not offer the bill for amendments, and that we will take the bill as it is?

The ACTING PRESIDENT pro tempore. The issue is what is specified under the request.

Mr. COBURN. Which is not to debate the bill and not allow the bill to be amended. I will be happy to discuss my objections to the bill. They are small and deal with reverse mortgages, not conventional FHA, or the increased cap or the lower downpayment. I am working hard to try to resolve that so we do not hold up this bill.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. COBURN. I am happy to.

Mr. SCHUMER. Would my colleague be willing to support a provision to

have a time limit on debate on this bill, with amendments limited to the substance of the bill so we can get the bill done?

Mr. COBURN. Yes.

Mr. SCHUMER. Let me discuss that with my colleague and maybe we can move the bill. We are in the closing weeks of the session, so maybe we can agree to a reasonable time limit and reasonable amendments.

Mr. COBURN. I have no objection to that.

Mr. SCHUMER. I withdraw my unanimous consent request temporarily so I may discuss things with my colleague from Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the request is withdrawn. The Senator's time has expired.

Mr. CORNYN. The Senator from New York said he would yield to me at the end of his statement.

The ACTING PRESIDENT pro tempore. The time of the Senator from New York has expired.

The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I thank Senator COBURN for his cooperation on an important issue with Senator SCHUMER, something this body needs to move on. I thank both Senator SCHUMER and Senator COBURN. I wanted to talk about the same issue this morning for 5 or 6 minutes.

Thousands and thousands of families in Ohio are struggling to keep a roof over their heads during the upcoming Christmas season. My State has been in the grip of a mortgage crisis at some level for years, which shows no signs of letting up. Ohio is faced with one of the highest foreclosure rates in the country. Our largest cities are being particularly hit hard. Ohio's six biggest cities are among the 30 hardest hit in the Nation. It looks as if things may get worse before they get better.

What we do in Washington, or what we fail to do here, will have a profound effect on families in Akron, Cincinnati, Toledo, Columbus, and Cleveland. It is not just my State's largest cities; it is Portsmouth, Lima, and my hometown of Mansfield, Zanesville, Ravenna, and Marion. Every day, over 200 families in Ohio lose their homes.

A month ago, the majority leader, Senator REID, sought to bring up a bill that would modernize the FHA home loan program. Our colleagues on the other side objected, claiming they had not had sufficient time to read the bill. Mind you, this wasn't a bill written in secret. It passed out of the Banking Committee 20 to 1 in September after a long process that fully involved the ranking member, Senator SHELBY, a Republican of Alabama, and all of my colleagues on the Banking Committee.

By making improvements in the FHA program, more families would be able to refinance out of their unaffordable subprime loans and into fair, more equitable, and affordable FHA loans. As the Wall Street Journal found in an analysis published last week, many subprime borrowers had pretty good credit when they took out their loans. Many should have been in conventional loans, but in too many cases they were steered into higher priced loans, loans more profitable for the mortgage broker, but more costly, and ultimately disastrously so, for far too many borrowers, new homeowners. Many of them should be able to take out FHA loans that won't have those exploding adjustable rates.

We all went home for Thanksgiving, and when we came back, Senator REID tried again, and again our Republican colleagues objected.

President Bush announced last week a plan that may help a small slice of the population. He called on Congress to adopt FHA reform. Good for him. But what he needs to do is call on his fellow Republicans to stop obstructing every single attempt we have tried to help homeowners in Ohio and across the country. There may be progress today in the conversation between Senators SCHUMER and COBURN. That is our hope.

Most of the people who work in the mortgage industry have their clients' best interests at heart. They rely on repeat business and word-of-mouth advertising. But as the industry has evolved, it seems as though more and more market participants are acting in ways that are at odds with their clients' interests, all for short-term and sometimes huge profits.

Some mortgage brokers have chosen to prey on the most vulnerable—the poor, the elderly, and the family one paycheck away from disaster. Their conduct is unforgivable.

Borrowers who may not have been particularly sophisticated when they took out a loan are very likely going to be unfamiliar with how to navigate their way out of a bad situation. They are going to need a lot of help, and the network of nonprofit organizations across the country is going to be of vital importance in providing that help. Congress approved $200 million. Senator SCHUMER and Senator CASEY and I worked to put that money into the legislation to provide this help. But the President has threatened to veto that legislation.

We also need to do what we can to prevent the situation from getting worse. Mortgage brokers and originators have to exercise care in how they do business. At a bare minimum, they should be sure a borrower can repay a loan, and they need to do so based on real verification rather than a wink and a nod.

Nobody is doing anybody a favor by convincing them to take out a loan that will become unaffordable in 2 or 3 years, or that doesn't include the payment of taxes and insurance.

No longer should the dreams of Ohioans and new homeowners across the country fall victim to the fine print. No longer should Congress turn a blind eye to the despicable practices that victimize our neighbors and our communities because foreclosure in one house affects the homes all over that neighborhood.

We have tried to provide tax relief to people who have had some of their mortgages forgiven by their lender when they sell their house for less than their outstanding loan. Right now, any amount of debt forgiven is considered income, slapping additional tax burden on a family who has gone through the trauma of losing their home.

But that provision is imperiled by end-of-year obstructionism as well. Not one Republican supported Senator REID's effort to force an end to the Republican filibuster of the tax bill that included this provision.

Everything we have tried to do to help homeowners—from counseling funds, to FHA reform, to tax relief—has been blocked by Republicans. If President Bush is serious about helping homeowners, he will bring this to an end. The people of Ohio have waited too long for relief. They need our help. They need it now.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

ALZHEIMER'S BREAKTHROUGH ACT OF 2007

Ms. MIKULSKI. Mr. President, wouldn't you like to find a cure or wouldn't you like to be part of an effort to find a cure for Alzheimer's? Wouldn't you like to be part of a Congress that helps save lives, helps people and families struggling with Alzheimer's so perhaps there could be medicines for cognitive stretch- out for those who are facing some form of dementia? Wouldn't you like to give help to those practicing self-help, providing relief to hard-working caregivers?

I know you do, and I also know a bipartisan group of my colleagues want to do that. That is why I introduced the Alzheimer's Breakthrough Act of 2007. I started this work a couple years ago, working with my colleague, Senator BOND, who then was chair of the Subcommittee on Aging. Now I am working with Senator BURR. We passed out of the Health, Education, Labor, and Pensions Committee in July critical legislation, the Alzheimer's Breakthrough Act. It is pending on the calendar. We need unanimous consent to bring it up. I come to the floor today to ask my colleagues to give consent to move this bill forward.

This bill has two components: one is an authorizing component and the other a tax credit component. In the spirit of comity, I would be willing to actually divide the two because I know tax policy needs to be very sensitive in terms of the consequences.

Let me tell my colleagues what this breakthrough legislation does. It doubles the funding for Alzheimer's research at NIH. It goes from $640 million to $1.3 billion, giving researchers the resources to make breakthroughs. It

funds a national summit on Alzheimer's so the best scientists in the country can come together and identify the most promising breakthroughs. We are not talking about long-time, longitudinal studies. We are talking about studies that are at a point of significant breakthrough, that need help, and need a boost.

Also in our bill is the family caregivers support tax credit. It would create a $3,000 tax credit for caregivers with the extraordinary expenses of caring for someone who has a chronic condition, such as Alzheimer's.

Why is this needed? Alzheimer's disease is the tsunami on the horizon we cannot ignore. Today there are 5 million Americans living with Alzheimer's disease. It is expected to triple in the next couple decades.

We know a lot about Alzheimer's disease. It has been 100 years since it was first diagnosed, and though we know a lot, we do not have a cure, and maybe we will not have a cure, but we certainly can have the breakthroughs for what we call cognitive stretch-out. For those people who are gripped by this terrible disease or another form of dementia and those who are in social work and medicine, they have watched people say the long goodbye. We watched a gallant President and an incredible First Lady by the name of Reagan, in which the President had his long goodbye and the First Lady, Nancy Reagan stuck with him every minute, every hour of every day until his final resting. We salute them. We know that when the President does not have the resources to deal with this disease, we have so much work to do for the little people. Knowing that President, he would want help for the little people.

We need a sense of urgency about Alzheimer's. If we find a cure to delay the onset of the disease, we could save a tremendous amount in Medicaid and Medicare.

It is estimated that for every year we can have that cognitive stretch-out that enables people not to have to turn to institutional long-term care, we can save over $500 billion in both Medicaid and Medicare.

Should we even put a price tag on finding a cure, better and earlier diagnosis, faster creation of new drugs for people? Can we afford not to invest in this disease? I don't think so.

Alzheimer's is a terrible disease. I know it because we lived through it in our family. We watched prominent people be gripped by it. We know Alzheimer's is terrible for the person living with it, and we know it is an incredible drain on the caregiver, both emotionally and financially. Our country last year spent over $120 billion in dealing with this disease.

I wish to come back to the caregiver. Usually it is a daughter or a spouse who takes care of an aging parent or spouse. Often they need help with durable medical equipment and specialized daycare. It could add up to anywhere from $5,500 to $8,000 a year. Caring for a sick loved one means often you give up work, you reduce your work to part time or certainly take money out of your household.

We held a series of hearings on this bill, including Dr. Zerhouni of NIH and Dr. Gerberding of the CDC and some of our most eminent physicians working on this disease. It was amazing because it was so energizing. Often when we think about Alzheimer's, we think there is no hope and no opportunity to crack this disease, but there is.

What the scientists told us is there is now an array of medical possibilities for both the prevention of Alzheimer's and also intervention that would enable people to have this cognitive stretchout.

I am using the words ''cognitive stretchout.'' Maybe it is a little too fancy. What it means in plain English is you have a memory, you can think, you know night from day. I know for families that are gripped by Alzheimer's, both the person with it and the person living with it experience a 36-hour day, because often with Alzheimer's, the person gripped by it cannot tell the time. If we can stretch out that decline where they still have their memory, still can function with the activities of daily living, still know whether it is 3 o'clock in the afternoon or 3 o'clock in the morning, still be able to recognize their grandchild and still be able to remember how to eat, my God, what do we give them? We give them a year of life, we give a breather for those who love them and are taking care of them, and we also give a break in terms of the Federal budget with the assistance we provide in long-term care.

This bill is pending on the calendar. We have asked unanimous consent to go to it. I ask my colleagues, let's have a vote. If they would like to separate out the tax credit aspects from the authorizing legislation, I would be more than willing to cooperate in the closing hours of this session to do that.

I know on the floor is my very good colleague, the Senator from Iowa, Mr. HARKIN, who chairs the Labor-HHS Subcommittee. He has been such a strong advocate of NIH, and we thank him for what he has done. But he needs help from those of us in the Senate to come up with these breakthroughs.

Mr. President, rather than a parliamentary request asking consent, I know our cloakroom is circulating the request. I look forward to a reply from our colleagues in moving this bill forward, but I ask our colleagues: Join with us and move this bill forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

CHRISTOPHER AND DANA REEVE PARALYSIS ACT AND TRAINING FOR REALTIME WRITERS ACT

Mr. HARKIN. Mr. President, I wish to speak on two bills that should have passed by unanimous consent because they are so widely supported, but there are objections to them by some Republicans.

The first is the Christopher and Dana Reeve Paralysis Act, and the other is Training for Realtime Writers Act. First, I am disappointed objections have been raised against the Christopher and Dana Reeve Paralysis Act on the other side. I do not speak for myself, but I speak on behalf of tens of thousands of Americans who suffer from paralysis and their families.

The Christopher and Dana Reeve Paralysis Act is a bipartisan bill. It is a fiscally responsible bill. It addresses a critical need to accelerate better treatments and one day a cure for paralysis. Currently, paralysis research is carried out across multiple disciplines with no effective means of coordination and collaboration. Time, effort, and valuable dollars are used inefficiently because of this problem. Families affected by paralysis are often unaware of critical research results, information about clinical trials, and best practices. The bill will improve the long-term health prospects of people with paralysis and other disabilities by improving access to services, providing information and support to caregivers and their families, developing assistive technology, providing employment assistance, and encouraging wellness among those with paralysis.

I am, frankly, surprised there continues to be an objection to moving this bill forward. I negotiated this bill with my Republican colleagues on the Health, Education, Labor, and Pensions Committee before it was marked up in July. We received specific requests relating to the NIH. We accepted those requests. We moved forward. We removed the NIH reporting provisions in response to concerns that they were duplicative of reporting requirements NIH already had. We responded to all the feedback from the Department of Health and Human Services and the NIH by incorporating both substantive and technical changes. At that point we were assured there were no objections. As a result of these good-faith negotiations, the bill passed out of the HELP Committee with no amendments. Given all of the efforts we made to meet concerns raised by Senators on the other side of the aisle, and given that Senators had an opportunity to file amendments at that time but chose not to, I had every expectation that the bill would quickly pass the full Senate. Instead, it continues to be held due to Republican objections.

One of my Republican colleagues has said he will object to all disease-specific bills because he does not believe that Congress should be able to pass legislation specifically targeting the fights against cancer, ALS, Alzheimer's, and so on. I strenuously disagree with the Senator on this point. I believe Congress can and should be involved in setting national priorities in these fields. But putting that aside, the

fact is, the Christopher and Dana Reeve Paralysis Act is not a disease-specific bill. Paralysis and mobility impairment are not disease-specific issues; they are symptoms or side effects that result from numerous diseases and situations, including traumatic brain injury, stroke, ALS, injuries from athletic activities, injuries, of course, from combat in the U.S. Armed Forces, and many others. So paralysis is not disease specific.

Now, again, there seems to be another objection to this bill. One of our Republican colleagues has said he will not allow any bills to pass by unanimous consent that include spending without an offset. Well, let me be clear: There is no funding in the Christopher and Dana Reeve Paralysis Act legislation. It is only an authorization that allows the Centers for Disease Control and Prevention to improve the quality of life and long-term health status of people with paralysis and other physical disabilities.

Our colleague from Oklahoma, Senator INHOFE, made this case very clear in his discussion of the Water Resources Development bill. He explained the significant difference between authorizing and appropriating. Authorization bills are not spending bills; they determine which projects and programs are eligible to compete for future funding and provide for congressional review and oversight. Authorization bills provide the criterion for spending bills, but they do not contain direct spending. So any spending for the paralysis program authorized by this legislation will be subject to the annual appropriations process.

The Christopher and Dana Reeve Paralysis Act passed the House in October. It is long overdue for passage in the Senate. When I introduced this bill, Dr. Elias Zerhouni, Director of NIH, spoke in support of the bill, and let me read something he said that day.

> So, really, as the Director of an institution that is committed to making the discoveries that will make a difference in people's lives, I feel proud and feel pleased. But at the same time I'm humbled. I'm humbled because in many ways the Christopher and Dana Reeve Paralysis Act is the harbinger of what I see as the combination of the public, the leadership in Congress, and the administration and government in our country that is absolutely unique, and humbled because at the same time, I know it contains a lot of expectations from us. And I'm at the same time confident that we can deliver on these expectations of NIH, with our sister agencies throughout the government. But the key thing I would like to provide is an expression of commitment. At the end of the day, if you do not have leaders and champions that look at a problem in its entirety, today in the 21st century, you cannot make progress.

So that is what Dr. Elias Zerhouni said on the day we introduced the bill. I agree wholeheartedly with Dr. Zerhouni. Progress is vital in science and biomedical research. It is also vital in the legislative process. As Senators, we have a duty to ensure due diligence in considering legislation. But for one Senator, or two Senators or three, to stall this bill, I believe without legitimate cause—if the objections are that it is disease specific, I have pointed out it is not. Secondly, if it is being held up because there is not an offset, I point out it is only an authorization bill, not a spending bill. If it were an appropriations bill, it would then be legitimately subject to a hold or objection to unanimous consent because it did not have an offset, if that were the case. Anyway, I think for a handful of Senators to block action on this bill seems to undermine the trust that people put in us as legislators to move forward on things, to respond to certain national needs.

Let us be clear: By putting this bill on hold, Senators are also putting people with paralysis and their families on hold. It is a shame, I say to these Senators. I am not asking you to vote for the bill. If you don't like it, you don't have to vote for it. I am only asking you to allow the entire Senate to work its will. Don't slam the door on our fellow citizens who are living with paralysis. There are some 2 million Americans right now living with paralysis of the arms or legs, or both. Many others are living with multiple sclerosis. Hundreds of young soldiers are returning from Iraq and Afghanistan with spinal cord injuries and paralysis, facing a lifetime of disability. They should not be placed on hold. They shouldn't have to wait. They shouldn't have to have further delay. They should have this bill passed.

I urge my colleagues on the other side of the aisle to reconsider their decision to block this bill. As I said, I worked with Republicans before it went to the HELP Committee. We worked with the Department of Health and Human Services downtown, with NIH, and we met all their objections. We redrafted it and there weren't any objections when it went through the HELP Committee. No amendments were offered. That is the kind of legislation you would think would be subject to a unanimous consent procedure here on the Senate floor. It is a fiscally responsible bipartisan bill, as I said, that does not spend any money. It only authorizes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator has just under 4 minutes remaining.

Mr. HARKIN. Four minutes.

I also wanted to talk about the Training for Realtime Writers Act. On behalf of more than 30 million Americans who are deaf or hard of hearing, I express my deep disappointment that again one or two Senators on the other side of the aisle are blocking passage of this important legislation, the Realtime Writers Act of 2007. Again, it is a bipartisan bill. It is fiscally responsible. It addresses an urgent national need to train more real-time captioners at a time when the demand for these professionals has far outstripped the supply, and when, in fact, the law of the land says that all programs have to be real-time captioned.

For those who don't know what real-time captioning is, these are the people, if you are in your offices and you are watching the Senate floor and you put your button on mute, you see the little closed caption go across the bottom of the screen. That is someone sitting down here in the bowels of the Capitol watching what we say and, on a machine, typing this in so that if you are deaf or hard of hearing you can read what is happening. This is true on programs you watch on normal television as well.

Again, we all use that, I know, at different times. You don't have to be deaf or hard of hearing to use closed captioning. But what has happened, and how this came about is very simple. In 1996, in the Telecom Act, it required that all English language television broadcasts be captioned by the year 2006. All television broadcasts must be real-time captioned by 2006. That was last year. So it is now 2007, and many stations across the country are not in compliance with the law. As a result, a lot of deaf and hard of hearing Americans are not able to access the full range of television programming we take for granted. And why aren't they compliant? Well, it is a legal requirement, but the fact is there are not enough captioners. We knew that back when the bill was passed in 1996. That is why we gave it 10 years for implementation. And little by little we have been trying to get more real-time captioners, but we don't have them.

This bill is an effort to bolster that program and to put focus on it. Again, it is an authorization bill. It is an authorization bill. It authorizes the creation of a competitive grant program to train captioners at the funding level of $20 million a year for 5 years. So, again, it is an authorization bill, not an appropriations bill.

There has been a shortage of real-time captioners. And you might say, well, if there is a shortage, why aren't there more people? Well, a lot of people don't know about it. They don't know about the demand. We need the training and expertise. This is a difficult job. I mean, our stenographers here, who take down our words, have a difficult job, but at least they have time to go back and print it out after they put it into the machines. A real-time captioner has to listen and watch what we are saying and put it on immediately. So it takes a lot of expertise and training to do this.

This act authorizes, again, the funding. It creates no new entitlements. It sunsets after 5 years, because once we get the number up and we get schools across the country teaching this, I have no doubt that we will have enough in the pipeline. And let me point out that this bill passed the Senate by unanimous consent three times before, only to languish in the House of Representatives.

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

Mr. HARKIN. Mr. President, I ask unanimous consent for 2 more minutes.

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

Mr. CORNYN. I would ask that 2 more minutes be added to our time; otherwise, I have no objection.

The PRESIDING OFFICER. Without objection, 2 minutes will be added to the Republicans' time as well.

Mr. HARKIN. Again, the House indicated they would take it up. It languished here. It passed the Senate, as I said, by unanimous consent three times already. Again, it is time to keep the promise that Congress made to 30 million Americans in 1996. I would hope we would not block the Realtime Writers Act, and let it go through, and with unanimous consent, as it has done three times in the Senate before. I would ask those who have a hold on the bill, are they saying that 100 Senators before, who let this legislation go through, didn't know what they were doing? We all have staffs, and we all pay attention to what legislation goes through here. I think it is indicative of the support we had on both sides of the aisle that the Realtime Writers Act, as I said, passed by unanimous consent three times in the past.

I wanted to talk about these bills because again I think they are both widely supported. We have worked out agreements with people in the past, and I don't think there is any real, legitimate reason to keep a hold on these bills and not let them pass.

Mr. President, I ask unanimous consent that the Senate take up and pass Calendar No. 326, S. 1183, the Christopher and Dana Reeve Paralysis Act, and Calendar No. 291, S. 675, the Training for Realtime Writers Act.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Mr. President, I object to both, and I will give my reasons why during our time.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, as part of my closing remarks, in case an objection was raised to the Training for Realtime Writers Act, I want to say this is something that can be done already by the administration, but I would point out that they have not done it in 10 years, either Democratic or Republican Presidents. Quite frankly, they are not focusing on it. They have said they can do it as part of their high-growth job training initiative, but they haven't done it. That is the point of the legislation. They have not done this.

And for those interested in earmarks around here, 90 percent of the money in the high-growth job training——

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

Mr. HARKIN. Well, I want to close with 30 seconds, by saying that 90 percent——

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

Mr. HARKIN. Ninety percent of the money is noncompetitive. Over $235 million over 6 years has gone out in noncompetitive grants, and not one penny for real-time writers.

Mr. President, I yield the floor.

Mr. CORNYN. Mr. President, may I ask how much time remains on this side of the aisle in morning business?

The PRESIDING OFFICER. There is 90 minutes 16 seconds.

Mr. CORNYN. I would ask, Mr. President, that the Senator from Oklahoma, Senator COBURN, be recognized for up to 10 minutes, followed by myself, followed by the Senator from Georgia, Senator ISAKSON, and then the Senator from Idaho, Senator CRAIG, for the first 40 minutes of our time.

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

The Senator from Oklahoma.

DISCONTINUING BUSINESS AS USUAL

Mr. COBURN. Mr. President, this morning we have heard about a lot of good causes and a lot of good bills. But what we have been asked to do is to pass bills without any debate, without the opportunity to amend, and we just heard a Senator say we could agree to a UC and not have to vote on it. Agreeing to a UC is the same as voting yes. The fact is, we have had plenty of time to bring up all these bills, put them on the floor, debate them and have great debates so the American people become informed, and offer amendments.

I will say for many of these bills, I am the Senator objecting. Senator HARKIN knows I am objecting to the two bills he just raised.

The point is, our debt is rising $1 million a minute. When you authorize $100 million for the Realtime Writers Act, what you are saying is, I intend to get the money out of the appropriations process to develop training for something that the market should already be inducing through increased wages. If in fact there is a shortage, why is the market not taking care of it? Is it because the pay is too low? Maybe the pay ought to be higher. Maybe people ought to go into it. Instead we are going to inject $100 million of American taxpayers' money into something that will be solved through the market. If it is not, then the pay is entirely too low and the market will eventually adjust to it. But to say we are going to authorize something with no intent to ever spend, that is not the intent of an authorization. The intent of an authorization is to spend more money.

At $1.3 billion a day, we are going into debt, and it is not our debt. We are transferring it to our children and our grandchildren. To come down here and want to authorize and spend and pass without debate and pass without amendment multitudes of bills with no debate is to say, in other words, take it or leave it. And if you want to amend it or you want to have a chance to vote on it, tough luck; we are going to do it without you. It is called ''UC.''

The fact is, we find ourselves $9 trillion in debt now. The fact is, our children are facing $79 trillion worth of unfunded mandates. It is time that we change the business in the Senate. To come down and claim you want to just authorize but not spend is a hoax because you would not be authorizing unless you do spend.

The other thing the American people ought to know is, out of the over $1 trillion in discretionary budget that we spend right now, $280 billion of it is not authorized. The appropriators totally ignore the authorizers. When it comes to appropriations, they appropriate whatever they want. So it doesn't have to be authorized to get it done. They will appropriate it if they want to do it. They don't pay any attention to authorization.

When we have $8 trillion worth of authorized programs now, to say we cannot eliminate some program that is not being funded to be able to make room for one that should be funded, and to say we should not have to do that, that doesn't pass the commonsense test with the American public.

I understand that is irritating and bristling to the way we have done things in the past. I apologize if at times I am irritable and irritating, but I think the future generations are worth it. I do not think we can continue doing business as usual. So we have seen an ALS bill come down. The CDC doesn't want the ALS bill, the registry, and the reason is they can already do it. If we are going to do an ALS bill, we ought to do it for all neurologic diseases in terms of a registry, not just one. What we have decided is a celebrity or an interest group can come and we will place a priority there. Regardless of what the science says, regardless of what the basic science and the pure science says in terms of guiding us where to go on diseases, we will just respond. We will create a new program, and we will tell NIH where they have to go, or CDC where they have to go when science doesn't guide them there.

If we are going to do that, if we really think as a body we ought to be going the disease-specific direction, then why don't we do it all? Why don't we say we will do the peer-reviewed science on all the programs at NIH? Since we are going to pick the ones that have a cause behind them, why don't we do them all. Why don't we let the lobbyists tell us which ones should be first? Of course, we wouldn't do that because we know the scientists at CDC and the scientists at NIH make decisions, not on popularity, not on politics, but on the raw science that will give us the best benefit for the most people.

We look good when we do those things. We do satisfy a yearning for those who are handicapped or paralyzed or have breast cancer or have colon cancer. But if we are going to do a registry for ALS, why aren't we doing one for diabetes? We aren't we doing one for multiple myeloma? Why? Why aren't we doing those things? If we are going to pick one, if we are going to do

a neurological disease, let's do it for all of them. It shows the shallowness of what we are trying to do. Our hearts are big, but we are not looking at the big picture.

The FHA we discussed. The component in the FHA that I object to is, we have a study in the FHA bill that the GAO is mandated to do on reverse mortgages. But at the same time, regardless of what the study shows, we lift the cap. All I have asked for from the authors of the bill is to keep the cap where it is until we get the GAO study back so we know what we are doing, rather than responding to a clamoring which we have no basis, in fact, to know is the accurate thing to do; otherwise, we wouldn't be asking for the study in the first place. It is a simple request.

Instead, we come to the Senate floor and try to make us, those who object, seem unreasonable when we say common sense would say if we have a study in the bill to tell us where to go, but we are already ignoring what the results of that study may or may not be, to question that we should not have a debate about that, that we should not have an ability to amend that, we should just blindly say yes, that is not what the Senate tradition is. This is a body that is supposed to be about debate.

In the past 31 days the Senate has been in session 15 days. We have had 10 votes in 15 days, and we have had 8 days without any votes at all. All these bills could have been on the floor and had accurate debate. I would have lost most of my amendments, based on the historical record of my amendments, but the American people would have benefited from the debate about those bills. Instead, we are made to look as if we don't care if we want to try to improve a bill because we will not agree to blindly accept a bill to go through. We are made to say we don't care about people who are losing their mortgages because we think there are some commonsense changes to a bill? That isn't quite right.

You hear the reference that people vote or the committee voted or that there wasn't an amendment. The fact is, on voice votes if you do not vote, you are not recorded because there is not a recorded vote. But that doesn't mean you agree to bring the bill to the floor. We all know that.

The fact is, and you have heard me say it many times in this body, if you are born today you inherit $400,000 worth of unfunded liabilities. There is a lot of things we do wrong on our side of the aisle, I will admit that, and have done wrong on our side of the aisle, both in the tenor of how we approach things and in how we characterize things. But the best way to right what we are doing wrong is start doing it right. The fact is, it is no legacy that we should leave to the next two generations that they are born into the world with a stone around their neck. The culture and methodology the Senate—I asked the President of the Senate a moment ago: What does unanimous consent mean when we bring up these bills? It is the rules of the Senate, I was told. The rules of the Senate are, you get no opportunity to amend.

I ask unanimous consent for an additional 3 minutes for me.

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

Mr. COBURN. You get no opportunity to debate, you get no opportunity to amend, you have no opportunity to vote. So, if you truly object to a bill or a component of a bill you are told: Stuff it. What you think about it doesn't matter, let alone the very real loss of the American people not hearing a full debate about these issues.

We have plenty of time to debate them. We have quorum calls much too much. We should have two or three bills on the floor at the same time. I am willing to debate and lose, but I am not willing to give consent I disagree with and imply to the people I represent, in my oath to the Constitution, that it doesn't matter. It does matter. It matters immensely.

The future is at risk. We are on an unsustainable course, and we are seeing some of that played out in the mortgage market today. We are seeing some of that played out with the value of the dollar today. We are seeing some of that played out in the confidence of the American people, not only in the future and what they see, but in how they view us. We do, in fact, have an obligation to secure the future, and we do, in fact, have an obligation to make tough choices, priorities. Those priorities ought to be framed in the light of what the everyday American family has to do to frame their priorities.

Instead, what we have the habit of is not making any priorities at all because we take it all. We don't choose. We choose to do it all, knowing that the consequences of that choice bear on two generations from us. We will long be gone, but the legacy we leave will deny the very essence of this country. The essence of this country is one generation sacrificing for the future, for the next. The legacy we are leaving is exactly the opposite.

So I beg some patience on the part of my colleagues on the other side of the aisle that, in fact, if we disagree on a bill going by UC, it doesn't necessarily mean we disagree with the intent. It does mean that we think it can be improved or we think it can be held more accountable or, as the case of the SBA bills I am holding now, one of them is atrocious in terms of the money it is losing for the American people. Yet we are supposed to agree with those bills without amending or voting or debating.

I will be back to talk later in our time, and at the present time I yield.

Mr. CORNYN. If the Senator will yield for a quick question?

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. I wanted to ask the distinguished Senator, earlier before he was able to come to the floor, there was a unanimous consent request offered with regard to the ALS registry, and I, on his behalf, lodged an objection, although I have no personal objection. I just want to ask the distinguished Senator from Oklahoma if it is his understanding it was on his behalf?

Mr. COBURN. Absolutely. There is no question. I thank you for covering for me in that regard.

Mr. CORNYN. Mr. President, I understand why we find ourselves in this terrible posture today and why some people are calling this Congress the broken Congress, the dysfunctional Congress. If you look at the chart that was alluded to a moment ago about the last 31 days of the Senate, we have had 15 days of the last 31 days actually in session. We have had 10 rollcall votes. We have had 10 rollcall votes in the last 31 days. As a matter of fact, we should be having rollcall votes now on the farm bill, which is the bill I thought was before the Senate. But, instead, our colleagues from the other side of the aisle decided to put on this show for the American people to try to portray themselves as passing legislation, although they knew it could not be done in the manner in which they proposed—while we should be passing the farm bill.

Let me talk for a moment about the opportunities that they have squandered by their mismanagement of the calendar over this last year. I asked the Senator from Illinois, Mr. DURBIN, if he would agree to a unanimous consent request, and also the majority leader, to help fund our troops who are in harm's way during a time of war. They objected to that.

As a matter of fact, Republicans attempted to call up the Veterans appropriations bill before the Veterans Day holiday, and the Democrats objected to bringing up that bill. Just to be clear, this is the appropriations bill that funds veterans affairs and military construction and is important not only to keeping our commitments to our veterans but to maintaining a decent quality of life for the families who are left behind while their loved one is in harm's way in Iraq or Afghanistan and other dangerous places across the world.

Our colleagues on the other side of the aisle blocked that appropriations bill like they blocked the emergency funding for the troops that is needed in order to avoid the 100,000 notices to civilian employees of the Department of Defense that they are going to be laid off. They are going to get those notices before Christmas that they are going to be laid off by mid-February unless Congress does the job it should have done a long time ago. That is not even to mention—which I will mention—the funding necessary for the Department of Defense to operate in Iraq and Afghanistan to root out al-Qaida and other foreign fighters, Islamic extremists who are trying to kill American

soldiers and who, if given an opportunity to reorganize themselves in Iraq, would use that as another launching pad to carry out murderous attacks against Americans and our allies.

Just to be clear, the Senator from Illinois, Mr. DURBIN, asked me about a meeting where the Secretary of Defense and Secretary of State were present. I explained, as I have just explained here today, what the situation would be like if we failed to act, and as a result of their objection, we are not acting on a timely basis.

I ask unanimous consent to have printed in the RECORD a letter from the Deputy Secretary of Defense to the Republican leader that is dated December 7, 2007, signed by Gordon England to the Honorable MITCH MCCONNELL.

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

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, December 7, 2007.

Hon. MITCH MCCONNELL,
Republican Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER, 10 U.S.C. 1597(e) provides that the Department of Defense ". . . may not implement any involuntary reduction or furlough of civilian positions . . . until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reduction or furloughs are required . . .". In accordance with this statutory requirement, I am providing a report on potential furloughs within the Department of the Army, the Marine Corps, and the Combatant Commands.

As you are aware, the FY 08 DoD Appropriations Act did not provide funds to the Department for the Global War on Terror (GWOT). In my November 8, 2007 letter to the Senate and House Appropriations Committee leadership, I emphasized that without this critical funding, the Department would have no choice but to deplete key appropriations accounts in order to sustain essential military operations around the world.

Without GWOT funding, only operations and maintenance (O&M) funds in the base budget are available to cover war-related costs. O&M funds also cover salary costs for a large number of Army and Marine Corps civilian employees.

The Army and Marine Corps currently estimate that the fiscal demand on O&M funds to cover both normal operating and GWOT costs will result in depletion of the Army's O&M funds by about mid-February and the Marine Corps O&M funds by about mid-March 2008. As a result, Army civilian employees, who are paid from Army O&M accounts and Marine Corps civilian employees, paid from Marine Corp O&M accounts, will at those times be subject to furlough. Affected employees are located throughout the United States and overseas.

The furlough will negatively affect our ability to execute base operations and training activities. More importantly. it will affect the critical support our civilian employees provide to our warfighters—support which is key to our current operations in both Afghanistan and Iraq.

Accordingly, the Department will issue potential furlough information to about 100,000 affected civilian employees next week. Specific furlough notices will be issued in mid-January. The Department will also be notifying appropriate labor organizations.

While these actions will be detrimental to the nation, there are no other viable alternatives without additional Congressional funding. Your support in providing these needed funds would be greatly appreciated.

Mr. CORNYN. Mr. President, as the letter makes clear, while the Department of Defense has the ability to fund the troops in the field until mid-February—around March for the Marine Corps—this comes at great expense to those in the Department of Defense, both in and out of uniform. The only reason the Department of Defense can basically rob Peter to pay Paul in terms of paying its bills is because other activities will not be funded, to include training, repair of equipment, and salaries. This letter makes clear that under the current law, furlough notices must soon be issued, potentially right around the time Christmas hits.

This is not any way to run the business of our Nation. Unfortunately, because of the way our colleagues have led the Senate, we have squandered a tremendous opportunity to solve the problems the American people sent us here to solve.

We have had 66 votes on cloture motions—in other words, efforts to force legislation down the throat of the minority without an opportunity for debate or amendment. That is a guaranteed recipe for failure. As everyone in this body knows, under the rules of the Senate, neither the majority nor the minority can have their own way without bipartisan cooperation. That is the way to get things done. But, rather than get things done for the American people, what we have seen is a "my way or the highway" approach on the part of the leadership on the other side of the aisle. That is the reason we have had 63 votes, 63 votes so far this session, on the war in Iraq, with various attempts on the other side of the aisle either to attach strings to that money or to impose arbitrary deadlines on our commanders in the field or what I would submit is basically to insist on surrender dates.

These are the same folks who called the surge a failure before it even started. They have said they supported the troops but yet, when it comes time to show their support by making sure they have the funding for the equipment and the training, to pay salaries, and to maintain a decent quality of life for their loved ones who are left behind, instead of acting on that stated support for the troops, have failed to act.

I know the other side of the aisle has given us a copy of various unanimous consent requests to give us fair notice of their intention to ask for unanimous consent, and we have done the same.

On behalf of this side of the aisle, I would ask unanimous consent that the Senate proceed to the immediate consideration of S. 2363, which is funding for military construction and veterans affairs.

I further ask unanimous consent that the bill be read a third time and passed and 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. Is there objection?

Mr. HARKIN. Mr. President, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, I am disappointed to hear the objection. This is the same Veterans appropriations bill and Military Construction bill that was passed this summer by the Senate and this summer as well by the House. Why is it that it has been delayed all this time? This is funding for the very veterans who have sacrificed so much and given so much in the service to this country who are being told: No, we are going to hold that money back because essentially you are part of our political plans to put together a huge Omnibus appropriations at the end of the year and try to force the President and the minority to accept bloated Washington spending, when, in fact, there is no objection to passage of that Veterans bill or Military Construction bill, and it should be passed today by unanimous consent without further delay.

Mr. President, I have one other unanimous consent request I would like to offer. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3997, a bill to provide tax relief for our troops. I further ask that the amendment at the desk, which is the text of S. 2340 and provides for full funding of our troops, emergency funding for our troops, be agreed to and that the bill, as amended, be read a third time and passed.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, I regret the obstruction on the part of the majority. This provision, the Heroes Earnings Assistance and Tax Relief Act, would ensure that our military members are treated fairly under our own tax laws. It would make clear that combat pay can be treated as income for purposes of qualifying for the earned-income tax credit. It would also make improvements to the rules for mortgage bonds for veterans, clarify rules regarding survivor and disability payments, and continue to provide pay and benefits to National Guard and Reserve members called to Active Duty. I have already mentioned the component of it that would provide full funding on an emergency basis to our troops who are currently fighting and, unfortunately, some being wounded and dying in service to their country and protection of our freedoms, which has now been objected to once again.

I will finish my remarks for this period where I started and say that we have squandered our opportunities to govern. The only way you can govern

in the Congress is by building a governing coalition, Democrats working with Republicans to try to solve the Nation's problems. When one side or the other tries to jam their agenda down the throat of the other side, it does not work, and exhibit A is the dismal record of this broken Congress during this last year.

I see why our colleagues on the other side of the aisle are getting nervous, why their desperation to pass legislation is beginning to show, because they realize they had the opportunity to lead, they realize they had the opportunity to govern, but they have squandered that opportunity. So now, in the last week and a half before the Christmas recess, they are out here trying to act as if the minority has obstructed them, when, in fact, if they had only met us halfway and worked with us to solve some of the big issues that confront our country in a bipartisan and constructive way, we would have met them halfway and we would have solved many of those problems.

Mr. GREGG. Would the Senator yield for a question?

Mr. CORNYN. I will.

Mr. GREGG. I was wondering, is it not true that in this Congress, none of the appropriations bills, which is the business of actually operating the Government—appropriations bills being the bills which fund things like education, things like health care, things like taking care of roads—none of the appropriations bills have passed the Congress in time to meet the fiscal year?

Mr. CORNYN. The distinguished Senator from New Hampshire is exactly correct. My recollection is only 1 out of the 12 appropriations bills has actually been signed by the President, and that was after the fiscal year ended, meaning that essentially Congress is doing what no business, what no family could get away with; that is, basically to pay the bills on a timely basis. So it is another example of this broken Congress and squandered opportunity to work together to do our basic duty.

Unfortunately, I think what we have seen now is an unfortunate game being played out where, rather than pass those bills on an individual basis, there is going to be an attempt to roll them into a giant Omnibus appropriations bill, which someone observed the other day is Latin for ''hold on to your wallet.'' The President has insisted that he is going to hold the line, as he well should, on wasteful Washington spending which would require tax increases on the American people at a time when the economy is entering into a flat period. It is exactly the wrong time—if there is ever a right time—to raise taxes.

Mr. GREGG. Would the Senator yield for an additional question through the chair.

Mr. CORNYN. I would.

Mr. GREGG. The Senator has pointed out that we passed none of the obligations for operating the Government prior to the beginning of the fiscal year. As the Senator pointed out, we have only passed 1 of those bills out of the 12. We are now almost 3 months into the fiscal year. That happens to be the worst record in the history of the Congress, I believe.

That dysfunction of this Congress was not necessary, was it? Did we not vote I think almost 60 times on issues involving Iraq, on repetitive issues involving Iraq, to the point where the Democratic leaders have essentially said: We are going to ignore the operation of the day-to-day business of the Government in order to call up 60 votes, many of which were simply political votes, and use up the entire calendar of the Congress in order to make political points, when they knew they were not going to be able to do a great deal in this area other than what they should do, which is fund the troops in the field?

Mr. CORNYN. Mr. President, the Senator from New Hampshire is absolutely correct.

I would further say in response to his question, you know there is a marked contrast to the tone that was set at the very beginning of this Congress with the new majority in charge. The Senator from Illinois, Mr. DURBIN, who was on the floor earlier, said:

> I think the people across America said to us in this last election, we want you to compromise, we want you to find solutions, we do not want you to play to a draw with nothing to show for it.

Well, that is in the CONGRESSIONAL RECORD on January 4, 2007. I agreed with that statement then. But, as I say, it stands in marked contrast to what we have seem demonstrated this last year.

The Senator from New York, Mr. SCHUMER, who was on the floor earlier, on that same date said:

> All too often we in Washington get lost in the world of Washington, the focus on getting something done, something done for the American people gets lost.

Well, I wish they had heeded their own advice because what we have to show for this last year is very little, indeed. Failing to take care of our most basic responsibilities, as the Senator from New Hampshire has pointed out, to fund the Government on a timely basis—the fact is, we find ourselves in a terrible position now, with just a few days remaining until the Christmas break to get that work done.

Mr. GREGG. If the Senator would yield further for a question?

Mr. CORNYN. I would.

Mr. GREGG. My first two questions were sort of to lay the predicate for this question, which is that the other side of the aisle has spent a lot of time saying the minority is obstructing, the Republicans are obstructing. Yet was it not by conscious choice that they decided to create a legislative calendar which was totally dominated by their desire to make political points over the issue of how the war in Iraq was proceeding rather than to take up the appropriations bills, which are the proper order of the Congress, one of the first responsibilities of the Congress? The Republican side of the aisle has not resisted going to appropriations bills; it has been the other side of the aisle which has refused to bring them up.

So this allegation of obstruction is really a bit of a straw dog, is it not? Are they not in the position of basically having created the problem and then trying to claim the problem is created by us when, in fact, the problem was created by the fact that they refused to take up the business of the Government, and now, in the 11th hour 49th minute, they have decided to turn to the business of the Government and they have chaos on their hands as a result of their own management?

Mr. CORNYN. Mr. President, I agree again with the statement made and respond in the affirmative to the question propounded by the Senator from New Hampshire. This Congress has spent 11 months holding Iraq political votes that have had no chance of becoming law.

We have had 63 votes thus far this session. In the meantime, while the majority has been fiddling, the business of the American people has not been done. I think about the issues besides those of national security that cry out for solutions, things such as border security and immigration reform. Couldn't we have used some of this time more constructively to solve one of the biggest domestic issues confronting the country today? How about energy policy? We have an energy bill that raises taxes on domestic producers and encourages our dependence on foreign oil, when we could have worked together to pass an energy policy that would have prepared us for the future. We have not done that. Health care, which is a tremendous concern of my constituents in Texas and elsewhere, we could have acted to deal with the health care access cost and quality crisis in this country, but we have not.

I know there are other colleagues who wish to speak.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I wish to follow up on the exchange between the Senator from New Hampshire and the Senator from Texas in a different context. I am sure the theatrics of this morning are entertaining for a few. But for me, they are illustrative of how a broken Congress has real ramifications for the people of the State of Georgia. I hold this seat in the Senate because a majority of Georgians sent me here to vote on their behalf and act on their behalf. But the way in which this session has been managed, the way in which certain pieces of legislation have been managed, the way in which we even are debating this morning in 3 hours of morning business when we should be on the farm bill is causing

pain and suffering to the people I represent. I wish to put meat on those bones.

First, I wish to talk about the veterans bill mentioned by the distinguished Senator from Texas, a bill nobody here really objected to but some objected to and kept it from coming to the floor. It still has not come. It has been objected to this morning. What is the ramification of that on Georgians? The VA hospital in Atlanta, GA, on Claremont Road is a great VA hospital that has been there for years. It has been in terrible need of repair. Three years ago, the Congress authorized and appropriated the money to remodel all the floors of the VA hospital in Atlanta, where today hundreds of veterans of Operation Iraqi Freedom, all the way back to the Korean war, are being attended to. In the last 3 years, three of those floors were redone, but they didn't get the other three done, and they are waiting to be done.

The money, $20.552 million, is in the bank, but the authorization that was passed 3 years ago has expired. As the Chair knows, we don't appropriate without an authorization. We are not supposed to. And if we don't have an authorization, the money is frozen. The ramifications of holding the veterans bill to real Americans, real Georgians, real heroes who served this country in uniform is that those floors set to be remodeled in a hospital for veterans sit there unremodeled. The new equipment, new technology, everything that is in there for veterans is held. The money is in the bank, already appropriated. All we to have do is the authorization. It is in a bill nobody objects to when you talk to them. But continuously it is objected to on the floor of the Senate.

I wish to talk about the ramifications of messaging. There is a new technique we are using now. Instead of sending back a conference report to which a point of order can be raised—I know that is technical jargon—you send a message. You either have to vote up or down. You don't have a chance to amend or to make a point of order. Let's take the Energy bill going back and forth akin to a ping-pong ball. Most recently it came to us as a message, unamendable and no point of order, and we can't debate the dirty little secret that the renewable portfolio standard in the Energy bill benefits certain parts of the United States and is punitive to others. I happen to represent one of those States to which it is punitive. How punitive is it? It is so punitive that by 2020 it will have cost the ratepayers in the State of Georgia to the Southern Company and to the EMCs in our State $8.2 billion. So the tactic being used does not allow me to make that point on the floor or make a point of order or bring it to debate but asks all of us to agree to a proposition that would impose that much damage on the people I represent. That is the ramification of a broken Congress on real people, real Georgians.

I understand the omnibus bill is coming to us as a message as well. There is an amendment in the omnibus bill which is punitive to the State of Georgia. It has been put in outside the process of the committee system and outside the process of debate. I am not going to have a chance to even raise a point of order on that particular amendment. In fact, as the Senator from New Hampshire observed, we didn't pass but one appropriations bill by the time the new fiscal year took place. We have been going back and forth because, instead, we spent most of the year debating 62 separate votes on whether to withdraw our troops from Iraq. In fact, I find it sad that in the 6 months that debate has been going on, the surge has worked by everybody's definition. Progress in Iraq has been of a tremendous advantage. The men and women who have sacrificed and accomplished it and are fighting there today are looking at us playing games with the money to fund the military. It is not only wrong, it is sad. It is time we had an appropriations process that worked in the Senate, not one that is broken.

It is time we looked at ideas such as Senator DOMENICI's biennial budget, where you appropriate in odd-numbered years and you do oversight in even-numbered years. Wouldn't it be fun to see an even-numbered year election for Congress or President where the debate wasn't on what I was going to appropriate to make you happy but instead the savings I was going to find to make our country run better? Senator DOMENICI, who is leaving us at the end of next year, has a great proposition. It ought to go. We ought to be appropriating money by the time the fiscal year starts.

The real effect on real Georgians with the process now is that in December of 2007, in the first quarter of the fiscal year 2008, we have Government appropriations policy based on an appropriations bill passed in 2006. The body of knowledge doubles every 7 years. We are still 2 years behind on our appropriations process. Why? Because of the dilatory tactics, because of thematic debates, and all because one side wants to leverage against another, to the detriment of real people.

Lastly, I wish to talk about the real damage of a broken Congress on the appointment process. In today's Executive Calendar, there is a list of any number of appointees to any number of positions in the Government—judicial appointees, Department of Homeland Security appointees, Tennessee Valley Authority appointees, hazardous and chemical waste oversight board appointees. All those appointees have come out of committee; some of them from the committee I am on, Environment and Public Works. They have testified before the committee. They have been subjected to questions. They have been thoroughly vetted, and they have been voted out of committee; in the case of EPW, voted out unanimously.

Last Thursday, there was a move to pass this list, still on the calendar, by unanimous consent. Remember, all these appointees have gone through the committee process. They have been vetted. They have been voted on. They have testified. They have subjected themselves to all the questions we could possibly ask. Yet there was an objection last week. So what is the pain and suffering to the American people? In those four States where judges were asked to be approved, they continue to have a backlog of criminal cases, a backlog of critical cases.

To me and the Members of this body who represent areas that are served by the Tennessee Valley Authority, Congress finally fixed the TVA 2 years ago, got it under new management, into a good system, ran it like a business, appointed a significant board, and now it is time to reappoint three of those members or reappoint two and add one new one from Georgia, I might add. What happens? Somebody says: I object. We are objecting to the American people's business, are objecting to the progress of what this Government was set up to do.

The broken Congress of 2008 has real consequences, not for me but for the people of my State. I will stay until Christmas or New Year's and repeat what I have said until somebody throws the light switch and understands the games we are playing don't affect us; they affect the people who sent us. In the case of the four examples I have given, they affect them negatively.

To that point, I would like to make two unanimous consent requests. The first one is going to be with regard to the TVA board. I wish to repeat one thing I said. They all were approved unanimously. Two of them are reappointments. They are all fine people. TVA has reduced its debt under new management. Congress worked hard to pass this 2 years ago. It is time to have these people seated and working.

I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 404, 405, and 406; these are three nominations to be members of the board of directors of the Tennessee Valley Authority. I ask consent that these pending nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and that the President be immediately notified of the Senate's action. I finally ask consent that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. Mr. President, on behalf of majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations to the judiciary: No. 373, John Tinder to the U.S. Circuit Court for the 7th Circuit;

No. 392, Amul Thapar, to be U.S. district judge for the Eastern District of Kentucky; No. 395, Joseph Laplante, to be U.S. district judge for the District of New Hampshire; and No. 396, Thomas Schroeder, to be U.S. district judge for the Middle District of North Carolina.

I ask consent that these pending nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action. I further ask that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. On behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ISAKSON. I understand the Senator from Washington is acting on behalf of her leader. I respect that. But the point I have tried to make in my speech I want to end with. These are seven individuals, four of whom in the judiciary in four States could be processing criminal cases, taking appeals, making the justice system of the United States work. We all know the backlog in the courts. The Presiding Officer is a distinguished attorney. I have heard him talk about that very question. Then the three that were objected to on the Tennessee Valley Authority were approved unanimously. All we are saying to one of the biggest providers of electrical energy in the United States of America that was reformed by this Senate less than 18 months ago is: You are not important enough for us to approve what has already been passed by unanimous consent in committee.

I submit that a broken Congress has real consequences. This Congress is broken, and the consequences are negative on the people of my State of Georgia and the people of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Georgia and the Senator from Texas for their leadership. With that leadership comes a very clear voice about the problems this current Congress is facing. They are problems that are historic in character. I was once in the majority. It was the minority who said: We can do better and, therefore, we should run the Congress. In the last election, the American people listened and they changed the Congress. While I was chairing the Veterans' Affairs Committee at that time, we lost the Congress—we, the Republicans—by a reality of dropping to 32 percent in the minds of Americans as to an effective and responsible Congress. The minority played on that. They became the majority. They took over the leadership. They made a great deal of promises. Here we are in the eleventh and a half hour headed toward the twelfth hour of this session of Congress. They have not accomplished it. They have dropped below 11 percent in favorable rating among the American people.

The American people do want to see us get along. At the same time, they want their Government to function in a timely and responsible way. That is exactly what this Congress has failed to do.

I come to the floor to speak about two issues specifically. The assistant majority leader came to the floor earlier today and asked unanimous consent that S. 1233 and S. 1315 be allowed to come to the floor under unanimous consent or to come to the floor with debate and final passage. The reason he had to do that was before the Thanksgiving recess, I came to the floor and objected to the movement of those bills. The Senator from Oklahoma also now objects to the movement of those bills. I think it is very important that not only does the record bear why we objected but the American people clearly understand why we are objecting, because these are veterans bills.

These are bills that deal with critical needs of America's veterans. I was once chairman and ranking member of the Veterans' Affairs Committee, and I am not going to suggest that I need to add credentials to my record as supporting America's veterans. My responsibility is to make sure the services to our veterans get delivered in a responsible and timely way, that the truly needy service-connected and poor veteran gets served, and that the needs of those coming in out of Afghanistan and Iraq, who then become veterans out of our active service, are met in an immediate way. That is the responsibility of this Congress. It is not to keep adding and adding and adding new programs that may or may not be necessary and adding and adding and adding billions of dollars that anyone in service to veterans can say is at best questionable. It is for those reasons that I objected to those bills.

Now, let me break down why because there are some very real issues here.

S. 1233 is an important piece of legislation that a majority of those of us who supported the legislation to begin with agreed to. It is called the Veterans Traumatic Brain Injury and Health Programs Improvement Act of 2007. Any bill with that title would capture your imagination. One of the great concerns we have today is the traumatic brain injuries our men and women in service are coming out of Iraq with, especially because of the types of bombs that are being used over there. Oftentimes, this kind of injury does not show up in a veteran until he or she becomes a veteran.

If you look down through the priorities of that bill, you look at increased veterans' travel benefits—yes, rural veterans coming to veterans centers to be served; a major medical facilities project; adding to the expanded services of veterans health care; professional scholarship programs; extended time for preferred care; help for low-income veterans; traumatic brain injury program enhancement; assisted-living pilot program enhancement—all of those very valuable and very meaningful, strongly supported by the Veterans' Affairs Committee and strongly supported by this Senate.

But what happened at the last minute was that a Senator on the other side added a new program. They said: We are going to allow Priority 8 veterans to become eligible for the full service of health care under the veterans health care system. What is a Priority 8 veteran? A Priority 8 veteran is one who has no service-connected disability or injury or health care concern. Did they serve? Yes, they served. Did they sustain any injury or physical needs as a result of their service? No. Are they at the poverty level or below? No. They are above it. And in most instances—in fact, in a high percentage of them—through their own employment, they have health care.

So for a good number of years, because of costs, we who watch the veterans issues and Presidents and Secretaries of the VA have said we will not serve them. They will not be eligible for the full benefits. This President, President Bush, said: I will make them eligible, but they need to pay a small fee, a couple hundred bucks a year, to have access to the greatest health care program in the world. The minority at that time, the Democrats, said: No. They get it free of charge or they don't get it.

Well, all of a sudden into this very valuable bill they parachuted Priority 8 veterans. What does that do? Well, if you go talk to the Secretary of the Veterans' Administration, they are going to tell you that it might cause a substantial problem. Why? Because all of a sudden in this health care system there could be 1.3 million more Americans eligible for health care—not planned for, not anticipated, not budgeted for, but parachuted in, I have to believe all in the name of trying to show a concern for veterans and to demonstrate that maybe we are a little more sensitive than the other side.

What does that mean? Well, it also means the potential of between $1.2 billion more expended in 2008 and up to $8.8 billion more by 2012. Did they fund it? No. Have they stuck it in the bill? Yes. Are they trying to create a priority? Yes. Are they trying to create a new expenditure? Yes. And I said: No. Let's serve our poor and our needy and our disabled first and our traumatically brain injured and our post-traumatic stress syndrome veterans. Let's serve them now. Let's put money into the bill to do that.

So the Senator from Texas talked about the VA–MILCON bill that is right at the desk right now, sent out by the ranking minority member of the VA–MILCON Subcommittee, on which I serve, of Appropriations, Senator HUTCHISON. We are trying to get a vote on it. That bill—that bill alone—has nearly $8 billion worth of new spending in it for veterans. That is a near 17.5-

to 18-percent increase over last year. I believe it can be said, other than defense, to be the largest increase in a budget of all of Government for this year. But the money I am talking about, the new money for Priority 8, is not even in that one. All of this new money for veterans needs that is in the bill that we are being told cannot be passed, that we keep trying to get a vote on, does not even include the $1.5 billion to $8 billion necessary to fund this new program for veterans who are not needy, who are not service connected, and who have not been eligible for a good number of years.

That is why we are saying no. You take Priority 8 out of this, and the Veterans Traumatic Brain Injury and Health Programs Improvement Act, S. 1233, could pass, and it would pass on a voice vote because the Senate—Democrats and Republicans—have always supported our veterans. But we will not nor will I allow us to get caught in the game of first you argue on the other side that we have a war nobody likes and a President who is not managing it well, and then on the other side you are saying we are not taking care of our veterans. I reject that, and I reject it totally for these reasons.

While I was chair and ranking member of the Veterans' Affairs Committee, and throughout the Bush administration, we have increased the funding for veterans on an annualized basis anywhere from 10 to 12 percent. When I talk about the appropriations bill that is at the desk for veterans being a historically large increase, well, the one the year before was a historically large increase. We have never ducked our responsibility to veterans. But we must prioritize, and we must focus on the truly needy, and we must focus on those who are coming out of Iraq and Afghanistan and traumatic brain injury and all of those who continue to suffer today. That is the first bill, and it will continue to be objected to until they take out those kinds of add-ons.

Let's talk about the second bill. The second bill is S. 1315. Now, that is an interesting bill because if you look at it on its face value, you say: Yes, that makes some sense. We are going to give a veterans' benefit enhancement to a certain class of veteran. Let me tell you who that veteran is.

The bill includes roughly $900 million in new entitlement spending on an array of veterans' benefits, but what is interesting is, it is moving money away from poor, elderly, disabled and wartime U.S. veterans. It is taking effectively $2,000 annually from our veterans and moving it over to a veteran who does not even live in the United States and is not a citizen of the United States—a Filipino veteran.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. CRAIG. Mr. President, I ask unanimous consent for 3 additional minutes.

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

Mr. CRAIG. Why I object to this—and I call this bill the ''Robin Hood in reverse'' bill—is quite simple. If any of you have watched the Ken Burns PBS series ''The War,'' there is one whole segment of that about the war in the Philippines and the Filipinos who came forward to fight with Americans and even serve in American uniforms in defense of their land and ours during World War II. They did not become American citizens. They were Filipinos, and they have always received benefits. But this bill now reaches in and takes money away from our veterans, our poor veterans, because of a court case and is giving it to them.

Here is my problem. First of all, they do not live in this country, and they are not U.S. citizens. They are currently receiving benefits. But for the average U.S. veteran, their benefits, right now under law, cannot exceed $10,929 a year. That is roughly 24 percent of the average U.S. household income. But this benefit which is in this bill gives to a veteran—a non-U.S. citizen, living in the Philippines—100 percent of the average household income in the Philippines. They are taking that money away from our veterans to do it. That is the ''Robin Hood in reverse'' effect. At least Robin Hood, when he took money, left it in Nottingham. He spread it out amongst his own. Here we are taking money from our own and sending it all the way to the Philippines.

Now, let me say, and let me be very clear, Americans have treated Filipino veterans fairly. After the war, the United States provided $620 million—or $6.7 billion in today's dollars—to repair the Philippines. The United States provided $22.5 million—$196 million in today's dollars—for equipment and construction. We have a hospital in the Philippines, and Filipino veterans legally residing in the United States—in the United States—are fully eligible for all VA veterans' benefits based on their level of service. Survivors of Filipino veterans who died as a result of their service are eligible for educational assistance and all kinds of programs.

That is why I object. First of all, because we are taking money away from ours, but also because we have been more than generous since that war ended to our comrades, the Filipinos, who fought side by side with American men and women, who were in the Philippines at the time, after we were able to reclaim the Philippine Islands. So we have done wonderfully by them, and we have been very supportive of providing them with programs.

Remember, the average U.S. veterans' benefit—24 percent of U.S. average household income—is limited. Yet we are taking that money away from them now, giving it to Filipino veterans who are non-U.S. citizens, and increasing their benefit to over 100 percent of the average household income in the Philippines. U.S. dollars spent in the Philippines at that amount lifts—there is no question about it—lifts that Filipino dramatically. The question is, Is it fair? Is it equitable? My answer is, It is not. I offered to say, yes, we can bump them a little bit, but let's take the rest of this money and put it into educational benefits for our veterans coming out of Iraq and Afghanistan. The answer in the committee was no.

So that is why these bills are in trouble on the floor. They have loaded them up. They are too heavy. The tires are blowing out from under the trucks of these bills simply because too much is too much. In the instance of this, Disabled American Veterans—that great organization which is a loud spokesperson for our veterans—is saying: Whoa, wait a moment here. Enough is enough, and this is too much. They themselves oppose this legislation as it is currently written.

So here we have a funding bill on the floor with a 17.5- to 18-percent increase over last year's funding for veterans, and we are not allowed to vote on it. We have funding at the highest level ever for America's veterans, as we should and as we must, but these bills take us well beyond it in an unfunded environment or in one instance reaching in the pocket of our poor and disabled veteran and taking that money out and putting it into the pocket of a veteran living in the Philippines, who never became an American citizen, and who never came to this country, who has chosen to stay in his homeland. We now give them benefits, but this is a benefit well beyond what is even currently being offered to our own. Those are the fundamental reasons why we have objected.

I was pleased when the Senator from Texas said to the Senator from Illinois, the assistant majority leader: No. Yes, we will object, and we are not embarrassed about doing it, because there have to be priorities to our funding, especially at a time when the VA budget that is at the desk is the largest increase of a veterans' budget, to my knowledge, ever. We are proud of that, but there is a point when enough is, in fact, enough.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, how much time remains in morning business on our side?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. CORNYN. Mr. President, in a moment I am going to yield and ask unanimous consent that the Senator from Alabama be recognized for up to 10 minutes, followed by the Senator from Wyoming, Dr. BARRASSO, for up to 10 minutes.

Mr. CRAIG. Would the Senator yield for a unanimous consent request for material to be inserted in the RECORD?

Mr. CORNYN. I would.

Mr. CRAIG. Mr. President, I ask unanimous consent that minority views on S. 1233 and minority views on S. 1315 be printed in the RECORD.

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

MINORITY VIEWS

S. 1233

The underlying legislation provides many important provisions that will improve the health care services and benefits available to America's veterans. I am particularly pleased that Title I takes many important steps towards improving the care provided to those veterans suffering with a traumatic brain injury.

However, in a few areas, I believe the legislation not only fails to improve the current benefits and health care system available for veterans, it in fact dilutes certain benefits available for service-connected veterans and may undermine the access and quality of care provided to the current users of VA's health care system.

Let me explain my concerns.

Repeal of the Regulation Concerning the Enrollment of Priority 8 Veterans

The underlying legislation repeals a regulation issued by former Secretary of Veterans Affairs, Anthony J. Principi concerning enrollment priorities. That regulation prohibited enrollment into VA's health care system by any veteran in Priority 8 status who had not enrolled prior to January 17, 2003. At the time Secretary Principi announced the new regulation, a VA news release stated:

VA has been unable to provide all enrolled veterans with timely access to health care services because of the tremendous growth in the number of veterans seeking VA health care. . . .

In order to ensure VA has capacity to care for veterans for whom our Nation has the greatest obligation—[those with] military-related disabilities, lower-income veterans or those needing specialized care like veterans who are blind or have spinal cord injuries—Principi has suspended additional enrollments for veterans with the lowest statutory priority. This category includes veterans who are not being compensated for a military-related disability and who have higher incomes.

Since that decision was rendered, many Veterans Service Organizations and individual veterans have advocated re-opening the health care system to all veterans. However, none has advocated abolishing the priority system developed under the Eligibility Reform Act of 1996, which was the basis for Principi's decision in 2003. Continuing that trend, the underlying bill does not repeal the eligibility prioritization structure created under the 1996 law.

Given that the statutory priorities for health care enrollment still exist, it would be reasonable to presume that the majority had made a determination that VA was now providing all currently enrolled veterans with timely access to quality health care. And therefore the conditions which drove Secretary Principi's earlier decision (an inability to provide enrolled veterans with timely access to health care services) no longer existed. The record, however, does not suggest that such a conclusion has been reached by the majority.

Instead, the record shows many Senators expressing concerns about service members returning from Iraq and Afghanistan facing—what are often described as—lengthy waiting times for care. In the face of such assessments, I do not understand how the majority could suggest that opening up the health care system to hundreds-of-thousands—if not millions—of new patients is wise policy.

Moreover, it appears that the provision in this bill would open VA to new enrollees on the day the legislation is signed into law. There is no plan required to ensure that the enrollment process would be orderly and executed in a way that would minimize its effect on current patients. Nor is there any requirement that the necessary funding be available prior to its implementation. Instead, VA would simply open the doors and wait to see who arrives. I believe that is irresponsible and unfair to the current enrollees.

That is not just my view. Rather, my opinion echoes that of the Disabled American Veterans who, while commenting on the issue of re-opening VA to priority 8's, stated that ''without a major infusion of new funding, enactment of this bill [S. 1147] would worsen VA's financial situation, not improve it, and would likely have a negative impact on the system as a whole.''

To address my concerns, I offered an amendment during the Committee's consideration of the legislation. My amendment would have required Secretarial certification of three facts prior to enrollment being deemed ''open.''

First, the Secretary would have had to certify that quality of care and access thereto for enrolled veterans in Priority groups 1–6 would not be adversely affected by the newer patients. Because current law treats those veterans as a higher priority, I believe that VA must demonstrate conclusively that it is already offering high quality, timely care to our service-connected and lower income veterans. As I've already stated, recent observations and statements by some Senators suggest otherwise.

Second, the Secretary would have had to certify that troops returning from Iraq and Afghanistan were provided timely, high quality health care already and that such timeliness and quality would not suffer because of newer enrollees. In my view, VA's health care system was created primary for the purpose of caring for ''he who shall have borne the battle.'' Congress should ensure that this unique group of veterans is not unduly burdened by any new influx of higher income veterans with no military-related disabilities.

Finally, my amendment would have required that the Secretary certify to Congress that VA had the capability to see a large influx of new patients. My amendment asked for an assessment as to whether VA had the physical infrastructure, human resources, and medical equipment to treat any new influx of veterans.

I recognize that many Senators believe that money is the only obstacle to providing all veterans with health care through VA. However, any money provided for new patients would be used to buy new staff, new equipment, and new space. Therefore, I felt it was important to know whether each of those three goods or services was possible to obtain.

The issue of whether VA has the capability to hire new staff alone should give any Senator pause in supporting the expansion in this legislation. It is widely known that the nation is struggling to provide a stable supply of primary care physicians and nurses to provide basic health care services in non-VA facilities. This issue was made clear in a July 2007 report from the Health Research Institute of PricewaterhouseCoopers which showed that the United States will be short nearly one million nurses and 24,000 physicians by 2020. In that environment, simply finding new staff to hire will be a challenge for any health care system, including VA.

Further, assuming the requisite staff can be found, I remain skeptical that VA has the necessary clinical space in which to provide more primary and specialty care services. I am also equally skeptical that many VA facilities could open the additional operating rooms, post-surgical recovery units, and intensive care units that would be required with a large increase in patients.

My amendment failed in Committee. Still, while the answers to the questions may not be required by law prior to opening the health care system to all veterans, I continue to believe it would be a mistake to proceed without the knowledge set forth in my amendment. As such, I oppose Section 301 of the bill.

S. 1315

In view of these findings, I introduced S. 1290 to overhaul the statutory scheme regarding SAAs to help eliminate redundant administrative procedures, increase VA's flexibility in determining the nature and extent of services that should be performed by SAAs, and improve accountability for any activities they undertake. I am pleased that S. 1315 includes provisions that would require VA to coordinate with other entities in order to reduce overlapping activities and to report to Congress on its efforts to establish appropriate performance measures and tracking systems for SAA activities. However, I remain concerned that S. 1315 would leave in place the inflexible statutory provisions that mandate what activities SAAs must perform, how those functions must be carried out, and how VA must pay for them. As VA stated in response to-GAO's findings, ''amending the agency's administrative and regulatory authority to streamline the approval process may be difficult due to the specific approval requirements of the law.'' Thus, I believe that, in order to effectively update and streamline this process, VA should be provided with the authority to contract with SAAs for services that it deems valuable and to determine how those services should be performed, evaluated, and compensated.

Finally, I wish to draw attention to the funding provision in section 302 of the Committee bill, which would provide $19 million in mandatory funding to pay for SAA services for each fiscal year hereafter. To the contrary, my bill (S. 1290) included a funding provision—similar to legislation that the Senate passed in 2006—that would provide a $19 million spending authorization for SAAs. This funding mechanism would, for now, continue to allow some funding to be drawn from mandatory spending accounts and would begin to transition SAA funding to a discretionary funding model. By relying on discretionary—rather than mandatory—funding, VA and the SAAs would have to justify budgeting and funding decisions based on need and performance outcomes, as with any private-sector business or good-government business model.

Section 401

Section 401 of S. 1315 would expand benefits to certain Filipino veterans residing both in the United States and abroad. I support improving benefits for Filipino veterans who fought under U.S. command during World War II. However, I believe the approach taken in this bill with respect to special pension benefits for non-U.S. citizen and non-U.S. resident Filipino veterans and surviving spouses is overly generous and does not reflect wide discrepancies in U.S. and Philippine standards of living.

Pension benefits for veterans residing in the United States are paid at a maximum annual rate of $10,929 for a veteran without dependents, $14,313 for a veteran with one dependent, and $7,329 for a surviving spouse. When viewing these amounts in relation to U.S. average-household income of $46,000, we find that the maximum VA pension represents anywhere from 16 to 31 percent of U.S. household income. In contrast, when measured against the Philippine average

household income of $2,800, the special pension for Filipino veterans in S. 1315 represents anywhere from 86 to 161 percent of Philippine household income.

I think it is a mistake, and grossly unfair to U.S.-based pension recipients, to pay a benefit to veterans in the Philippines that far exceeds the relative value of the same benefit provided in the United States. Providing benefits for Filipino veterans in the name of equity should not be done in a manner that, in my opinion, creates a dramatic inequity for our U.S. veterans.

Furthermore, the offset that S. 1315 uses to ensure that the bill is in compliance with Congressional budget rules would have the effect of reducing pension amounts to elderly, poor, and disabled veterans predominantly residing in the U.S. The extra pension amounts were established as a result of a 2006 decision of the Court of Appeals for Veterans Claims in Hartness v. Nicholson. In my opinion, these extra payments for certain categories of veterans were never contemplated by Congress and, therefore, are not justified. However, if presented with the choice of whether to provide extra pension assistance to low-income veterans in the U.S. or to provide extra pension assistance in the amounts contemplated in section 401 of S. 1315, I would recommend to my colleagues that they choose the former.

Sections 205, 701, 702, and 802

I also wish to comment on four additional provisions that were adopted as amendments at the Committee's June 27, 2007, markup. In doing so I want to make it clear that my comments have nothing at all to do with the substance of the proposed policy changes contained in these provisions. Rather, my comments will focus on the manner in which the policy changes in each provision are proposed to be financed; whether the proposed financing method is in consort with the spirit of sound budgeting principles; and whether the financing method may potentially result in an unwieldy and inequitable outcome for veterans.

Each of the four provisions proposes to authorize the expenditure of discretionary appropriations as an ''overlay'' for the purpose of supplementing entitlement programs for veterans. Thus, beneficiaries of certain housing and auto grant programs, and burial-related programs, would be ''entitled'' to the amounts specified in the provisions, but only to the extent that annual appropriations bills provided the necessary discretionary funding that was in addition to the funding provided in regular mandatory entitlement spending.

The problem with creating ''hybrid entitlement'' programs—one part funded on a mandatory basis, the other funded through an annual discretionary appropriation—is both the ensuing problems that would exist in administering the programs and the implications such a model would have on how Congress controls spending of taxpayer dollars. We have budget rules referred to as Pay-As-You-Go or ''PAYGO'' that require the Congress to pay for new entitlement spending through a decrease in other entitlement spending, an increase in revenue, or a combination of both. Such a construct was created in order to keep-budget deficits from growing. Yet the four provisions in question adopt none of these approaches.

Mr. CORNYN. To be clear, we have had objections from the majority, from our Democratic friends, to legislation that is vitally important to our veterans and to our active-duty military: the Veterans' Administration and military construction funding bill that was passed by both Houses of the Congress last summer and which has been held up and held hostage to the political games here in Washington, as well as the emergency troop funding that is needed to fund ongoing operations in Afghanistan and Iraq, which we have discussed as well. This is a personal issue, as 1.7 million veterans live in my State in Texas. We have 15 major military bases where military families live and work. One out of every 10 active-duty military members who wears the uniform of the United States calls Texas home, and we have guards and reservists who are also serving valiantly in Iraq and elsewhere.

The bill which has been blocked by the majority would provide $20 billion in military construction funds important for our troops and quality of life for our military families, and it is important to my State of Texas because of our support for the troops and military families. It contains almost $90 billion for our veterans, which includes their health care, upgrading facilities, money to hire additional claims processors so veterans don't have to wait so long to get the benefits to which they are entitled. As I said, there are about 1.7 million veterans in Texas and they need these funds, and they shouldn't be held hostage to the political games here in Washington with regard to an omnibus appropriations bill.

Mr. President, I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, we should be frank as to where we are today. The situation is not good. Yes, we do have too much partisanship in this body, and we need to move beyond it. But I wish to ask a couple of questions. I think we might as well talk about it directly and honestly: Has this Congress performed well this year? I say we have not. We passed only one appropriations bill, and it is almost Christmas. They all should have been passed before the end of the fiscal year, September 30. Only one has been passed. No wonder the polling data shows Congress has the lowest respect of the public in our history. I know that in this last election, my colleagues on the other side of the aisle campaigned strenuously: Elect us and we will do better. Elect us and we will balance the budget and we will be fiscally responsible; the Republicans aren't fiscally responsible. We will do things in a better way, and we will run the Senate in a better way. For the majority, I have to say it is incontrovertible that that has not occurred. In fact, we are about to vote—perhaps, because who knows what may happen in the last hours—but the momentum is in place and the goal is to bring forward an omnibus bill that has all but one appropriations bill in it, no telling what other legislation in it. It is going to be hundreds, perhaps 1,000-plus pages. It is going to be dropped here. It is going to make this Agriculture bill look like a dime novel. They are going to say: Vote for it. It is going to be over budget and it is going to try to put constraints on our military commanders in Iraq, telling them how to deploy our troops. It is not going to be accepted by the President. It is not going to be accepted by the American people.

So we are in a big deal. We are heading to a real collision course, and my colleagues on the other side are trying to blame people on this side for it. I don't think that is legitimate; I really don't.

Senator CORNYN has shown at great length how little has been done this last month. We have only had 10 votes. Is that right, Senator CORNYN? In the last 31 days, 10 votes. Why is that? Is this hard to do? It is not hard to have votes. You can have 10 votes a day. We have had days where we have had 40 votes or more a day. We are not having votes because the majority party, led by the majority leader, Senator REID, doesn't want to vote. Senator REID is a good friend and a person I like and respect, but he has a group of people there and they don't want to vote, because votes define you. You can talk all kinds of platitudes, but when a vote comes up, are you going to vote for money for our soldiers or not? Are you going to vote to tell General Petraeus how to deploy his troops or not? Are you going to vote to fund Defense? Are you going to vote to crack down on illegal immigration or not? So they don't want to vote. That puts them on record.

They are trying to move all of this pork, all this funding, all of those appropriations bills in one colossal package, and they want to have the absolute minimum number of votes to avoid being on record on important issues—issues that Americans care about; issues that are important to America.

But I will tell my colleagues the big deal. The big deal in this—and we might as well be honest about it—what are we going to do about our troops who are right there on the eve of Christmas serving us in harm's way?

Let me read an e-mail given to me by a father-in-law of a soldier in Iraq. It was sent in October. You know, we have had a tremendous reduction in violence in the last several months. Things have gone better than I would have thought possible in June. I believe General Petraeus's strategy is working in a way that I didn't think would be so positive. There is a long way to go, though, and this e-mail indicates that it is still tough.

He talks about his staff sergeant, a man of the highest character, who was killed by a sniper:

The loss affected us all significantly. He was a ranger and a jump master that constantly led his men from the front. The men performed heroically and magnificently. After he was hit, myself and our medic were attending to him within seconds. We were receiving fire from multiple locations and the boys were hitting them back hard. We did get the sniper and he is no longer a threat to

any of our forces. Still, more are out there, unfortunately. Four days later we had another one of our leaders hit by an IED.

He goes on to say this:

I have been reading in the newspapers and trying to figure out why some political powers are openly encouraging the enemy to embolden themselves and display the disdain to attack us daily. If all these presidential candidates would admit to the public what they already know, this would be easier. They voted for us to be here. They authorized the President to use force.

And so forth.

I want to say our men and women are there. They are serving us. We have seen tremendous progress, and we don't need to tell General Petraeus, who is doing a fabulous job, how to deploy his troops. The President cannot and will not accept that. We need to fund them. General Petraeus promised that in March he would be back before this Congress and hopefully, he implied, to announce further reductions in our troops. Let's do this. Let's don't have this gimmick in which all the appropriations bills are put into one, the supplemental for our troops is put into it, and try to put the President in a position where he is forced to veto legislation that ought not to be. We ought to take care of our soldiers first, get that done, and we can fight over these other matters at some time.

I know other people are here who wish to speak. I will offer this unanimous consent request for S. 2400.

Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of S. 2400, the Wounded Warrior Bonus Equity Act, and that the Senate proceed to its immediate consideration. I ask unanimous consent that the bill be read the third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object, I would simply indicate that the wounded warriors legislation has already passed the Senate once. I am wondering, since it is included in the Department of Defense reauthorization legislation that will be coming to us—the conference report will be coming to us shortly—I am wondering if my friend will amend his unanimous consent request to indicate that when we receive the conference report on the Department of Defense reauthorization, that it will be agreed to by unanimous consent.

Mr. SESSIONS. Mr. President, I probably misspoke a little bit. This is not the wounded warrior legislation you are talking about; it is the Wounded Warrior Bonus Equity Act that has been filed. It is S. 2400. It deals with a situation in which persons who have been promised bonuses to enlist and reenlist and then have been discharged due to injuries sustained in the line of duty, the Dole-Shalala Commission raised the question of whether those promises were being honored because these bonuses are dispensed over a number of years. They have been injured, some have been in combat, and they have not received their full bonus. This would move that bill forward. It is different than the bill which the Senator referred to. It has bipartisan support. Senator CASEY, the Presiding Officer, Senators CLINTON, DORGAN, LAUTENBERG, MARTINEZ, MURKOWSKI, SANDERS, WYDEN, WEBB, LIEBERMAN, ENSIGN, COLLINS, and MCCAIN are in support of it. For some reason, there is a hold on it. I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, again reserving the right to object, I would indicate we certainly will work together with the Senator from Alabama. We have placed our troops and veterans as our highest priority. But given the time at the moment, I would, on behalf of the majority leader, object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Mr. President, I will yield the floor in 1 second, but first I need to say we are not in a good position today. This Congress has not performed well. We have passed only one appropriations bill. We have had only 10 votes in the last 31 days. That is not a good performance. I have been prepared to move forward on this legislation and I hope others will. I am disappointed that we have continual objections to that end.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, may I ask how much time remains on this side?

The PRESIDING OFFICER. Fourteen minutes.

Mr. CORNYN. Mr. President, I ask unanimous consent that the time remaining be evenly split between the Senator from Wyoming and the Senator from Oklahoma and the Senator from Arizona.

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

The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I will ask for unanimous consent today to call up legislation that I introduced last month and seek debate and a vote on that bill today.

Before I make that request, I wish to make a brief comment about what I have seen during this morning's debate.

Prior to joining the Senate, I served as a member of the Wyoming State senate. I served as the transportation committee chairman. I served on the health committee and the minerals committee.

Legislation in the Wyoming legislature needs to be on a single subject. We are prohibited from considering legislation that includes more than one subject. As a result of the procedural requirements there, amendments to bills are narrowly targeted and need to be on the single issue of that bill. The system works well there and we get our work done.

The Senate, of course, works very differently. Comprehensive legislation often contains multiple topics. They are packaged together and brought to the floor for a single vote. Under the rules of the Senate, Members are allowed, and it is their right, to offer amendments to these large bills, such as the ones on the desk today that contain, clearly, more than one topic.

The process is challenging, but this body has agreed to do it that way. Regrettably, the majority party has tried repeatedly to alter that process and deny Members the right to offer amendments. Whether it is filling the tree, objecting to the consideration of amendments, refusing to bring bills to the floor or filing cloture motions, the majority party has abused its rights and is attempting to muzzle debate.

Fortunately, the Senate doesn't give unfettered power to any one party or any one individual. The Senate has learned over history that attempting to deny the minority their rights is not democratic and will not be supported by Members.

I was sent to be a voice for the people of Wyoming, and I take that responsibility very seriously. I encourage the majority leadership of the Senate to develop a process that allows Members to call up bills, have them debated, amended, and voted on by this body. The Senate would benefit from this and this is exactly what the public expects us to be doing.

I now turn to legislation that discourages States from issuing driver's licenses to illegal immigrants. I introduced the bill November 13, 2007. It is S. 2334. This bill requires States to prove lawful presence before granting a driver's license. It requires States to check the Social Security numbers against the registry before offering a driver's license. States that do not comply with this would lose 10 percent of their Federal transportation funds, and those funds would then not go back to the Federal Government but would be redistributed to the other States that are in compliance with the law.

This is an issue that is vital to our national security. It is also an issue the Senate hasn't yet taken up. I believe issuing driver's licenses to illegal immigrants is an unacceptable and avoidable threat to our national security. We have a duty and the time is now to start this discussion.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2334, a bill to withhold 10 percent of the Federal funding apportioned for highway construction and maintenance from States that issue driver's licenses to individuals without verifying the legal status of such individuals.

I ask unanimous consent that the bill be read the third time and passed; that

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. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object, this is a very important issue we need to have a thorough debate on. At this moment, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BARRASSO. Mr. President, I am disappointed with the objection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, we are 2 days away from the expiration of the continuing resolution—our second one. We had difficulty as a party when we were in the majority with getting the bills done on time. It is difficult to move things through this body. That is not necessarily always the majority's fault, but it requires that we work together. One way to take the pressure—the crash pressure in coming up against a point where everybody ends up losing is to have an automatic CR so we don't have that problem. There has been a bill offered that says if we cannot get our work done, there is an automatic CR, that the Government continues to run at the rate it was, or at the lower of the Senate- or House-passed bills. It takes us away from the idea of playing chicken and protects the American people and those employed by the Federal Government. I think it is common sense. It is something we ought to do. It takes the pressure off both sides so we are not running down to the end and looking at bills that nobody knows what is in them, thereby doing a grave injustice to the rest of the American people. I think it is an idea whose time has come.

On the basis of that, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2070, the Government shutdown prevention bill. 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 to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COBURN. Mr. President, that tells us something. That tells us we are going to get a bill that none of us knows what is in it because we are going to run it up against a deadline—the deadline was September 30, we know that. We need a way to relieve the pressure. This bill relieves it; otherwise, we are going to do a great and harmful injustice to the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, it is obvious by now we are not going to be able to conclude some of our business through the process of getting concurrence from the other side. There are two emergency matters that do cry out for treatment quickly and, therefore, I will propound two emergency unanimous consent requests.

The first has to do with border funding. Twice this year, the Senate overwhelmingly—in fact, in 1 day—unanimously approved $3 billion for increased border fencing, 23,000 additional Border Patrol agents, 300 miles of vehicle barriers, 700 linear miles of fencing, 105 ground-based radar and camera towers, 4 unmanned aerial vehicles, and increased the detention capacity to 45,000. Twice that was passed, but it is still not law. We are coming up to the end of the year. It has to be done.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2348, the Emergency Border Funding Act, and I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object, as my friend indicated, this has been included in the Department of Defense reauthorization and Homeland Security budget. I wonder if my friend would be willing to amend his unanimous consent request to indicate that—because it is included in the conference report we will be receiving shortly—we have unanimous consent to pass the conference report for the Department of Defense authorization when the Senate receives it.

Mr. KYL. Mr. President, if that is a unanimous consent request, since we obviously have no idea what that conference report is, whether it includes anything else, obviously we cannot do that. If that is a unanimous consent request, obviously, we cannot agree and I will object.

The question is, Is there objection to the unanimous consent I propounded?

Ms. STABENOW. Reserving the right to object, because we will shortly be passing this legislation, at this time, I will object to this request.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Mr. President, it is certainly nice to have an assurance that we will soon be passing it, with only a few days remaining in the session. Obviously, we need to pass it. The reason for my request was in the event it is not done later. I think we are tempting fate.

The other request I will make relates to another emergency matter. Last August, in a bipartisan fashion, we filled a very dangerous hole in our terrorist surveillance capabilities by passing the Protect America Act, which updated our Foreign Intelligence Surveillance Act by giving our law enforcement professionals the tools they need to keep up with modern technology to monitor terrorists overseas. That act expires in February. We are not here that many days between now and then. Obviously, the terrorist threat continues; it is not going to expire. We need to permanently extend this critical law enforcement tool to make sure our American telecommunications companies, which bravely answered the call to help their country when asked to do now, do not have to respond to frivolous lawsuits as a result of their patriotism.

I hope my colleagues will join me in seeing to it that the Protect America Act can be passed and made permanent.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a bill to make permanent the Protect America Act, the text of which is at the desk, and that the bill be read the third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Reserving the right to object, as our friend indicated, we are working together on that issue in a bipartisan way. It will be resolved before February. At this time, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Mr. President, again, I appreciate the assurance that this will be done by February 1, when it has to be done, or all of the authority to collect this intelligence expires. It has to be done. I think we are in session maybe 1 or 2 weeks, potentially, when we come back before that date. If we don't do it, our country is in grave jeopardy. I would have thought perhaps a better way to resolve that is to do it now so we don't have to wait again until the very last minute to accomplish something that is so important for the security of our country.

I yield the remaining time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

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

The PRESIDING OFFICER. Two minutes.

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2318, a bill that provides permanent relief from the alternative minimum tax, which extends the 2001 tax cuts and the 2003 capital gains dividends tax relief, and that the bill be read the third time and passed.

I further ask that the bill be held at the desk until the House companion arrives, and that all after the enacting clause be stricken and the text of the Senate-passed bill be inserted, and the House bill, as amended, be read the third time and passed.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Reserving the right to object, as my colleague knows, we all agree we need to stop the tax increases on middle America. We are committed to that. At this time, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, I am disappointed, and I think the American people are going to be disappointed if we don't deal with the alternative minimum tax, which, of course, was targeted at the ''rich'' when it was passed but which now affects 6 million taxpayers and which, if we don't act, will affect 23 million middle-class taxpayers next year.

My distinguished colleague didn't mention the capital gains and dividends tax relief, which has been so important as a stimulus to the economy, which has resulted in 50 months of uninterrupted job growth since we passed that legislation. I hope we will continue to work on that.

Unfortunately, given the compression of time due to the squandering of opportunities earlier this year to act on this important legislation, I am afraid we are not going to get it done before we break for Christmas. The IRS is going to have to send out notices to many new taxpayers of their increased tax bill under this AMT, unless we act promptly.

I yield the floor and yield back the remainder of my time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume conversation on H.R. 2419, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs through 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) 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 casinos, 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.

Chambliss (for Coburn) amendment No. 3632 (to amendment No. 3500), to modify a provision relating to the Environmental Quality Incentive Program.

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. 3673 (to amendment No. 3500), to improve women's access to health care services in rural areas and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

Thune (for Gregg) amendment No. 3671 (to amendment No. 3500), to strike the section requiring the establishment of a Farm and Ranch Stress Assistance Network.

Thune (for Gregg) amendment No. 3672 (to amendment No. 3500), to strike a provision relating to market loss assistance for asparagus producers.

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 Sessions) amendment No. 3596 (to amendment No. 3500), to amend the Internal Revenue Code of 1986 to establish a pilot program under which agricultural producers may establish and contribute to tax-exempt farm savings accounts in lieu of obtaining federally subsidized crop insurance or non-insured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year.

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

Thune (for Alexander) amendment No. 3551 (to amendment No. 3500), to increase funding for the Initiative for Future Agriculture and Food Systems, with an offset.

Thune (for Alexander) amendment No. 3553 (to amendment No. 3500), to limit the tax credit for small wind energy property expenditures to property placed in service in connection with a farm or rural small business.

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

Salazar (for Durbin) amendment No. 3539 (to amendment No. 3500), to provide a termination date for the conduct of certain inspections and the issuance of certain regulations.

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.

Gregg amendment No. 3825 (to amendment No. 3673), to change the enactment date.

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.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes.

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

AMENDMENT NO. 3671

Mr. GRASSLEY. Mr. President, I wish to speak in support of a provision in the bill that the amendment before us is going to strike, the Farm and Ranch Stress Assistance Network, which is included in the underlying bill of the Agriculture Committee.

This network is a critical service to help American families, particularly rural families. I oppose the amendment offered by the senior Senator from New Hampshire that would strike this measure.

Without a doubt, farmers and ranchers face unique challenges in providing food and fuel for this country. Farming is one of the most stressful and dangerous occupations in the United States. There are environmental, cultural, and economic factors that put farmers and ranchers at a higher risk for mental health problems.

Stress in agriculture contributes to rates of depression and suicide that are double the national average. This is true even in good times for farmers. As a farmer myself, this troubles me.

It also concerns me when rural residents, especially those involved in agriculture, are disproportionately represented among the uninsured of the United States. One-third of the agricultural population lacks health insurance coverage for behavioral health conditions. With the rising cost of health care and many farmers and ranchers in business on their own, the

cost of health care can be too much to handle.

We have a long way to go to make sure there is parity in our health care system. Those suffering from mental health problems do not always enjoy the same benefits of treatment because health coverage discriminates against illness of the mind.

On top of the risk and cost to farmers and ranchers, access to behavioral health care is more limited in rural areas. There are fewer professional providers, and there is a stigma on this type of care, especially among rural Americans. This is why the Farm and Ranch Stress Assistance Network is needed. It is included in the farm bill because we need to provide better mental health care for people in rural areas.

I will be the first to admit that things are looking good for agriculture right now because prices, particularly of grain, are good. We are developing and strengthening our safety net for producers. The renewable energy progress that we have made has helped rural economies. But just because that is a reality today does not mean that it will continue forever.

Our farmers and ranchers will face challenges that are out of their control. They will face instances of terrible weather and disaster. They will see droughts and low prices. Good times do not last forever, and that is when our farmers and ranchers will need the support that this provision of the bill gives.

One of the most challenging factors that we farmers face is not being able to predict outcome. We are forced to take risk. We face severe consequences when we are wrong.

I remember the agriculture depression of the 1980s and what a toll it took on farmers in my State. I wondered if things would be different if the Farm and Ranch Stress Assistance Network had existed prior to the beginning of that depression.

This network may support a crisis telephone hotline that farmers can access. Our rural residents and family farmers should have access to confidential and highly trained professionals during these tough times. The network could provide counseling services while working with extension offices to reach farmers.

Finally, the Senator sponsoring the amendment should be aware that this network is simply authorized in the underlying bill. We are not adding mandatory money for the program. We are simply providing authority to develop this network with dollars that may be appropriated later on.

So this amendment will not save money. Rather, what the amendment will do is do away with much needed support for those who work hard every day to put food on our plates, fiber for our clothing, and fuel for our economy.

So let's not eliminate this essential program without taking into account the bad years that could lie ahead. I strongly urge my colleagues to oppose the amendment.

I yield back the remainder of my time.

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

Mr. GRASSLEY. I have yielded back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent for 3 minutes to respond to the Senator from Iowa who referred to me in his comments.

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

Mr. GREGG. Mr. President, I find it extremely unique that the Senator from Iowa would take the position that he needs a program to be authorized but that we should not vote against it on the basis of it spending money because he doesn't ever expect to fund it. That, on the face of it, does not pass the laugh test. If you are authorizing a program, creating a program, you expect at some point to fund the program and spend money on the program. That is a totally disingenuous argument, in my humble opinion, to make that representation.

I suggest if the Senator from Iowa believes the stress program is an important program, that is fine. We will have a vote. I happen to think the stress program is a reflection of a farm bill that has gone wild in the area of spending money—American taxpayers' money. The American taxpayers are the ones who are going to be under stress.

There are a lot of industries in this country that have stress. The American farmer today is doing pretty well, as was acknowledged by the Senator from Iowa. In fact, they had a 44-percent increase in farm income just this last year. That is pretty good.

Stress may be there. I do not deny that farming is an intense and difficult process. I used to work on a farm. There can be a lot of stress in farming. But I don't think we need to set up a special program with the Federal Government to create a network and a concept for stress, and then we will authorize it, and then we will fund it. This authorization is open ended, which means any amount of money can be put in this bill in later years to fund it.

There are a lot of industries which have stress. We do not create a stress program for the capital markets industry which today is suffering from a meltdown. Are we going to have a stress program for Bear Stearns? We don't create a stress program for all the companies in this country that have basically been under stress by foreign competition. Do we have a stress program for those? Do we have a stress program for the person who runs the local restaurant? Do we have a stress program for the person who runs a local gas station? All of these are entrepreneurial undertakings, and entrepreneurship involves stress, but we don't need to create a stress network to address it.

This is a creation of an earmark, pure and simple, in a bill filled with earmarks. And it seems to me, adding a new program—remember, there are 51 new discretionary programs put into this bill—51, and this is just 1 of them.

I recognize the Senator from Iowa is totally committed to the farmers, and there is probably nobody in this Congress who has done more for the farm community than the Senator from Iowa—both Senators from Iowa, but certainly the Republican Senator from Iowa has done an immense amount.

This is a bridge too far; this is a farm tractor too far. The simple fact is, we do not need a stress program for farmers, and we do not need an authorization which is open ended and which will be funded. There is no question, you do not put an authorization in unless it gets funded.

I have serious reservations about this from, first, the concept of creating the program and, second, the concept of funding the program. I have expressed my reservation. I offered an amendment. We will vote on it. I presume we will lose because we always lose these votes. But as a practical matter, the American people should know this program, in my humble opinion, is not of value and is inappropriate in this context.

Mrs. MURRAY. Mr. President, I have come to the floor to talk about two amendments to the farm bill proposed by the Senator from New Hampshire.

These amendments would have devastating impacts on farmers in my home State of Washington, and I urge my colleagues to oppose both of them.

The first would strike the badly needed agriculture disaster assistance trust fund and direct the money to other sources.

Under my colleague's amendment, most of that money would go to reduce the deficit, and some would help low-income residents with their heating bills.

The second would strike the Market Loss Assistance Program for asparagus growers.

Our farmers are the backbone of our Nation. But farming is a difficult business.

One bad storm can wipe out a whole crop or a whole herd—and take your livelihood with it.

That is the position that some of the farmers in my home State are in now. And that is why it is so important that we have a safety net ready to help them.

Last week, I spoke on the Senate floor about the storms that had devastated western Washington.

Winds and dangerous floods and mudslides washed out roads and homes and cut off power to thousands.

Thousands of people are still coping with the damage, and our agriculture producers in southwest Washington were hit especially hard.

We won't know the full impact of this storm for some time.

But we are already starting to hear reports about lost livestock, poultry, farm buildings, and equipment.

Some reports say that producers lost thousands of animals—and that number may still grow.

The agriculture disaster trust fund in this farm bill ensures that we have a permanent pool of money to help farmers after natural disasters, such as the storms in Washington State.

I appreciate the work of the Finance and Agriculture Committees to add this important program. And I want to thank Senators HARKIN and CHAMBLISS for their leadership on this bill.

I wish this program were already in place.

If it were, farmers in Lewis and Grays Harbor—two of the counties hit hardest by the flooding—would be able to apply for Federal aid to rebuild their herds.

For example, the Livestock Compensation Program in the trust fund would pay 75 percent of the value of the dead animal.

Without a permanent disaster assistance program, we are left to provide this kind of help on an ad hoc basis. A trust fund would ensure that money is always there when it is needed.

Our farmers shouldn't have to depend on political whim when disaster strikes.

And that is why the amendment to strike this fund would be such a bad idea.

Now I strongly support the LIHEAP program. I think it is critical, especially as we head into the winter months. But I think we can find a better solution that doesn't eliminate this trust fund.

And so I urge my colleagues to vote against this amendment by Senator GREGG.

Secondly, I would like to take a few minutes to talk about the amendment to strike the market loss help for asparagus growers, another program that is vital in my home State.

Historically, asparagus has been a major crop for Washington State farmers. In fact, it was the first crop harvested in Washington.

But our asparagus farmers are hurting now because of competition from growers in Peru.

The Andean Trade Preference Act has allowed Peruvian asparagus to flood the market.

And unlike most free-trade agreements, the act went into effect without a transition period to allow U.S. producers to prepare or adapt.

Over the Thanksgiving recess, I visited with a number of farmers in Yakima, WA, who told me about the devastating impact this trade agreement has had.

The numbers speak for themselves.

In 1990, the value of the crop was approximately $200 million. Its value now is down to $75 million.

Before the act, more than 55 million pounds of asparagus were canned in Washington State—roughly two-thirds of the industry. But by 2007, all three asparagus canners in Washington had relocated to Peru.

I have fought to help our U.S. growers. I have tried to get them trade adjustment assistance and other help.

And over the past several years, I have secured funding for research on a mechanical harvester to make this labor-intensive crop less expensive to produce.

And most recently, I worked with my colleagues from Michigan and Washington to include the market loss program for asparagus growers in this farm bill.

I appreciate the leadership of Senators HARKIN and CHAMBLISS on this issue as well.

This program would provide up to $15 million nationwide to help U.S. farmers who still grow asparagus despite foreign competition.

I hope this program will help growers in my State continue to invest in asparagus.

We modeled this after a similar program for apples and onions, which I helped add to the 2002 farm bill.

I remember hearing from apple growers about the effects of Chinese imports on our markets.

That program provided over $94 million for our Nation's apple growers, and it has proven to be a big help to our apple industry.

I would note to my colleague from New Hampshire that his State received over $1 million from the apple program.

Striking the market loss program from the farm bill would be a step in the wrong direction for our asparagus industry.

And it would have serious impacts on farmers in my home State.

So I urge my colleagues to vote no on this amendment as well.

''No'' votes on both of these amendments will support the struggling asparagus industry.

And they will help our farmers and ranchers when disaster strikes.

These programs are too important to our farmers to be cut.

Mrs. BOXER. Mr. President, I rise in opposition to Gregg amendment No. 3672.

This amendment irresponsibly strips $15 million in funding for an asparagus market loss program to help asparagus producers who have lost a significant amount of their market share because of the Andean Trade Preference Act.

Thanks to the great work of Senator STABENOW, along with Senators HARKIN and CHAMBLISS, the Senate Ag Committee approved this important funding to help assist asparagus producers in California, Michigan, and Washington who have lost significant market share as a result of the Andean Trade Preference Act.

The U.S. asparagus industry was and continues to be hurt by the Andean Trade Preference Act's, ATPA, extended duty-free status to imports of fresh Peruvian asparagus. The ATPA eliminated U.S. tariffs on Peruvian asparagus imports beginning in 1990.

Unlike most free-trade agreements, the ATPA provided no transition period to allow domestic asparagus producers to prepare or adapt to a market that would be flooded with an unlimited quantity of zero tariff asparagus from Peru.

Following the enactment of ATPA, imports of processed asparagus products surged 2400 percent from 500,000 pounds in 1990 to over 12 million pounds in 2006.

As a result, domestic asparagus acreage has dropped 54 percent from 90,000 acres in 1991 to under 49,000 acres today.

Michigan has lost 20 percent of its asparagus acreage.

Washington State's asparagus acreage decreased from 31,000 acres in 1991 to 9,300 acres in 2006, and producers in the State have seen the value of their crop drop from $200 million in 1990 to $75 million today.

And farmers in my State of California have lost nearly half of their asparagus acreage since 1990, dropping from 36,000 acres before the ATPA, to 22,500 acres today.

Many of my colleagues may be asking what the market loss program will provide to asparagus producers. This asparagus program is modeled after a 2002 program for onion and apple producers that provided $94 million in assistance when the apple and onion markets were flooded with cheap Chinese imports.

Market loss funds will be used to offset costs to domestic asparagus producers to plant new acreage and invest in more efficient planting and harvesting equipment.

I find it particularly interesting that Senator GREGG has put forward an antimarket loss program amendment that would help farmers in my State. As a result of the 2002 farm bill, apple producers in his State of New Hampshire received more than $1 million in assistance.

Where was Senator GREGG and his amendment to strike when the Senate approved a market loss program for apple and onion producers as part of the 2002 farm bill?

I urge the Senate to reject this amendment.

The amount in funding for the market loss program is a small percentage of the losses incurred as a result of the ATPA and will go a long way toward maintaining domestic asparagus production and helping our producers who have lost thousands of acres.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 3671, offered by the Senator from New Hampshire, Mr. GREGG.

Mr. GREGG. Mr. President, that is the stress program; correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. I think we just had our 2 minutes of debate. I suggest both sides yield back time and go to a vote.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3671. 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 PRESIDING OFFICER (Mr. MENENDEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—37

Alexander	Dole	Martinez
Allard	Ensign	McConnell
Barrasso	Enzi	Murkowski
Bayh	Graham	Sessions
Bennett	Gregg	Shelby
Bond	Hagel	Smith
Bunning	Hatch	Snowe
Burr	Hutchison	Sununu
Coburn	Inhofe	Vitter
Collins	Isakson	Voinovich
Corker	Kyl	Warner
Cornyn	Lott	
DeMint	Lugar	

NAYS—58

Akaka	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bingaman	Grassley	Pryor
Boxer	Harkin	Reed
Brown	Inouye	Reid
Brownback	Johnson	Roberts
Byrd	Kennedy	Rockefeller
Cantwell	Kerry	Salazar
Cardin	Klobuchar	Sanders
Carper	Kohl	Schumer
Casey	Landrieu	Specter
Chambliss	Lautenberg	Stabenow
Cochran	Leahy	Stevens
Coleman	Levin	Tester
Conrad	Lieberman	Thune
Craig	Lincoln	Webb
Crapo	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murray	

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The amendment (No. 3671) was rejected.

AMENDMENT NO. 3672

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote on amendment No. 3672, offered by the Senator from New Hampshire. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank Senator HARKIN and Senator CHAMBLISS and all those involved in putting together the bipartisan farm bill. I ask for a ''no'' vote on the Gregg amendment. This would eliminate $15 million, a small amount in the farm bill but incredibly important to asparagus growers across the country. This would eliminate the Asparagus Market Loss Program that would compensate American asparagus growers across the country for losses to their industry as a result of the Andean Trade Preferences Act that was passed back in 1990. Since that time, we have seen no transition period and imports of tariff-free processed asparagus have surged 2,400 percent. We have seen major losses for asparagus growers, and I add this was based on a program passed in the last farm bill for apples and onions, where cheap Chinese imports were harming domestic growers and, in fact, the State of the author of the amendment received over $1 million in that program for apples. We are simply asking that asparagus growers receive the same kind of assistance.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this is a new program. It is a new mandatory program. It is $15 million. It is not a lot of money but I think it would be nice if the Senate would make a statement once in a while it is going to be fiscally responsible.

This asparagus program is not needed. It is the result of a 1990s trade agreement, the claim is made, but that is 20 years ago almost that agreement was reached. What has happened is the American consumer has benefited from that agreement and now, because the American consumer has benefited from the agreement, we basically want to raise taxes on the American consumer to make them pay because they didn't pay at the shop when they bought the asparagus.

It makes no sense at all. This is a brand-new $15 million program in this bill for asparagus. The bill is replete with these types of programs. I think we ought to make a statement, at least for once, that we are going to be fiscally responsible. I hope people will vote for the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

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 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. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—39

Alexander	DeMint	Lott
Allard	Dole	Lugar
Barrasso	Domenici	Martinez
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Snowe
Burr	Hatch	Specter
Coburn	Hutchison	Sununu
Collins	Inhofe	Vitter
Corker	Isakson	Voinovich
Cornyn	Kyl	Warner

NAYS—56

Akaka	Feinstein	Nelson (FL)
Baucus	Grassley	Nelson (NE)
Bingaman	Harkin	Pryor
Boxer	Inouye	Reed
Brown	Johnson	Reid
Byrd	Kennedy	Roberts
Cantwell	Kerry	Rockefeller
Cardin	Klobuchar	Salazar
Carper	Kohl	Sanders
Casey	Landrieu	Schumer
Chambliss	Lautenberg	Smith
Cochran	Leahy	Stabenow
Coleman	Levin	Stevens
Conrad	Lieberman	Tester
Craig	Lincoln	Thune
Crapo	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The amendment (No. 3672) was rejected.

Mr. HARKIN. Mr. President, I move to reconsider the vote and move to lay that motion on the table

The motion to lay on the table was agreed to.

Mr. HARKIN. 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, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is Harkin amendment No. 3830.

Mr. HARKIN. Mr. President, in consultation with the ranking member, Senator CHAMBLISS, I am going to repeat for the benefit of Senators a unanimous consent that was entered into last night and try to clarify it a little bit. There was one small change, and that was to add Senator SANDERS into this debate.

Mr. President, I ask unanimous consent that following disposition of the Gregg amendment, which we just did, that Senator HARKIN be recognized to call up an amendment, and once reported by number, the amendment be set aside; that Senators ALEXANDER, BINGAMAN, SALAZAR, and SANDERS be recognized, 10 minutes for Senator BINGAMAN, 10 minutes for Senator SALAZAR, 10 minutes for Senator SANDERS, and 30 minutes for Senator ALEXANDER; that the Senate then debate the following amendments for the time

limits specified under a previous order and in the order that is listed.

First, it would be the Alexander amendments 3551 and 3553, 60 minutes equally divided; the Gregg amendment No. 3673, 2 hours equally divided; Dorgan-Grassley amendment No. 3695, 2 hours equally divided; Sessions amendment No. 3596, 40 minutes equally divided; Klobuchar amendment No. 3810, 60 minutes equally divided; Coburn amendments 3807, 3530, and 3632, 90 minutes equally divided.

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

AMENDMENT NO. 3639 TO AMENDMENT NO. 3500

(Purpose: To improve nutrition standards for foods and beverages sold in schools)

Mr. HARKIN. Mr. President, I call up my amendment No. 3639.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Ms. MURKOWSKI, proposes an amendment numbered 3639 to amendment No. 3500.

Mr. HARKIN. Mr. President, under the previous unanimous consent agreement, I ask that the amendment be laid aside.

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

(The amendment is printed in the RECORD of Tuesday, November 13, 2007, under ''Text of Amendments.'')

Mr. HARKIN. Now we can go to the Alexander amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NOS. 3551 AND 3553

Mr. ALEXANDER. I have up to 30 minutes to describe these two amendments, and then other Senators have time, I assume, to oppose the amendments. What I will do is—

Mr. SALAZAR. Will the Senator from Tennessee yield for a question?

Mr. ALEXANDER. Yes.

Mr. SALAZAR. Mr. President, I had understood that the order we were following would be to consider Alexander amendment 3553 with 10 minutes of debate time. If I can get 10 minutes before turning to the other amendments. That is how I had come here to the floor to deal with the issue of 3553.

Parliamentary inquiry: What is the order of continuing on 3553?

The PRESIDING OFFICER. The understanding of the Chair on the order is that there is an hour equally divided, of which 10 minutes is provided for the Senator from Colorado, but no speaking order has been assigned.

Mr. SALAZAR. Mr. President, if I could ask my friend from Tennessee to note the absence of a quorum for a minute so we might talk about how we might move forward.

Mr. ALEXANDER. 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. ALEXANDER. 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. ALEXANDER. Mr. President, I thank my colleagues from Colorado and Vermont.

I say to the Senator from Iowa, what I will do is I will use a few minutes, maybe 5 or 10, summarizing the two amendments I have offered which I talked some about yesterday. Then I will yield the floor and sit down and allow the Senator from Colorado and the Senator from Vermont to use their 10 minutes each. Then Senator HARKIN may want to use his 10 minutes. Then I will come back at the end. I probably will not use all of my time.

Mr. President, I offer two amendments. They are at the desk. The first one has to do with land grant university research funding, to try to get back on track a terrific program the Congress passed in 1998 to properly fund value-added research for our land grant universities across this country. That is No. 1.

No. 2 is to amend the amendment of the Senator from Colorado, which is a part of the bill, so that we would limit 100 kilowatt wind towers to farm areas and not residential areas. Those are the two amendments.

I wish to begin by summarizing the land grant university research amendment. What amendment 3551 does is it adds $74 million over the last 3 years of the farm bill for agricultural research at land grant colleges.

In my opinion, having been president of a land grant university, the University of Tennessee, I believe our land grant colleges and universities are our secret weapon in value-added products; in other words, taking soybeans and turning them into milk and creating higher incomes for farmers and more jobs in the United States.

Let me take an example, one which I used yesterday. Those who live in the Southwest, which I do not, are apparently very familiar with the guayule plant. I might call it a weed. That might not be a friendly designation, but it looks like a weed to me. The University of Arizona discovered—one of our land grant universities, as a part of the program I am seeking to get back on track—that it could use this plant to develop nonallergic latex to go into rubber gloves. Why is that important? Because according to OSHA, allergic reactions from latex rubber affect 10 percent of the Nation's health care workforce. So we have not only helped health care through the land grant universities, we have helped create incomes in the Southwest where this is grown. We have helped grow jobs in the United States as well.

There are examples of that all through our country. That is why the Congress, in 1998, created a program which is called the Future Agriculture and Food Systems Program. That very simply did, through the Department of Agriculture, which we do through many other parts of government, grants of research offered to land grant universities in a competitive way, not just doled out, not just pork, in a competitive way to try to help them create value-added products.

The program has worked for a couple of years since 1998. It didn't work so well in other years. I summarized that yesterday. The bottom line is, both appropriators and authorizers during this time got away from the idea of competitive, peer-reviewed grants and began to earmark and designate their favorite universities for some of the money. Then on another occasion in 2005, the Congress, looking for a way to bring the budget under control, saw this as a pot of money that could be used and took the money from agricultural research and used it to do a better job of balancing the budget.

There was a 2-year period, in 2001 and 2002, when under this program there were 183 grants to 71 of the 76 land grant universities, one in every State. Out of that came this research and a variety of other products.

The purpose of this amendment is to get this program back on track. It was first authorized in 1998, had a couple of problems, but here is what my amendment would do. My amendment would add $74 million in the last 3 years of the farm bill. The House, in its version of the farm bill, has added $600 million in those 3 years. So the conferees could look at those two amounts of money and come to a reasonable adjustment and get the program back on track, competitively awarded grants for land grant colleges and universities, our secret weapon in raising farm incomes.

How do we pay for it? The $47 million in funding over the last 3 years of the farm bill is fully offset by striking section 302 from the tax title. I described that yesterday. I will be glad to describe it again, if I need to. But it is fully funded.

Let me go to my second amendment, No. 3553. It affects the so-called small wind tax credit. The small wind tax credit in the bill allows up to $4,000 for someone to put a 100-kilowatt wind turbine in either a farm or rural area or residential area. Since this is a farm bill and not a residential bill, what my amendment would do is limit the ability of this subsidy to go to wind turbines to farms and rural businesses as defined in the Internal Revenue Code. If I could put it in plain English: It will be very difficult for Members of the Senate to go home and explain to their neighbors, whether they are in Tennessee or Colorado or Mississippi, why they passed a law saying we are going to take some of your tax money and give it to your neighbor so he or she can put up a 12-story tower in his or her front yard next to you. I don't think that is an appropriate use of our tax money. I don't believe it is a wise way to create electricity. It doesn't show the kind of common sense we need to show in creating clean energy.

The example I used yesterday, and which I could go into more detail later, is the $5 million tax credit in this bill

for these kinds of towers would create only about 12 megawatts of electricity. That is a pretty puny amount of electricity. Common sense suggests it would be much wiser to use the $5 million to buy $2 energy-efficient light bulbs and give them to people in residential areas. That would save 8 times as much energy as these turbines would produce.

There are other reasons the turbines are not necessary. One is that the wind industry is heavily subsidized already. For example, wind energy will receive $11.5 billion over the next 10 years from the production tax credit. By fiscal year 2009, the Federal tax subsidy for wind energy will be the largest subsidy for energy which is an astonishing figure when you take into account that wind provides less than 1 percent of the electricity we use. According to the Energy Information Administration, in the year 2020, it will provide not much more than that. Here we have billions and billions already going to subsidize wind power. That amount is half as much as all of the subsidies for oil and gas, and it is totally disproportionate to the value of the energy we get.

I stand as a Senator who is very concerned about clean air and climate change. Since I arrived in 2003, I have had in place—first with Senator CARPER, then with Senator LIEBERMAN—a climate change/clean air bill that would put caps on utilities which produce one-third of the carbon in the United States. That bill also included stricter standards than now exist in law on mercury, on sulfur, and on nitrogen. I was the sponsor in the last Congress of the solar tax credit which I believe is important. In the hearing the other day we had on climate change, I proposed and the committee adopted, a low-carbon fuel standard. I voted for, and hope to be able to vote for again in final passage of the Energy bill, the fuel efficiency standards which were in the Senate-passed Energy bill.

The Oak Ridge National Laboratory has testified that is the single most important thing we can do to reduce our dependence on foreign oil. But I believe we should use common sense. I don't believe using tax dollars to give your neighbor up to $4,000 so he or she can create up to a 12-story tower in a residential neighborhood makes much common sense. My appeal is as much to common sense as anything else.

My hope is the Senate would agree that it will be fine if we want to subsidize the building of even such large wind turbines in rural areas, but it is not all right to subsidize the building of those wind turbines in residential areas. My amendment would also make clear that nothing we did in this bill overrode local zoning ordinances that people use to decide what sort of towers they want to permit.

That concludes my remarks. I will listen to my colleagues from Vermont and Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise to speak against the Alexander amendment No. 3553. I do so with some regret because he and I have worked on so many matters together in a bipartisan spirit. But on this particular amendment, he is simply wrong for two reasons. First and foremost, the amendment would strike a blow against what we are trying to do to create a new clean energy future by crippling our attempts to move forward with a new agenda on wind power.

Second, it would bring the Congress into an intruding position on matters that ought to be about land use at the local and State level, in the traditions of this country. So for those two reasons, I am going to ask my colleagues to join in opposition to the amendment.

The small wind power microturbine tax credit we are proposing as part of the farm bill brought forward in a bipartisan way from the Finance Committee is a provision that enjoys tremendous bipartisan support. On the Republican side, Senators SMITH, CRAIG, MURKOWSKI, and COLEMAN have all been champions of the small wind energy tax credit; on the Democratic side, Senator SANDERS, DORGAN, FEINSTEIN, KERRY, WYDEN, STABENOW, and JOHNSON have all been supporters and cosponsors of the underlying legislation, S. 673. That group of Senators shows the kind of bipartisan support we have for small wind power in America.

I ask unanimous consent to print in the RECORD a letter sent to Senator BAUCUS and Ranking Member GRASSLEY from a number of organizations, including the Tennessee Environmental Council, in support of this tax provision.

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

NOVEMBER 8, 2007.

Hon. MAX BAUCUS,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Senate Committee on Finance, Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER GRASSLEY: As leading farm and rural economic development organizations, we strongly support a federal investment tax incentive for small wind systems. Small wind systems offer farmers and rural Americans the ability to generate their own clean, fuel-free, and reliable power for on-site use and provide independence from unpredictable fossil fuel prices. We congratulate and support the Senate Finance Committee on recently including an incentive for small wind systems in the tax title of the 2007 Farm Bill.

There is currently no federal support for small wind systems. However, solar photovoltaics, which compete in the same market as small wind, receive a 30% investment tax credit under current law. The Finance Committee Chairman's Mark would provide for a 30% investment tax credit capped at $4,000 per system to help provide on-site power for homes, farms, and small businesses. Small wind systems are growing in popularity as the cost of energy and concerns about global warming continue to rise, but the high up-front cost of a system is often prohibitive to consumers. An investment tax credit would greatly help those who depend on small wind systems for personal energy independence.

The provision included in the Senate Finance Committee Chairman's Mark would cost only $5 million over 10 years, but could spur 40% annual growth in the industry. Moreover, small wind is an American-dominated industry—98% of the small wind turbines sold in America last year were built by American companies. That means that the jobs and economic growth created by an investment tax credit will be overwhelmingly American.

We look forward to supporting your efforts to help farmers and rural Americans achieve personal energy independence. Thank you for your continued support.

Sincerely,
National Farmers Union.
American Corn Growers Association.
Nebraska Farmers Union.
Tennessee Environmental Council.
Southern Alliance for Clean Energy.
American Agriculture Movement.
Rocky Mountain Farmers Union.
Environmental Law & Policy Center.

Mr. SALAZAR. The Alexander amendment, the way it would strike out the small wind tax credit provision of this legislation, would cripple the wind power potential for our country in a way that is not healthy as we embrace this agenda. We are dealing with technology that has been around for a long time. Certainly, as we are moving forward with the hope and vision that 25 percent of our energy from this country comes from renewable energy resources, we know there are many components of that portfolio. One of them is wind. Tremendous wind power is being developed around our country, and I will speak about that. But we know we can do much more with small wind microturbines. Here is what they would look like on a farm.

This is a picture of a farm that shows an old-style windmill, windmills such as we have seen out on the plains and the prairies for generations. It used to be for many years the only way we could generate power to pump water for cattle out on the range. These windmills were converted over to become electrical generators. Now with the new technology being developed at the National Renewable Energy Laboratory through their wind technology center, we have developed new wind microturbines that can produce a good amount of energy with very small turbines in place. This picture shows some of those wind turbines in operation.

The amendment of the Senator from Tennessee would essentially say we are going to limit where we can allow these small wind microturbines to go up. For example, if you happen to have a rural residence such as this residence, which is typical of many places throughout the West, this residence which could power its domestic electrical needs off of a wind turbine in the way this house does would not be allowed to do so. The $4,000 tax credit would not be allowed to provide the

electrical generation needs we want to accomplish for that house.

Another example is this rural residence which is out on a hillside. The rural residents of this house, out on a hillside, would not be able to take advantage of the tax credit we are providing in this legislation.

It goes beyond just rural residences out there in the country. In addition to that, when we think about industrial or business places of use, this shown in this picture is an example of a Wal-Mart, which is located outside of Denver, CO, in Aurora, CO, where Wal-Mart has embraced using renewable energy to power much of its facility. One of the sources for that wind power for this Wal-Mart in Aurora, CO, is a wind turbine, a small wind microturbine.

Our legislation would provide the tax credit to allow this kind of a wind microturbine to be incentivized to go into that place. So what my friend attempts to do here, in my view, would unnecessarily narrow what we are trying to do, which is to expand the places where we can use wind power in the form of small wind-power turbines throughout the United States. So I hope on that basis alone my friends in the Senate will vote in opposition to his amendment.

Second, what we are trying to do here is incentivize the creation of small wind-power turbines for the people and for the businesses of this country. The amendment which my friend has proposed in part is based on his concern that he does not want to see a lot of wind turbines in urban or suburban areas. He does not want us to go back to places such as Knoxville or Oak Ridge, TN, and go to those communities and say we somehow are enabling those wind-power turbines, those small microturbines, to go up in those communities. That has never been a province of the Senate. The province of the Senate has been to set out national policy. It is up to those local communities and cities and counties and States to determine what their local land use policy is going to be. Nothing we do in the Senate ultimately is going to disrupt or interrupt whatever they may be doing at the local level in terms of their local land use ordinances.

We have seen, most recently with respect to what has happened with the South phone tower dispersion, is that throughout the country it is still very much controlled by what happens at the local land use level. I urge my friends to vote in opposition to Alexander amendment No. 3553.

I would finally say, on the whole concept of wind, on which we have a genuine policy disagreement, there is indeed tremendous opportunity for us to do much more with wind. In my State alone, 2 years ago, before we passed the 2005 Energy Policy Act, there was almost zero electricity being generated from wind power. Today, my State is on the verge of producing 1,000 megawatts of power from our wind-power facilities that have been constructed throughout the State. Now, 1,000 megawatts of power may not seem like a lot to a lot of people, but I think it is a lot. It is a lot for the State of Colorado. Mr. President, 1,000 megawatts of power is the equivalent of the amount of electrical power that will be generated from three coal-fired powerplants—that is three coal-fired powerplants. We are able to do that with our large wind-power generators in my State.

We ought to be able to deploy the technology we have for small microturbines to allow people who want these small microturbines to generate the renewable electricity for their places of business.

I ask my colleagues to vote ''no'' on Alexander amendment No. 3553.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. SANDERS. Mr. President, let me begin by concurring with much of what Senator SALAZAR has said. I have a lot of respect for Senator ALEXANDER. I have worked with him on some issues, and I look forward to working with him on other issues. But, unfortunately, on this one he is dead wrong, and the amendments on wind energy he has brought forth should be soundly defeated in a tripartisan vote.

Let me begin by quoting from an AP article that appeared on the front page of Vermont's largest newspaper, the Burlington Free Press, this morning and in papers throughout the country. Here is what the article says: ''Ominous Arctic melt worries experts.''

An already relentless melting of the Arctic greatly accelerated this summer, a warning sign that some scientists worry could mean global warming has passed an ominous tipping point. One even speculated that summer sea ice would be gone in five years.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

OMINOUS ARCTIC MELT WORRIES EXPERTS

(By Seth Borenstein)

An already relentless melting of the Arctic greatly accelerated this summer, a warning sign that some scientists worry could mean global warming has passed an ominous tipping point. One even speculated that summer sea ice would be gone in five years.

Greenland's ice sheet melted nearly 19 billion tons more than the previous high mark, and the volume of Arctic sea ice at summer's end was half what it was just four years earlier, according to new NASA satellite data obtained by The Associated Press.

''The Arctic is screaming,'' said Mark Serreze, senior scientist at the government's snow and ice data center in Boulder, Colo.

Just last year, two top scientists surprised their colleagues by projecting that the Arctic sea ice was melting so rapidly that it could disappear entirely by the summer of 2040.

This week, after reviewing his own new data, NASA climate scientist Jay Zwally said: ''At this rate, the Arctic Ocean cold be nearly ice-free at the end of summer by 2012, much faster than previous predictions.''

So scientists in recent days have been asking themselves these questions: Was the record melt seen all over the Arctic in 2007 a blip amid relentless and steady warming? Or has everything sped up to a new climate cycle that goes beyond the worst case scenarios presented by computer models?

''The Arctic is often cited as the canary in the coal mine for climate warming,'' said Zwally, who as a teenager hauled coal. ''Now as a sign of climate warming, the canary has died. It is time to start getting out of the coal mines.''

It is the burning of coal, oil and other fossil fuels that produces carbon dioxide and other greenhouse gases, responsible for man-made global warming. For the past several days, government diplomats have been debating in Bali, Indonesia, the outlines of a new climate treaty calling for tougher limits on these gases.

What happens in the Arctic has implications for the rest of the world. Faster melting there means eventual sea level rise and more immediate changes in winter weather because of less sea ice.

In the United States, a weakened Arctic blast moving south to collide with moist air from the Gulf of Mexico can mean less rain and snow in some areas, including the drought-stricken Southeast, said Michael MacCracken, a former federal climate scientist who now heads the nonprofit Climate Institute. Some regions, like Colorado, would likely get extra rain or snow.

More than 18 scientists told the AP that they were surprised by the level of ice melt this year.

''I don't pay much attention to one year... but this year the change is so big, particularly in the Arctic sea ice, that you've got to stop and say, 'What is going on here?' You can't look away from what's happening here,'' said Waleed Abdalati, NASA's chief of cyrospheric sciences. ''This is going to be a watershed year.''

2007 shattered records for Arctic melt in the following ways:

552 billion tons of ice melted this summer from the Greenland ice sheet, according to preliminary satellite data to be released by NASA Wednesday. That's 15 percent more than the annual average summer melt, beating 2005's record.

A record amount of surface ice was lost over Greenland this year, 12 percent more than the previous worst year, 2005, according to data the University of Colorado released Monday. That's nearly quadruple the amount that melted just 15 years ago. It's an amount of water that could cover Washington, D.C., a half-mile deep, researchers calculated.

The surface area of summer sea ice floating in the Arctic Ocean this summer was nearly 23 percent below the previous record. The dwindling sea ice already has affected wildlife, with 6,000 walruses coming ashore in northwest Alaska in October for the first time in recorded history. Another first: the Northwest Passage was open to navigation.

Still to be released is NASA data showing the remaining Arctic sea ice to be unusually thin, another record. That makes it more likely to melt in future summers. Combining the shrinking area covered by sea ice with the new thinness of the remaining ice, scientists calculate that the overall volume of ice is half of 2004's total.

Alaska's frozen permafrost is warming, not quite thawing yet. But temperature measurements 66 feet deep in the frozen soil rose nearly four-tenths of a degree from 2006 to 2007, according to measurements from the University of Alaska. While that may not sound like much, ''it's very significant,'' said University of Alaska professor Vladimir Romanovsky.

Surface temperatures in the Arctic Ocean this summer were the highest in 77 years of record-keeping, with some places 8 degrees Fahrenheit above normal, according to research to be released Wednesday by University of Washington's Michael Steele.

Greenland, in particular, is a significant bellwether. Most of its surface is covered by ice. If it completely melted—something key scientists think would likely take centuries, not decades—it could add more than 22 feet to the world's sea level.

However, for nearly the past 30 years, the data pattern of its ice sheet melt has zigzagged. A bad year, like 2005, would be followed by a couple of lesser years.

According to that pattern, 2007 shouldn't have been a major melt year, but it was, said Konrad Steffen, of the University of Colorado, which gathered the latest data.

''I'm quite concerned,'' he said. ''Now I look at 2008. Will it be even warmer than the past year?''

Other new data, from a NASA satellite, measures ice volume. NASA geophysicist Scott Luthcke, reviewing it and other Greenland numbers, concluded: ''We are quite likely entering a new regime.''

Melting of sea ice and Greenland's ice sheets also alarms scientists because they become part of a troubling spiral.

White sea ice reflects about 80 percent of the sun's heat off Earth, NASA's Zwally said. When there is no sea ice, about 90 percent of the heat goes into the ocean which then warms everything else up. Warmer oceans then lead to more melting.

''That feedback is the key to why the models predict that the Arctic warming is going to be faster,'' Zwally said. ''It's getting even worse than the models predicted.''

NASA scientist James Hansen, the lone-wolf researcher often called the godfather of global warming, on Thursday was to tell scientists and others at the American Geophysical Union scientific in San Francisco that in some ways Earth has hit one of his so-called tipping points, based on Greenland melt data.

''We have passed that and some other tipping points in the way that I will define them,'' Hansen said in an e-mail. ''We have not passed a point of no return. We can still roll things back in time—but it is going to require a quick turn in direction.''

Last year, Cecilia Bitz at the University of Washington and Marika Holland at the National Center for Atmospheric Research in Colorado startled their colleagues when they predicted an Arctic free of sea ice in just a few decades. Both say they are surprised by the dramatic melt of 2007.

Bitz, unlike others at NASA, believes that ''next year we'll be back to normal, but we'll be seeing big anomalies again, occurring more frequently in the future.'' And that normal, she said, is still a ''relentless decline'' in ice.

Mr. SANDERS. In other words, what the scientists are telling us is the problem of global warming may be even more severe than they had previously told us. It seems to me what we should be doing in the Senate is become more aggressive, more bold in combating greenhouse gas emissions and not support amendments that slow down the growth of such sustainable energies as wind. That is what, unfortunately, the Alexander amendment would do.

In contrast to the direction Senator ALEXANDER wants us to go, let me quote from a BBC article that appeared the other day. This is what that article says:

Wind ''could power all UK homes.'' All UK homes could be powered by offshore wind farms by 2020 as part of the fight against climate change, under plans unveiled.''

What they are doing in the UK, at the highest levels of Government, with support of the Tory Party—the conservative party—in the UK, is they are developing plans that would significantly increase the number of wind turbines. Some 7,000 wind turbines could be installed by the year 2020 to provide all the homes in the UK with electricity. They are going forward rapidly, boldly with wind, and we are talking about how we can cut back efforts toward sustainable energy.

I fully appreciate that my good friend from Tennessee has concerns about wind energy. He may not want a wind turbine at his home or on his property, and that is his right. We support that right. But I would respectfully request he not make that decision for the rest of America.

Wind energy is one of the fastest growing renewable technologies today and benefits families in my own State of Vermont and all across our country. I believe rural America and individual communities across this country deserve the opportunity to decide for themselves whether to pursue wind energy. Some may like it; some may not. That is a decision for them and not the Federal Government. I would hope some of our conservative friends who talk about all of the vices of a big Federal Government might want to heed that thought.

The truth is, today millions of rural Americans, in fact, want to pursue sustainable energy. They should be allowed to do so, and they should be able to utilize the support provisions in this farm bill that provide incentives for them to produce electricity that is renewable, that is cost effective, and does not emit carbon. That is what they want to do. That is what we need. We should support that effort.

Apparently, one of those people—and I applaud him for this—is the former Republican President of the United States of America, George H.W. Bush, who, in his summer home at Kennebunkport, ME, has recently installed a 33-foot tall windmill that can produce 400 kilowatts a month. I applaud former President Bush for pointing out to the country the importance of small wind turbines in providing electricity for homes. I hope all over this country people emulate what the former Republican President has done.

There is enormous potential for wind technology in the United States. We have a huge renewable resource base in our country, and yet only about 3 percent of the Nation's electricity supply came from nonhydroelectric renewable energy sources in the year 2006.

Other countries have already made significant strides toward using renewable energy. I point out that Denmark meets roughly 20 percent of its electricity needs with wind alone, while Spain is at 9 percent, and Germany and Portugal are at 7 percent. Despite having a much more robust wind resource than any of these countries, the United States meets less than 1 percent of its electrical needs with wind power today.

We can do better. We must do better. The Federal Government, through tax credits and other incentives, including small wind turbines, must help move our country in that direction.

Today, most wind turbines are currently located on mountain tops, mountain passes, and the Great Plains from North Dakota to Texas. That is not nearly good enough. Wind is the cheapest renewable energy, and it should be growing by leaps and bounds. We have to move forward in making that happen.

As a nation, we can—in fact, we must—do a better job of exploiting the freely available renewable resources that exist across our country. Small-scale rural wind turbines should be aggressively promoted as one of the solutions. We can no longer afford to ignore the rapidly maturing renewable technologies that can help address the critical challenges of energy independence, global warming, and high energy prices.

It should be heartening to know that new investments in renewable generating capacity in the United States has been accelerating in recent years. This is largely due to tax credits from States and the Federal Government. Wind power has been at the forefront of that growth. The year 2006 was the largest on record in the U.S. for wind power capacity additions, with over 2,400 megawatts of wind added to the grid. That is a good start, but we need to go a lot further than that.

I recently talked with a manufacturer of small residential-scale wind turbines to find out about the potential of this technology. What he told me was that with support from the U.S. Department of Energy's National Renewable Energy Laboratory we are developing wind turbines all over this country where there is a reasonable amount of wind. Clearly, wind is not available all over the country. But everybody who is serious about this issue understands that the solution to global warming and the solution to sustainable energy, electricity generation, is going to require a mix of technologies. In some areas wind is strong, in some areas the Sun is strong, and so forth.

But in areas such as the State of Vermont, I am told that an average home can produce 40, 50, 60 percent of its electricity from a small wind turbine, which is becoming less and less expensive. They are now on the market for some $12,000—$12,000—including installation. If we can provide the type of tax credits and other incentives for these wind turbines, we can have a payback period in a reasonable period of time which will lower the cost of electricity for millions of Americans, break our dependency on Middle East oil, and stop the emissions of carbon

into the atmosphere, which is causing global warming.

I have a lot of respect for my friend from Tennessee, and I know his concern is aesthetics, how these things look—that is one of his concerns—but let me say a word about aesthetics. I also am concerned about how things look. I am concerned when extreme weather disturbances such as Hurricane Katrina hit Louisiana and caused massive damage. That is an aesthetic concern I have. If we do not get a handle on global warming, we are going to see more and more extreme weather disturbances which can impact hundreds of millions if not billions of people.

Drought is an aesthetic issue. Seeing lakes dry up, and the repercussions of that, of flooding, and the impact that global warming will have on the loss of clean drinking water, and the desperation people will experience as a result of that, is also an aesthetic issue.

So I can understand that people have differences of opinion about how things look. I do not like the look of global warming, and I think we should reject soundly Senator ALEXANDER's amendment.

Thank you, Mr. President.

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

The PRESIDING OFFICER. Sixteen minutes.

Mr. ALEXANDER. I will take just a few of those, unless the Senator from Iowa wishes to speak now.

I appreciate the comments of the Senator from Colorado, and I know the Senator from Vermont as well has strong and deeply held views on this subject. So do I. I would only respond in these ways: I don't think it is necessary to destroy the environment in order to save the environment. I think there are more sensible ways to save the environment than to use tax dollars to encourage people to put up 12-story white towers of red lights in their own neighborhoods.

There is some talk about Congress interfering with land use. Well, what happens here is that when the Congress gives out tax money—my tax money, your tax money—and says you can use it for this purpose, people do it. So the Congress is distorting land use decisions, in effect. So it is the other side that is interfering with local land use decisions.

Maybe we have different conceptions of what the word ''small'' means. A 100-kilowatt tower is—can be 12 stories high. So we are not talking about your grandmother's windmill that snuggles up cozily next to the barn; we are talking about your neighbor in New Jersey or Tennessee or Vermont who comes in and says: Hey, I have a great idea. I am going to put up a 12-story tower in my front yard with your tax money. Now, if that person wants to do that and local ordinances permit that, then that is not the business of the Federal Government. We don't need to be encouraging it in residential areas. All I am saying is this is a farm bill, and what I am trying to say is we should limit these subsidies to rural areas.

The Senator from Colorado said this would be a crippling blow to the wind effort. I believe that suggestion, if I may respectfully say, is overblown. The biggest—through the renewable electricity production tax credit alone, the U.S. taxpayer will spend $11.5 billion on wind energy over 10 years, between 2007 and 2016. This doesn't begin to count other Federal, State, or local subsidies for wind. So without this subsidy, we are spending $11.5 billion for wind.

According to the Joint Committee on Taxation, by the year 2009 this wind subsidy and the production tax credit that is already in the law will be the single largest Federal tax expenditure for energy in the United States. Yet it only produces seven-tenths of 1 percent of the electricity we use. To put it in a little perspective—and I mentioned this yesterday—according to the same Joint Tax Committee, all the subsidies we give to oil and gas through taxes, according to the Joint Tax Committee, are $2.7 billion in the year 2009. The wind subsidies are $1.3 billion. Well, we use oil and gas. We use about 25 percent of all of the oil and gas in the world in this great big economy of ours. We don't use much of it to make electricity, but we have a $2.7 billion taxpayer investment in that, and that is debated here. But nobody seems to notice that we are spending $1.3 billion—nearly half as much—on these large wind turbines, and they are not producing much power—not much power at all.

Just so everyone understands, half of our electricity is produced by coal. Eighty percent of our carbon-free electricity is produced by nuclear power. I didn't hear my friends on the other side say a word about nuclear power.

Climate change is an inconvenient truth, Al Gore said. I am not one of those who believe that just because Al Gore said it means it is wrong. I believe climate change is a very serious problem for our country and our world. I am working hard to change that through low carbon fuel standards, through putting caps on utilities, and through sponsoring solar energy. But why would we make such an extraordinarily disproportionate investment in wind turbines when they produce so little energy and, according to the Energy Administration, are likely to produce so little?

So the only other points I would make are these: The Senator from Vermont mentioned the relentless melting of the Arctic. We agree. We need to deal with climate change. But I would suggest that conservation and nuclear power are the way to deal with climate change in this generation. That may be an inconvenient truth as well, but that is the way to do it.

As I mentioned earlier, just spending the $5 million that is allocated for these big residential wind turbines and farm wind turbines, just spending that on efficiency lightbulbs would save eight times as much energy. That would make more common sense to me.

The Senator from Vermont also pointed out that the UK—the United Kingdom—might power all of its houses with wind power. I read that article too; I believe it is the same article. But they are planning to do that with large wind turbines way out in the ocean where you won't be able to see them very easily. If they do have all of their power from wind power, I don't think I would want to live there because my computer and my lights and my air-conditioner and my heater would only work when the wind blows. Wind can't be stored in any effective way today, so it only works when the wind blows. It is not possible for it to be used as a base power of electricity. It is not a good peaking power.

So what we are doing with these extraordinary subsidies for wind is we are encouraging people to build large wind turbines in areas where the wind doesn't blow just so they can make some money on it because of all of these huge generous subsidies, and we are deluding ourselves into thinking we are dealing with climate change when, in fact, we are ignoring the real solutions to climate change, which are conservation, No. 1, and—in this generation, at least—nuclear power, No. 2.

So that is my reason for making this amendment. This is a farm bill. If we are going to subsidize wind turbines in the farm bill, let's do it on farms. Let's not take my tax money and your tax money and give it to your neighbor and say: You can put up a 12-story white tower next door, and we would like to encourage you to do that in your residential neighborhood. I don't think that makes common sense. Once it starts happening, neighborhood after neighborhood after neighborhood, I think a lot of taxpayers are going to be calling their U.S. Senator and saying: You did what? You did what? Why didn't you vote for conservation support? Why didn't you vote to have clean coal technology? Why didn't you vote to build more nuclear powerplants, which are the real way to do carbon-free energy? Why are you pretending to solve climate change by putting up 12-story towers or encouraging them to be put up in my neighbor's front yard?

So I hope my colleagues will recognize that the wiser vote today is for the Alexander amendment because that will make possible new subsidies, in addition to all of the other subsidies, for wind turbines in rural areas. They call them small, but they are up to 12 stories tall. It will make it clear that there is no interference with local land use rules about what kind of towers may go up and down.

Of course, the other amendment I proposed would help get the research programs back on track at our land grant universities which have been so valuable in helping raise farm incomes and creating jobs in this country.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me speak briefly in opposition to one of the amendments the Senator from Tennessee has offered. It is amendment No. 3551.

I think one of the most important things we can do in order to encourage development of renewable resources is to encourage construction of power lines to bring the power from where it is produced to where it is needed. Many of the best areas for development of wind and solar power are in remote parts of our country. That is in the upper midwest Plains States or in the desert southwest in particular. Lack of transmission from these remote locations is seriously hampering the great potential for the generation of electricity from these resources.

Power lines to such places are expensive and often face local opposition from landowners and residents across whose lands the lines have to be built. The farm bill, section 12302, attempts to address the problem by creating a tax incentive to encourage farmers and ranchers and landowners to allow transmission lines to be built across their property. Landowners receive a payment whenever they agree to the siting of a transmission tower on their land, and these payments are currently taxable. Section 12302 would make those payments tax exempt if the power that is carried on the lines comes primarily from a renewable generator that is eligible for the renewable production tax credit. Senator ALEXANDER's amendment here would strike that section. The cost of that section, as I have been advised, is $91 million over 5 years—a little less than $20 million per year.

It is clear from reports of the Western Governors' Association and many others that we are going to need substantial construction of new transmission lines throughout the West in the next several years if we are going to increase use of renewable energy. Transmission lines have more benefit than just to the generator. They enhance the reliability of the transmission system. They help break bottlenecks that make generation more expensive than it needs to be. They also can enhance local economies by opening areas that have been closed to development. My own view is that this tax exemption would help to encourage farmers and ranchers to seriously consider the siting of transmission lines in locations where it makes sense.

Senator ALEXANDER argues that wind power receives enormous subsidies under current law and under the Energy bill that is being debated. It is difficult, of course, to look into the future, but if you look at the last 5 years, according to a GAO report issued this year, the Department of Energy received $11.5 billion in funding for electricity-related research and development, and $6.2 billion of that went to fund nuclear power research and development and $3.1 billion went to fund fossil fuel generation. Mr. President, $1.4 billion went to all renewables—not just wind but all renewables combined. GAO also estimates that during that same period, fossil fuels received about $13.7 billion in tax expenditures, and renewables, about $2.8 billion. When new nuclear power facilities are built—and there are some now on the verge of being built—they will receive very generous tax credits as well under current law. I have supported those tax credits.

I believe, as the Senator from Tennessee said, that nuclear power is an essential part of the solution to global warming and a central part of the solution to our future energy needs, but I believe alternative renewable power also fits in that category. For decades now, fossil fuel generation and nuclear power have received the lion's share of Federal support. If renewables are to take their rightful place in the market, we need to be providing support to them on an equal footing. I believe that an exemption extended to farmers and ranchers, who deserve adequate compensation when their land is used, is good public policy.

I know the Senator from Tennessee is proposing that the funds involved here would be shifted over to a land grant research program that Senator ALEXANDER wants to fund. That is a good program. I understand the managers of the bill are working on funding for this program to be included in—increased funding for this program to be included in the managers' amendment. I would argue that there are better places to look for paying for that program than from the incentives for farmers and ranchers to engage in such a worthwhile purpose. So I would urge a ''no'' vote on that amendment by the Senator from Tennessee.

Mr. President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Idaho?

Mr. ALEXANDER. Mr. President, I would like to conclude my remarks, if that would be all right.

Mr. CRAIG. May I ask how much time remains in opposition to the Alexander amendment?

The PRESIDING OFFICER. The Senator from New Mexico controls 4 minutes. The Senator from Colorado controls 1 minute.

Mr. CRAIG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, just a few remarks.

I appreciate the comments of the Senator, who is chairman of the Energy Committee, and I appreciate his support for nuclear power, which is 80 percent of our carbon-free electricity in America even though it is only 20 percent of our electricity.

I will discuss briefly his point on my amendment that would seek to restore funding to the program for land grant universities. If the managers are able to find some extra money, that would be terrific, but it ought to be in addition to the $74 million I have proposed. The House proposes to spend $600 million over the last 3 years in the farm bill. I am proposing to spend $74 million.

Second, one of the problems with the section I am seeking to strike is that it appears to apply retroactively to transmission towers. I see no reason for that. A larger problem is that wind doesn't need more subsidies. The Senator talked about subsidies to other forms of energy for research and development. I have yet to hear anybody contradict the fact that the taxpayer, according to the Joint Committee on Taxation, will spend $11.5 billion on wind energy over the next 10 years, which today produces less than 1 percent of our electricity, and only when the winds blows.

Even if you have wind turbines all over America, you still need nuclear plants, conservation, coal plants, and a base load of electricity. There is a long list of Federal subsidies for wind energy and, in addition, clean, renewable energy bonds, the Department of Defense energy incentive program, et cetera, including State programs. What is happening is that we are encouraging people to build wind turbines, as they have on Buffalo Mountain in Tennessee, in places where the wind doesn't blow, just to make the money the Federal Government provides in subsidies.

Finally, I think the greatest, most specific argument against the idea of giving tax breaks to landowners, where you are going to build new transmission lines, is this: This would mean the Tennessee taxpayer would be taxed to pay for transmission lines in New Mexico or South Dakota, or the Georgia taxpayer would be taxed to pay for transmission lines in Pennsylvania or Virginia. Transmission lines should be paid for by the utility that builds them and the ratepayer who benefits from that, not by the general taxpayers. So if all of the other reasons go to the side, the major reason in support of this amendment is that it is inappropriate for us to require taxpayers in Maryland, Tennessee, and Texas to pay for utilities' transmission lines in New Mexico, South Dakota, and Illinois. They should pay for them themselves.

Mr. President, that concludes my remarks.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak for up to 5 minutes in opposition to the Alexander amendment.

Mr. HARKIN. Mr. President, reserving the right to object, how much time remains, or how much time does the Senator from Iowa have on this amendment?

The ACTING PRESIDENT pro tempore. Five minutes remains in opposition.

Mr. HARKIN. How much time does Senator BINGAMAN have?

The ACTING PRESIDENT pro tempore. That includes his time.

Mr. HARKIN. Mr. President, I yield that time to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Mr. President, it is rare that I disagree with my friend from Tennessee, especially on energy issues. We are very much in concert on how we not only deal with climate change, in many instances, but how we build a full energy portfolio for our country that makes us increasingly independent of foreign nations and oil-producing nations.

One of the ways to do it, in my opinion, is to promote all sources of energy. While there are wind turbines going up in Idaho and in locations that I don't necessarily care for, I have very much supported wind, I will continue to support wind, and I support small wind. I say that in respect to the provision within the bill and in opposition to what the Senator from Tennessee is trying to do. Not only is it important that we produce as much as we possibly can because, clearly, our Nation is rapidly growing in deficit as it relates to energy production in nearly all segments. I agree you don't produce electricity when the wind doesn't blow; but when it does, you do.

I will give you an example of a small company in Idaho that a few years ago, with little Federal assistance, built an obscure building out on the high deserts of Idaho, tapped underground water and brought in some electrolysis equipment, put up small wind turbines, exactly the kind the Senator from Tennessee is talking about. Those turbines produce 25 percent of their electrical needs. When you add that 25 percent wind turbine capability to their online use of electricity, they produce hydrogen in a profitable way that users of hydrogen in the Boise Valley are no longer trucking it in from Seattle, WA. They simply pull their truck out to the hydrogen facility and leave it there to be filled by this small hydrogen-producing company that uses electrolysis machines that are literally off the shelf, that are already being made and built into small business America. What made the difference for that company, what made it profitable, was to gain 25 percent of its energy base from wind, with the small turbine he is talking about.

If you don't want a wind turbine in your front yard in an urban area, planning and zoning will take care of that. That is a local decision to be made. If you don't want them in certain places in your State, then whether it is county planning and zoning or municipal planning and zoning, that, too, can take care of it.

America is rapidly adjusting to where the wind isn't and where the wind is. Wind isn't everywhere, but in certain segments of the Midwest, upper Midwest, and the West there are wind troughs, if you will, where the wind blows in a sustained way to make wind turbine generation profitable, adding to our overall energy base. I hope we will oppose the Alexander amendment.

Along with many others, I have changed my mind over the years in rapidly encouraging all kinds of clean energy production. Wind certainly is clean, hydro is clean, and photovoltaic is clean. We need all of the rest, but we need to get increasingly a cleaner energy portfolio. Wind assists us in doing that. It is not the cure-all. And I agree with the Senator from Tennessee that nuclear, without question, is the baseloading generation capability that is clean, that is in our current technology base that, thank goodness, America has awakened to and we are beginning to see that happening. We are seeing the licensing of new nuclear reactors and we will be able, within the decade, to see multiple reactors coming on line to produce large volumes of energy. But there is no doubt that conservation, supplementation by wind, and all other sources remain important pieces of that total package.

I oppose the Alexander amendment. I hope we can support small wind development along with large wind development. Is it pricey? Yes, it is; it is not inexpensive. I believe right now we are spending upward of a billion dollars a day offshore to foreign nations to buy their oil. The more money we can keep onshore for America, American enterprises, and the consumer, we ought to be doing. This is one way to do it.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

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

The ACTING PRESIDENT pro tempore. The sponsor has 2½ minutes.

Mr. ALEXANDER. We yield back our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Mr. HARKIN. Mr. President, I thank the Senator from Tennessee and all the Senators speaking on that amendment, for or against it.

Under the unanimous subsequent request, we will turn to the Gregg amendment No. 3673. There will be 2 hours evenly divided. I say to the Senators, if you are opposed or for the Gregg amendment No. 3673, which would cap noneconomic damages in OB/GYN medical malpractice lawsuits, if Senators want to speak on that, we are on it now, with 2 hours evenly divided. Hopefully, we can reduce that time. I ask Senators to please come to the floor if they want to speak.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from New Hampshire is recognized.

AMENDMENT NO. 3673

Mr. GREGG. Mr. President, I appreciate the courtesy of the chairman of the Agriculture Committee. I will speak on our amendment dealing with how we get more doctors to be able to care for women in rural communities. We have a real crisis in rural America today. There is a significant shortage of doctors who deliver babies. This is purely a function of one fact, and that is that the trial lawyer bar has been so aggressive in pursuing doctors who deliver babies with lawsuits, they have essentially created a cost of liability insurance for doctors who deliver babies—OB/GYNs—that is so high that a doctor practicing in a rural community who is there to help women having children, deliver those babies safely, that type of doctor cannot make ends meet. That sounds unusual, but that is a fact.

In order for a doctor to generate enough income to simply pay the liability insurance, which is generated by the large number of lawsuits filed against doctors in this country by the trial bar, it is necessary for an OB/GYN—a doctor who delivers babies—to have a very large basically urban or suburban clientele. When you get into rural America and you don't have a lot of people per square mile, where you have people who work on farms and those farms take up a fair amount of acreage, then you don't have the population base necessary for these doctors to practice and generate enough income to pay the liability insurance.

What we are proposing in this amendment is a very narrow proposal. It doesn't say that doctors who are incompetent, or doctors who, unfortunately, make a mistake won't be sued. It doesn't say that at all. It simply says that in the area of rural America where we need to attract doctors so women have adequate health care, especially if they are having children, in those parts of the country—from the standpoint of population, a small part of the country—we are going to have a special consideration that allows doctors to be able to afford their liability insurance.

We are going to follow what has happened in the law that has been set up in Texas and California, two States which have confronted this issue of liability insurance for doctors and have come up with a plan that has alleviated the cost of the insurance so doctors are able to practice in those States. It essentially says that in the area of economic recovery, you can recover every expenditure, every loss you had, if you were injured as a result of malpractice on the part of a doctor delivering a baby in a rural area.

But in the area of pain and suffering, where so much of the huge awards occur, and where you have had these real decisions that have been in the numbers that are multiple millions, that won't happen any longer. We are going to limit recovery in the pain and suffering area to what has been the standard in Texas and California, which is $750,000 per incident. The practical effect of this is very simple. It will mean doctors who wish to practice in rural America, who wish to deliver

babies for farm families and for other families who live in rural America will be able to pursue those practices and still make a living, something they cannot do in many parts of this country today, so women in these communities will not have to drive for miles and miles to get adequate health care, especially when they are having children.

I know in my State of New Hampshire, if you get north of the White Mountains, one of the prettiest parts of this world, we have a very difficult time attracting obstetricians. In fact, right now, I don't think there is anybody practicing obstetrics up there because of the fact the population base is so small it cannot support those practices at a level that allows doctors in that region to be able to pay their malpractice insurance. So women in that part of New Hampshire often have to drive all the way to Hanover, NH, to Dartmouth-Hitchcock, which is a superb hospital, or down to Laconia, which has a superb hospital. But they literally have to drive through the mountains 2 to 3 hours to get to those facilities. It can be extremely difficult in the middle of winter to drive those roads. In the summer, obviously, it is not fair to ask people to drive those long distances.

This is a very significant issue for rural America and for farm families in America. That is why I have offered it on the farm bill.

The other side of the aisle, for whatever reason—I know the reason, we all know the reason, the trial bar—has decided to resist this amendment aggressively. They have demanded we have 60 votes before we can adopt this amendment. They have basically said: We don't care that women in America who live in rural America are not able to get adequate health care. What we care about is the trial lawyer bar, and that is unfortunate. But that is a reflection of the politics of our time.

The single largest contributing group to the Democratic Party today is the Trial Lawyers Association. Those trial lawyers contribute to the Democratic Party for a reason: They want them to support their agenda. There is a simpatico there. Their agenda is supported essentially by the Democratic leadership in this Congress and in prior Congresses. The trial bar agenda includes not allowing any opening on the issue of limiting liability relative to doctors—any opening. Even something as reasonable as this which is so needed from the standpoint of health care policy, which is so needed from the standpoint of good care of children and mothers in a prenatal state, so needed in the basic fairness for American citizens is resisted, not because it is not a good idea but because they see it as an opening, a slight crack in that door of their ability to bring these massive lawsuits for other people who practice obstetrics across the country or for basically against the medical community generally. They do not want any crack in that door to occur, even if the crack in the door is meant to give American women who live in rural communities, whose families work on farms, the opportunity to be assured decent health care, especially when they are in the process of having and raising a child.

It truly is unfortunate we have reached that point in this Congress where very reasonable public policy, which is to make it possible for more doctors to practice in rural America, is resisted in a knee-jerk way which has no relationship to making our country stronger, our people more healthy, and especially giving people who work in farm America a better opportunity to live a quality life, especially if they are having children.

This is not an attempt in any way to limit the ability of women who are having children and find there is some negligent event occurring as a result of a doctor's care to get a recovery. This amendment does not have that impact. Recovery is in here. It tracks what happens if you live in Texas. It tracks pretty much what happens if you live in California. So it is not an attempt to do some draconian effort to basically shut down lawsuits against doctors who may practice and make mistakes in rural America. Just the opposite. It leaves those lawsuits on the table. It makes them possible. It gives adequate and fair recovery that is allowed for people in two of our most popular States.

What it does do and what it is almost guaranteed to do is to bring more doctors into rural America.

It is interesting to look at the Texas experience because prior to Texas passing its law, which basically tracks this language, they had a very serious, basically a crisis in the area of having OB/GYNs practice in Texas. Now they have a massive backlog of OB/GYNs who want to move to Texas to practice. They actually have the opposite situation. They now have a situation where doctors see Texas as a good place to practice. So health care, for women especially of childbearing age, is improving dramatically because there are a lot more doctors available.

Their biggest problem right now is making sure the doctors who want to come into their State have the quality and ability to do the job right. So they have a big backlog now. That is a complete shift from what happened during the period prior to their passing the law. That applies to everybody, but in the OB/GYN area, they lost 14 doctors, 14 obstetricians during the period 2003, but since they passed their law, they have gained almost 200 obstetricians in the State. That is a big difference. That means a lot of people are seeing doctors who were not able to see them before.

We ought to give that same opportunity to rural America, generally, and especially to farm families. That is why I have offered this amendment.

It is not a big amendment in the sense of dramatic health care changes for the world or for the United States, generally, but it is a big amendment if you are a woman whose family works on a farm and you want to have a child because—hopefully, if this amendment is adopted—you are going to be able to see a doctor without having to drive 4 or 5 hours maybe through a snowstorm, and that is important. It is important to that person, and it should be something we would do as a matter of decency and fairness and especially as a matter of good public policy relative to health care in this country.

I hope people will support this amendment. I understand the other side of the aisle wants to debate a little while longer. That is fine. I understand they want 60 votes. That seems highly inappropriate to me, but that was the agreement that was reached between the leadership.

As I said, I am not trying to stop this bill. It does seem to me there ought to be 60 Members of the Senate to stand up and say enough is enough; we have done enough kowtowing to trial lawyers on this issue. It is time to do something for the women who live and work in rural America and make sure they have adequate access to health care, especially to doctors who can care for them in those important and special years when they are having children.

Mr. President, I ask unanimous consent that the following Senators be added as original cosponsors to amendment No. 3673: Senator ALEXANDER, Senator ALLARD, Senator CORNYN, Senator CORKER, Senator DOLE, Senator HUTCHISON, and Senator VOINOVICH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to have printed in the RECORD letters of support representing the following groups: The American College of Obstetricians and Gynecologists, the American Academy of Dermatology Association, the American Association of Neurological Surgeons, the American Association of Orthopaedic Surgeons, the American College of Emergency Physicians, the American Gastroenterological Association, the American Society of Cataract and Refractive Surgery, the American Urological Association, the Congress of Neurological Surgeons, the National Association of Spine Specialists, and the College of American Pathologists.

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

OFFICE OF THE PRESIDENT, DEPARTMENT OF OB-GYN, TUFTS-NEW ENGLAND MEDICAL CENTER,
Boston, MA, December 10, 2007.

Hon. JUDD GREGG,
Senate Office Building,
Washington, DC.

DEAR SENATOR GREGG, The American College of Obstetricians and Gynecologists (ACOG), representing 51,000 physicians and partners in women's health care, strongly supports your Amendment 3673 to H.R. 2419, the Healthy Mothers and Healthy Babies

Rural Access to Care Act. We commend your continued leadership and efforts to resolve the medical liability crisis facing this nation and to protect access to health care for our nation's women and children.

As you well know, the medical liability environment is driving good doctors out of practice or out of their home states. And when ob-gyns discontinue the practice of obstetrics, refuse high-risk patients, or reduce their surgical practice, women's health care suffers. This has been a problem in the rural areas of several states—including West Virginia, Ohio, Nevada, Missouri and Michigan—which had some of the highest base rate premiums for ob-gyns in the country last year.

Perhaps most troubling is the effect of the crisis on young physicians. A 2006 survey of doctors in their fourth year of ob-gyn residency, the last year before they enter patient care, confirmed that a state's liability climate has a powerful impact on where and how they will practice. A third of residents indicated they had been warned or advised to leave their current location because of liability concerns and nearly half were already considering limiting the type and scope of their practice. Residents named 7 states they would avoid altogether: Florida, Pennsylvania, New York, Nevada, Illinois, New Jersey and West Virginia.

ACOG is deeply committed to resolving the medical liability crisis and supports federal legislation to enact reforms such as the ones that have been so effective in Texas and California. ACOG supports, in particular, provisions in your amendment which would cap non-economic damages, limit the number of years a plaintiff has to file a health care liability action, allocate damages in proportion to a party's degree of fault, and place reasonable limits on punitive damages.

Your amendment is critically important to help solve the medical liability crisis. We urge the Senate to move quickly to enact legislation that will provide relief to physicians and ensure continued availability of quality health care for our patients.

Sincerely,

KENNETH L. NOLLER,
President.

DECEMBER 11, 2007.

Hon. JUDD GREGG,
U.S. Senate,
Washington, DC.

DEAR SENATOR GREGG, The organizations below are pleased to support Amendment 3673 to H.R. 2419, the Healthy Mothers and Healthy Babies Rural Access to Care Act. Thank you for continuing to highlight the crisis created for ob-gyns and all our specialties by unavailable and unaffordable medical liability insurance.

Clearly, America's medical liability crisis does not affect just one specialty or one type of patient, but we strongly believe that every attempt must be taken to pass legislation and raise public awareness of this crisis. We are fully committed to focusing the Nation's attention on the need to solve this crisis, and to work with you to identify a successful strategy that will help get comprehensive medical liability reform legislation signed into law.

If you have any questions, or need additional information, please contact Tara Straw.

Sincerely,

American Academy of Dermatology Association, American Association of Neurological Surgeons, American Association of Orthopaedic Surgeons, American College of Emergency Physicians, American College of Obstetricians and Gynecologists, American Gastroenterological Association, American Society of Cataract and Refractive Surgery, American Urological Association, Congress of Neurological Surgeons, National Association of Spine Specialists.

COLLEGE OF AMERICAN PATHOLOGISTS,
Northfield, IL,
December 11, 2007.

Hon. JUDD GREGG,
Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: As the United States Senate considers S. 2302, the Food and Energy Security Act of 2007, the College of American Pathologists (CAP), representing 16,000 board-certified physician pathologists, supports your amendment based on legislation you introduced, the Healthy Mothers and Healthy Babies Rural Access to Care Act, S. 244. Your amendment addresses the medical liability crisis facing rural obstetricians and the women they serve. It also represents a good first step towards comprehensive liability reform for all physicians.

Pathologists work closely with their obstetrician colleagues in caring for women's health care needs, including providing Pap tests and laboratory tests conducted on newborns. We witness the effects of exorbitant insurance costs on obstetricians in our own communities when they are forced to scale back their practices. In fact, an estimated 1 out of 7 obstetricians nationwide have stopped delivering babies altogether.

The CAP believes the medical liability crisis requires a national solution designed to help patients, not lawyers. Your amendment's $750,000 cap on non-economic damages, which includes a $250,000 cap for rural obstetricians, is a thoughtful reform that will help ensure that women have access to affordable quality care while preserving their right to seek redress in the courts.

Again, the College of American Pathologists supports your amendment.

Sincerely,

JOHN SCOTT,
Vice President, Division of Advocacy.

Mr. GREGG. Mr. President, I yield the floor and yield to the Senator from Colorado on my time.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank Senator GREGG from New Hampshire for his amendment. This is a commonsense amendment, and I think it is entirely appropriate to have it on the agriculture bill because it is one that will make a difference in rural America.

I support the amendment which is called the Healthy Mothers and Healthy Babies Access to Care amendment, that contains measures for targeted liability reform directed at curtailing the number of frivolous lawsuits that are filed every year against obstetricians and gynecologists, especially those in rural areas, such as many parts of my State of Colorado.

This amendment would help those who are in the business of protecting our mothers and children. The OB/GYN community has seen more litigation in the past few years than any other health care profession. The Medical Liability Monitor estimates that medical malpractice rates for OB/GYNs have increased as much as 500 percent between 1999 and 2004 for certain areas of the country. In 2004 alone, there was an increase of about 130 percent in areas that did not have liability protection.

Every year, fewer and fewer OB/GYNs are entering the health care industry, and every year more and more of them leave their practices behind and leave their patients without access to health care or diminished access.

What does it say that OB/GYNs are afraid to practice their professions, as my constituents have expressed to me? We need to cut down on the frivolous lawsuits against OB/GYNs so they can get back to taking care of mothers and sisters and daughters and wives in rural areas.

The Gregg amendment would provide for unlimited economic damages and provide a stacked cap model that would keep noneconomic damages at or below $750,000. The $750,000 cap stacked model would provide that there would be up to $250,000 from a decision rendered against a health care provider, $250,000 from a decision rendered against a single health care institution, and $250,000 from a decision rendered against more than one health care institution for each or $500,000 for all.

Those of you who come out of more urban areas may say that does not seem like much. But if you are a practicing physician in a rural area or a hospital in a rural area, $500,000 is a lot of money. If you have a large metropolitan hospital, it is chump change, but in rural America, it does make a difference.

It also provides punitive damages to be the greater of twice the economic damages awarded, or $250,000.

This amendment also guarantees that lawsuits are filed no later than 3 years after the injury and extends the statute of limitations for minors injured before age 6.

This language also intends to maximize patient recovery of payment by focusing on attorney payment regulations. It also establishes standards for expert witness rules, promotes fairness in the recovery of health benefits, and it attempts to prevent double recovery.

This language also raises the burden of proof for the award of punitive damages and protects providers from being a party in liability suits for FDA-approved products.

Last, it keeps a focus on the patient by attempting to curtail frivolous lawsuits.

In my State of Colorado, tort reform laws were enacted beginning in 1986. At that time, I happened to have been in the State legislature and carried much of the legislation that brought about a tort reform agenda for the State of Colorado.

Colorado created caps for noneconomic damages. They are considered to be among the most reasonable in the country. Frankly, many OB/GYNs see the tort reform laws in Colorado as beneficial to their practice and cite this as a reason to move their practice to Colorado.

However, although they find practicing in Colorado to be preferable,

problems for OB/GYNs still exist in our rural areas. That is why I am here to support the Gregg amendment, even though in Colorado we have done a lot to try to reduce the burden of frivolous lawsuits it has little impact because practitioners in the rural areas have to go into our neighboring States and practice in those neighboring States. As a result, they get impacted when they go over to those States, even though we have a favorable environment in the State of Colorado.

It is not always easy to get across a mountain in a snowstorm, such as we had in the last few weeks, so you go to patients in Utah, for example, or maybe New Mexico, if you are on some of the border communities.

Many physicians who serve in most rural areas of Colorado live in towns bordering other States. Because of the reduction in the OB/GYN workforce, it is now necessary for them to travel to patients to ensure mothers in rural areas receive treatment. It often involves crossing State lines so they may serve patients in rural areas of Wyoming, Nebraska, Kansas, Oklahoma, New Mexico, Arizona, and Utah. They are all neighbors of the State of Colorado. In many cases, the laws in these States do not protect the physician to the extent those in Colorado do and at the very least increase costs for physicians.

Rural patients in this country need access to care and treatment, plain and simple. If we continue to let trial lawyers create an environment where physicians cannot afford malpractice insurance, we run the risk of leaving our rural mothers without access to the doctors they need. So even though we have favorable tort reform provisions in Colorado which help reduce frivolous lawsuits, our neighbors do not, and it is having an impact especially in the rural communities of Colorado that border our neighboring States. The fact is, it makes it more difficult to attract doctors who want to practice obstetrics in those small communities.

In Texas, a good example where the legislation most recently went into effect, amazing things have happened since September of 2003. They have added nearly 4,000 doctors, insurance premiums have declined, and the number of lawsuits filed against doctors has been cut in half. I absolutely believe a focus needs to be made on liability lawsuits, especially in the area of OB/GYN practice. And we saw similar results when the legislature of the State of Colorado passed legislation reducing the liability burden that is brought by frivolous lawsuits. So I have seen it happen in my own State as well as the State of Texas.

I will continue to do my best to ensure that women and their children, especially those in rural areas, have access to quality health care and that frivolous lawsuits do not continue to line the pockets of the plaintiff's bar. For these reasons, I lend my support to Senator GREGG as we move forward on the passage of his amendment.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent to have 10 minutes from the opposition's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

Mrs. BOXER. Mr. President, I was listening to this debate and was looking forward to these amendments on the farm bill, and all of a sudden I am hearing about pregnant women, and having babies, and suing doctors, and I am thinking: What bill are we on? Why on Earth do we have an attack on women in this farm bill? And it is an attack on women in rural areas when you say we are going to have tort reform and we are aiming it at the women in rural America because we don't like the fact that they may sue if there is malpractice.

Men often say, well, they are doing things to help women. Watch out when that happens. Men come to this floor and say: Oh, we are going to take care of the women. This doesn't take care of women. This puts them at risk. And they say: Oh, many more doctors will come to work in the rural areas if we limit liability.

But look at Texas. What my friend from Colorado mentioned about Texas is untrue. We have the statistics. There are no more doctors in rural Texas after they passed this bill. What has happened is that women have had their rights taken away from them.

Now, again, my friends on the Republican side couch this as an attack on the trial lawyers. Oh, the trial lawyers are evil, and all that. Watch out when people say lawyers are evil because when they are in trouble, the first thing they do is call the best lawyer in town. I have seen it myself, right here in the Senate. So watch out when you see a blanket attack on all lawyers. I have to tell you, when a Member on the other side gets in trouble, the first thing they do is call the best lawyer in town, but they want to take away the rights of women to sue in a tragic situation.

There are numerous examples that I can talk about, but one example came to my attention for these purposes, just to show people on both sides of the aisle some of the terrible things that do happen in these childbirths.

I am a grandmother, twice, and I have to tell you that in both cases—and even when I became a mom, twice—all very difficult; premature births, problems, long labors, concerns, breach babies. These are hard and difficult things. And OB/GYNs are my heroes. They are my heroes. Doctors are my heroes. But doctors make, sometimes, terrible errors, and they have to be held accountable or they will just go on and do it again and again.

Now, why would we, on a farm bill, attack the women of rural America and take away their rights? Let's talk about this particular case of Donna Harnett. She happened to be in Chicago. Her doctor decided her labor was not progressing quickly enough, so he prescribed a drug to help induce more contractions. Later, when her labor was not progressing, her doctor broke her water, found it was abnormal, and rather than consider a C-section, the doctor decided to continue to administer the drugs in hopes that the labor would progress.

Six hours later she had not delivered. Her son's fetal monitoring system began alarming, indicating the baby was in serious respiratory distress. The doctor finally decided, after all those hours, it was time to perform an emergency C-section, but it was another hour before Donna was taken into the operating room. During that time, the doctor failed to administer oxygen or an IV to help the baby breathe. After the baby was born, he remained in intensive care for 3 weeks, and she later learned he had suffered substantial brain damage and cerebral palsy as a direct result of the doctor's failure to respond to indications of serious oxygen deprivation and delivery in a timely manner.

In addition to all that, her doctor told her not to have any more children because she had a problem with her DNA, indicating the fact that the child was disabled was in her DNA. And, he said: Any of your future children would similarly have mental and physical disabilities.

Clearly, he was protecting himself in that situation and putting the blame on her. Since then, Donna has given birth to three healthy sons.

She sued the doctor responsible for Martin's delivery, and she received a settlement. That settlement is helping her cover the costs associated with Martin's care that are not covered by health insurance, such as the used wheelchair-accessible van she purchased for $50,000 and the $100,000 she spent renovating her home to make it accessible for her loving son. Martin is now 11. He will be at risk for health complications, including a terrifying incident in August when he almost bled to death because his trachea tube had rubbed a hole through an artery. But he survived, and he is able to laugh and to love and to attend school in his community.

Now, how would she be able to afford to take care of Martin if she wasn't able to have justice? Donna said:

> If there had been caps on the recovery system when my son was injured, it would have torn our family apart and Martin would be in an institution. Instead, he is able to live at home with us where we can take care of him and make sure he is happy.

Why on Earth do Senators in this body want to tell a woman like that: Too bad, no help, sorry. It is wrong. I have seen it in my own State. It is wrong. It tears families apart. Everyone here says: Oh, we are so family friendly. We have family values. Well, I would like to think we have family values that extend to a woman such as

Donna, to a mother such as Donna, to a loving family such as her family, who, yes, wanted to buy a van so it was possible for her to take her son in and to give her son a decent life.

You know, I don't want to be a party to a Senate that would tell a woman such as Donna that she is just going to have to suffer for the mistakes of a physician. And let me be clear: I am a fan of physicians. I trust doctors. But, yes, they make mistakes. And when they make mistakes, they have to be held accountable, just as we all do if we are driving and we make a mistake. To put a cap on this and tell a woman such as Donna: Sorry, your son is your problem, when, in fact, the problem was created by medical malpractice, is an outrage—an outrage.

Anyone who votes for this amendment is saying to the women in rural America: You don't matter. So they can couch it as an attack on trial lawyers, they can do that all they want, but it is about the woman, the mom, who has been mistreated in this fashion.

If we want to deal with issues such as malpractice insurance, count me in. If we want to make sure some made-up case is thrown out of court, I am with you. And, by the way, there are already laws to cover that. But don't come here and say how wonderful you are being to the women of rural America by imposing a cap on what they could collect when they are damaged, when they are made sterile by a mistake, when a child gets brain damage because of a mistake, because of a mixup. That is not right.

And don't say: Oh, it is worth doing because you will get more doctors to come into rural America. It isn't happening. The Texas statistics are there, and I will share them with you. In 2003, when Texas passed its law, 152 Texas counties had no obstetrician. Today, 4 years after passage, the number hasn't budged, with 102 Texas counties having no obstetrician. The fact that some rural counties lack OB/GYNs is not a function of malpractice premiums. It is a function of population. The doctors practice where the patients are. So anyone who stands up here and says: Oh, this is great because so many more doctors will come into rural America, the facts don't show that.

I can tell you because now that I am of the age of a grandmother, where I see so many of these births with my friends' kids, I can tell you that these births are complicated. We want the best people taking care of our women, whether they are in rural America or urban America or wherever they are. And if there is a tragic mistake, such as the one I related to you—a doctor just ignoring what is happening to the patient, refusing to do a cesarean, depriving the child of oxygen, and then turning around and telling the mother: Oh, it is your fault, it is in your DNA, it wasn't anything I did—and then going and telling a jury, well, even if you find in favor of this woman, you cap what she can get—You are consigning that family to a life of tragedy, because the mother in the case I talked about wouldn't be able to have the people in her home to help her with her son. And she had three other healthy babies. How dare that physician try to pin his malpractice on her, tell her she better not have any more kids. She had three more healthy kids.

So I stand here, Mr. President, as a Senator but also as a mom, having had two extremely difficult births, where the doctors I had, the same practice for both my kids, were wise, they were strong, they were smart, and they handled it right. Having seen my own family experience difficult births, I can tell you that you want the best handling it. You don't want to put a cap on damages so that people who are less than the best can go into this area and think: Well, I am protected. If I make 10 mistakes, I can afford it because there is a cap on it. So big deal. Disaster.

And to do this on the farm bill, it borders on the humorous, if it wasn't so serious. Maybe we want to have an amendment about birthing calves on the farm bill or something like that. But what are we doing here? Taking an amendment that doesn't belong here and saying rural women are going to be picked on. That is what they are doing. I am just in disbelief that this is even before us. I hope we have a very strong ''no'' vote and put this baby to bed, because this comes up again and again.

As I say, in my own State, I have met with parents who are just at their wits' end because of this travesty and they have a one-size-fits-all cap. I have met with parents whose child was born, there was malpractice, and the child is blind, the child is deaf, the child is sitting in a wheelchair. The mother and the father love that child. They are driven into poverty because the insurance will cover just so much.

We say we are for families? How can we say we are for families and mean it and then tell the women of rural America: Too bad, you cannot get what you deserve if a doctor makes a tragic—indeed, an unbelievably tragic—mistake. You have to care for a child for the rest of that child's life in the most loving way you can, but we are going to put a cap on what you are going to be able to spend on that child.

This is not the America I know. This is not a farm bill that should be turned into tort reform, some ideological quest by some of our colleagues. This is not an attack on lawyers; this is an attack on women.

I thank you for the opportunity to speak against this amendment, and I am looking forward to voting against it.

I yield the floor and suggest the absence of a quorum and ask unanimous consent that the time be equally divided until we go to the next speaker.

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

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

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

Mrs. HUTCHISON. Mr. President, I rise to speak in favor of the amendment that is pending because I do believe that if we can have some malpractice reform, we can get more OB/GYN doctors, pediatricians, and doctors in general, in our rural areas.

As I travel in my State, I hear the complaints, and have for the last number of years, about lack of health care in our rural areas. It is one of our largest issues in this country today. I want to talk a little bit about our situation in Texas because the amendment before us is modeled somewhat on the law that did provide medical malpractice reform in Texas.

Before 2003, according to the Texas Department of Health, 158 counties had no obstetricians, 24 counties had no primary care physicians at all, and 138 counties had no pediatricians. Texas ranked 48 of the 50 States in physician manpower for our population. Why were we having such trouble? Because the cost of providing health care before 2003 was unsustainable, largely due to increased litigation activity which drove the medical malpractice insurance rate so high that doctors were being driven out of Texas. In fact, the insurance companies also left Texas because the claims were so high.

In 1991, Texas averaged 13 claims per 100 physicians. By 2000, Texas averaged 30 claims per 100 physicians. Of these claims, there was a disproportionate growth in noneconomic damages, damages such as pain and suffering. It was this growth, in contrast to awards of economic damages such as lost wages and medical care costs, that really spurred the increase in the medical malpractice premium. In 1991, noneconomic damages averaged 35 percent of total verdicts. By 1999, they averaged 65 percent. So the noneconomic damages—the pain and suffering damages—really doubled just in that 8-year period, not even taking into account the economic damages, which are certainly warranted damages when there is any kind of malpractice.

From 1999 to 2003, the average malpractice premium increase in Texas was almost 74 percent. The Texas Medical Liability Trust, which covered about one-third of the State's doctors in 2003, increased rates by 147.6 percent between 1999 and 2003. We are talking 4 years. In the Rio Grande Valley, physicians in general surgery and OB/GYN practices ranked sixth and seventh in the Nation for the highest premiums in 2002. The impact of litigation on Texas's health care system was undeniable and unsustainable.

Medical liability reform came about in 2003. There were bold changes in the tort system in an attempt to restore access to care. We have seen a dramatic change.

According to the Texas Medical Board, physician applications for State licensure have doubled from 2003 to 2007. The Texas Medical Board reports that since passing liability reform in Texas, Texas has experienced a gain of 195 OB/GYNs, 505 pediatricians, 169 orthopedic surgeons, 554 anesthesiologists, 36 neurosurgeons, 497 emergency medicine physicians, and 37 pediatric cardiologists. Prior to reform, Texas had five liability carriers. Since reform, Texas has added 3 new rate-regulated carriers and 13 new unregulated insurers. The five largest insurers announced rate cuts in 2005, with an average premium reduction of 11.7 percent. These reductions produced $48 million in annual premium savings.

Medical liability reform does work. We have attempted, on the floor of the Senate, for many years to have a national medical liability reform, even just focusing it on OB/GYN doctors and emergency room doctors because there are shortages all over the country of these kinds of services. There are shortages of physicians who are willing and able to perform these services because of the high medical malpractice insurance rates.

Everyone in our country, and certainly in the Senate, wants to make sure that if there is a medical error that causes an injury to a baby, to a mother, to anyone who is getting health care, certainly there should be penalties. There should be payment for economic damages. There should be payment for loss of wages and payment for pain and suffering. But if you have lawsuits where the pain and suffering start driving it rather than the economic damages and it starts to encroach on the ability of doctors, even if they have a clean record, to afford the rise in liability premiums, then I think we have to take a look.

It is particularly acute in our rural areas, where we have so many farmers, which is, I am sure, why Senator GREGG brought forward this amendment. I think it would be a great amendment to the farm bill to provide better access to health care for our farmers in this country. That is why, I am sure, Senator GREGG chose this bill, because we have not had the opportunity to address medical malpractice reform since we made the attempt last year in the Senate, which was utterly unsuccessful, to be honest.

Because the problem has gotten worse in many States and because the record in Texas after medical liability reform has caused so much better care, more access to care, and more satisfaction with care in Texas since the reform, I would like to see that model able to be reproduced around our country and especially in our rural areas, which is the subject of the bill before us today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I oppose the amendment offered by Senator GREGG, among others. It is certainly not within the jurisdiction of the Senate Agriculture Committee, on which I have the honor to serve, but is within the jurisdiction of the Senate Judiciary Committee, which I have the honor to chair. It is something that should be looked at there. It would be like putting a Defense amendment on the Agriculture bill.

But far worse than just the question of where the jurisdiction is and why this amendment makes no sense here, it would limit the legal rights of what rural women and children are eligible to receive when they are severely injured in our health care system. It does not provide protection for rural women and children. In fact, it leads to a lower standard of care by treating them differently than all other patients in the country. I am certainly not going to vote for something like this and go home to my State, which is a very rural State, and tell the women and children: I voted to make you a second-class citizen. The amendment will overturn our State laws regarding the statute of limitations. It would limit the legal rights of our most vulnerable citizens.

I am always surprised at the other side when I hear, depending on what the issues are: We have to protect the States. We have to protect our State laws. We can't have the Federal Government trample on the State laws. However, if it is something the major insurers want: Of course we will override State laws concerning the statute of limitations, we will limit the legal rights of our most vulnerable citizens.

Nothing remotely related to this novel legal treatment of severely injured rural women or children has even been debated or discussed in the Judiciary Committee. I suspect because nobody would take it seriously if you said we have to protect insurance companies, so we have to cut the legs out from under rural women and children.

The amendment does nothing to protect rural victims of medical malpractice. It does nothing to prevent the serious injuries of malpractice in the first place. Caps on damages, such as the one in the pending amendment, would arbitrarily limit the compensation that the most seriously injured patients are able to receive. This says nothing of what it does to State legislators, which is trample State legislators by telling them that an amendment debated for a matter of minutes on the floor, in our judgment, is so much better than the laws of your State.

The central truth of the troubles of malpractice insurance is that it is a problem in the insurance system and industry, not in the tort system. High malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. There have been enough studies to prove that conclusively. Rather, they are the result of investment decisions by the insurance companies that resulted in business models geared to ever-increasing profits, as well as the cyclical hardening of the liability insurance market.

Instead of blaming lawyers or, worse yet, blaming the victims of medical malpractice, we should look at the special treatment Federal law currently bestows on the insurance industry. They have a blanket exemption from Federal antitrust laws. Most people don't realize that. We assume the law applies to everybody in this country, but antitrust laws do not apply to these insurance companies.

Our antitrust laws for everybody else are the beacon of good competition practice, and when our antitrust laws are followed, consumers benefit. How? They get lower prices, they get more choices, and they invariably get better services. But when the insurance industry operates outside of the structure of antitrust laws, and they do not have to face any competition, then they are allowed to collude and they can set rates. When they do, our health care system, our physicians and our patients all suffer.

Earlier this year I introduced the bipartisan Insurance Industry Competition Act, S. 618, along with Senators SPECTER and LOTT and REID and LANDRIEU. It would assure that malpractice insurers and others could not artificially raise premiums and reduce benefits through collusion. This is a responsible solution to ensure competitive pricing—putting the burden on rural victims of medical malpractice is not.

If you were to try to put the burden on the rural victims, the women and children of rural America, for somebody else's medical malpractice, that is not the way to solve the problems.

Arbitrarily capping damages available to rural women and children does nothing to solve the flawed medical malpractice insurance market. It is a boon to companies that operate outside the antitrust system and can collude to set rates anywhere they want.

I would suggest we do a thoughtful, collaborative consideration in the Judiciary Committee where this discussion belongs, get a sensible solution that is fair to patients and can support those in our medical profession who want to practice quality health care.

This partisan amendment does not do this. It is not designed for a creative solution to a serious problem. Anyone who wants to vote for it, I hope they are prepared to go home and tell their State legislature: We walked all over you in hobnailed boots, you are irrelevant, we are the Senate. One hundred people here know far better than the legislatures in all your States.

That is not the way to do it. That is not the way to bring things about. So if you want real consideration of this, let's do it along with raising the issues of why should the insurance companies be able to collude, why should they be outside the antitrust laws, why should they be able to meet behind closed doors and do whatever they want to set our rates? That is what I ask.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of Senator GREGG's amendment. This is a frustrating issue because there are many factors that contribute to the lack of physicians who serve rural areas of America. We cannot escape the fact that rural areas of America are hard hit by this, especially by a critical lack of OB/GYN physicians.

We have an opportunity to try to address that problem. The cost of providing service in those areas is disproportionately high, in large measure, because of the cost of our liability system.

We can argue what the best way is to address the cost of the liability system. It might be easy to blame insurance companies, but there is no question we ought to look for commonsense approaches to deal with this problem; otherwise, we are not going to increase the coverage and the number of physicians who are practicing in rural America.

We have heard about the impact of State regulation from Senator HUTCHISON, who spoke about her experience and her State's experience. Many States have taken action to put commonsense controls in place on the overall cost of the liability system, by not limiting physical or economic damages for those who are harmed in malpractice cases, but by simply putting commonsense limits on noneconomic damages.

There are many States that have taken this approach, and it is important to note this amendment would not affect those States that have enacted their own set of laws. This amendment targets States that have made no attempts to address the problem. It targets rural areas of the country where it is most needed, to help those rural areas get better access, better service, to OB/GYN physicians.

While it may be frustrating, as Senator LEAHY noted, to see an insurance company that has made a bad investment decision—I am not happy about that, he is not happy about that, that it might have an impact on insurance costs—it is far worse to look at a rural part of America, a rural county, a rural city, a rural town, that has no access to the health care physician services it needs because of spiraling liability costs in the system.

I think this amendment is a good-faith effort to begin to address that problem.

AMENDMENT NO. 3822

Mr. President, I wish to take another moment to address a second amendment Senator GREGG has offered. It is amendment No. 3822.

Mr. President, in the last few days, the morning temperature in Manchester, NH, has been about 8 degrees; home heating oil costs are $3.27 per gallon. These are simply the cold, hard facts of winter in New England, 8 degrees and $3.27 per gallon.

As we continue debate this week on a comprehensive energy bill, I hope we keep those numbers in mind. I hope we take a hard look at programs such as LIHEAP, low-income fuel assistance, that can make a difference for families in New Hampshire and across the country.

The Federal Government has limited power to have an immediate impact on energy prices, whether it is a gallon of oil or a gallon of heating oil or natural gas that might heat hospitals. Congress is in a poor position to have an affect on the laws of supply and demand, but we can help those who are most in need during a tough, cold winter; that program, as I indicated, is LIHEAP.

Simply put, LIHEAP funding works. It is administered by the States and local agencies that know and understand the people who need the assistance, and they deliver it in a very effective way. Congress passed the precursor bill to LIHEAP back in 1980, and in 2006, we allocated over $3 billion for LIHEAP.

Last year, under the continuing resolution, LIHEAP funding was roughly $1 billion less, and, unfortunately, the Department of Health and Human Services has only been able to release 75 percent of each State's allocation.

I know the Presiding Officer, Senator SANDERS from Vermont, has worked on this issue. We signed letters together in the past, letters addressed to President Clinton, letters addressed to President Bush, letters addressed to conferees and appropriators.

Now we have in front of us an amendment offered by Senator GREGG, and one offered by Senator SANDERS as well, that would try to address the problem by adding to this farm bill nearly $1 billion in additional funds for LIHEAP.

If we look at some of the unnecessary funding in this farm bill, it becomes clear to Americans that we absolutely have the resources and the capacity to make those allocations under the current budget framework.

I am pleased to join Senator GREGG as a cosponsor to his amendment that would appropriately fund this program. This has been a bipartisan issue, both in the House and in the Senate. I have worked with colleagues on both sides of the aisle to make this kind of funding a reality, and I think it is a tribute to LIHEAP that the program has been able to maintain bipartisan support through the years.

We are pursuing a number of different ways to add these critical LIHEAP funds to this farm bill, as well as any appropriations legislation we consider in the coming week, and, quite frankly, the people at home do not care how we go about it. They understand it has been awfully cold in New England the past week, and heating oil still costs well over $3 per gallon.

We need to get the job done. I am pleased to support the amendment and I hope it is adopted by my colleagues.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I rise today to talk about the rural access to care amendment sponsored by Senator GREGG. It is amazing in a State such as New Hampshire, that could not be more different than the State I reside in, Tennessee, that we have a very similar problem.

I commend his efforts on this agriculture bill, one that affects so much of rural America, to, in a very surgical and thoughtful way, deal with the issue of access to care.

As you might imagine, I spent an inordinate amount of time, in the 2 years prior to being here, in all 95 counties in my State. What was most stunning was to see the statistics and talk to young women as it related to their access to obstetrical care.

The fact is we have 91 of 95 counties in our State that are considered to be rural counties. The number of OBs in those rural counties from 1997 to the year 2003 dropped from 179 OBs to 103 during that period of time.

In our State, more than 30 of our 95 counties have very inadequate access to obstetrical care. In 15 of those counties, we have no obstetrical access. I know the Senator from Vermont, the senior Senator, talked a little bit about the insurance companies and the role they have played. I respect greatly his views and certainly his knowledge on this subject.

But what I found was this: We have young mothers-to-be in our State who lack the ability to access OB care because of the fact that malpractice insurance costs so much in that particular field of care, and, therefore, they have been driven out, if you will, of the rural counties in the State of Tennessee.

The fact is this amendment only focuses on rural counties. It only focuses on OB care. It does not in any way affect those States that have chosen to go ahead and address this issue themselves. I wish to applaud him in being so thoughtful and so surgical in his approach to this very pressing issue that, if you will, pits these young mothers-to-be against those who are against any kind of malpractice caps.

The fact is this only addresses noneconomic damages. It does not in any way affect economic damages. It does not keep families from getting the most complete care necessary if something bad were to happen. I fully support this. I wish to thank Senator GREGG for offering this amendment. I urge my colleagues to support it also.

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

Mr. HARKIN. If the Senator would suspend, I wish to ask how much time is remaining on this amendment.

The PRESIDING OFFICER. The majority has 36 minutes 48 seconds, the minority has 20 minutes 40 seconds.

Mr. HARKIN. I assume in a quorum call the time is taken from both?

The PRESIDING OFFICER. Only by consent.

Mr. HARKIN. If the quorum call is put in now, might I ask the Chair to whom does the time run against?

The PRESIDING OFFICER. It is charged to the Senator who makes the suggestion there is an absence of a quorum.

Mr. HARKIN. Mr. President, I think it is only fair to ask unanimous consent any time under this quorum call be equally allocated to both sides.

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

Mr. HARKIN. We have a little over half an hour of time left on this side, about 20 minutes on the other side on this amendment. For those Senators, this is the medical malpractice amendment by Senator GREGG from New Hampshire. By consent, we had 2 hours of debate. The clock is running. If any Senators wish to speak on this amendment, they better hurry over here.

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

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

Mr. DURBIN. Mr. President, I rise in opposition to Gregg amendment No. 3673. He has entitled this amendment the Healthy Mothers and Healthy Babies Rural Access to Care Act. The reason it is called ''rural access to care'' is so he can fit it into the farm bill because it doesn't have much, if anything, to do with the farm bill. It is a bill related to medical malpractice. It is an issue which Senator GREGG dutifully brings before the Senate as often as possible. I respect him for his point of view. I disagree with his point of view. But I think it must be clear to those who are following the debate what is involved in this bill and this amendment.

This is a farm bill that comes up once every 5 years. Senators HARKIN and CHAMBLISS have worked hard to put together a bill dealing with farmers and ranchers, nutrition programs, so many other items. Some on the Republican side of the aisle have insisted that is not enough. They want to bring in a lot of unrelated issues and debate them on the farm bill. They were given permission to do so, and Senator GREGG has done just that.

This amendment is important to understand. What Senator GREGG is saying is, there is one class of people in America who will be limited if they are victims of medical malpractice. This class of people in America who will be limited in recovering for the damages sustained by them and their family, this class of people that will be limited are the women of America. Women of America will be the only ones limited in recovering in court if they or their children are injured in childbirth. What is the justice in that? No limitations on men for prostate surgery but limitations on women delivering babies? I don't understand his logic, and I don't think anyone, particularly if they happen to be a woman, can understand why he decided to single out women in America and restrict their recovery in court if they are innocent victims of medical malpractice. That is what he does.

The Senator argues that we have to address the high cost of medical liability insurance and the risk of being sued. That is the reason he wants to limit the right of women in America to go into a courtroom and argue they were either hurt or their children were hurt or killed in the course of childbirth.

He claims his amendment will help ensure that rural women don't have to drive long distances to see a ''baby doctor.'' But it is interesting, this amendment is patterned after a Texas law that did not bring more baby doctors to rural areas. I am sure the Senator from Texas, who will speak after me, will address this.

In 2003, Texas passed its law. At the time it passed, there were 152 counties in that State without an obstetrician, no doctor to deliver a baby. Today, 4 years after the passage of this Texas law limiting the right of recovery for women who were injured as a result of malpractice, the number has not changed. In Texas, 152 counties still have no obstetrician.

The fact that some counties don't have an obstetrician may not be as much about medical malpractice premiums as it is about population. According to the American Medical Association, the number of OB/GYNs nationwide has risen from around 39,000 in the year 2000 to over 41,000 in 2004. So there are more obstetricians practicing. But that hasn't changed the circumstances in rural Texas because the doctors who are practicing medicine involving the delivery of babies are practicing in cities and suburbs. The Gregg amendment doesn't even address that reality.

Supporters of proposals such as the Gregg amendment like to argue that escalating malpractice premiums justify their effort to limit the right of patients who have been injured to seek compensation. We have had this argument before over several years. There is no doubt about it—and I don't argue—medical malpractice premiums went up dramatically. But as so many States have addressed this issue, we have seen a change.

During the third quarter of 2003, malpractice premiums were 28 percent higher than the year before. But by 2004, malpractice premiums increased only 6 percent. In 2005, they did not increase at all. In 2006, they actually dropped 1 percent. In 2007, they dropped 3 percent. Malpractice premiums are going down. Yet Senator GREGG or another of my colleagues on the other side of the aisle dutifully offers this amendment or some variation of it every year without acknowledging the real changes taking place.

Despite all the talk about frivolous lawsuits being filed against medical professionals, medical malpractice payments by insurance companies have remained steady when adjusted for medical inflation. And the number of paid medical malpractice claims per physician in America has actually declined. According to the Kaiser Family Foundation, the number of paid malpractice claims for every 1,000 physicians decreased from 25.2 in 1991 to 18.8 in 2003.

Malpractice premiums are going down. The number of claims being filed per physician is declining. The number of paid malpractice claims is going down significantly.

But even if malpractice premiums were still going up—which is not the case—the Gregg amendment does not require insurance companies to lower them. The Gregg amendment says: We will deny to women the opportunity to recover in court for injuries to them or their babies, and we are hoping the insurance companies will show mercy and reduce premiums as a result. There is no linkage between the Gregg amendment and actually bringing down malpractice premiums.

This amendment limits the damages that can be recovered by victims. Keep in mind, these are victims who have legitimate claims in court. They are the ones Senator GREGG would deny recovery for the actual damages they have incurred.

Now, I will concede he allows some damages to be incurred—medical bills and the like. But he will even, I think, acknowledge there is a limitation on noneconomic damages of, I think—I read quickly through this—I think in this year's version it is $250,000.

Now, if we want to turn this farm bill into a discussion on health care, the issue we should be focusing on is one I think we all agree has to be taken seriously. It is patient safety, medical errors. Dr. Carolyn Clancy, director of the Agency for Healthcare Research and Quality, has called medical errors by doctors and hospitals ''a national problem of epidemic proportions.''

Senator GREGG's amendment does not address this. He does not address one of the causes of injuries to innocent patients who go to a doctor for what are supposed to be routine medical procedures and have a very bad result. He does not address the medical errors that trigger medical malpractice lawsuits.

A far-reaching study of the extent and cost of medical errors in our hospitals was published in the Journal of the American Medical Association in 2003. The authors of the study analyzed 7.45 million records from about 20 percent of U.S. hospitals.

They found that injuries in U.S. hospitals in the year 2000—just 1 year—led to approximately 32,600 deaths, 2.4 million extra days of patient hospitalization, and additional costs of 9.3 billion. That did not include adverse drug reactions or malfunctioning medical devices.

The authors concluded that medical injuries in hospitals ''pose a significant threat to patients and incur substantial costs to society.''

What does the Gregg amendment do about patient safety and medical errors? Nothing.

Here is what it does. It applies an arbitrary one-size-fits-all cap on noneconomic damages in malpractice cases won by the patients. What are noneconomic damages? Pain and suffering, disfigurement, physical impairment, and scarring. How do you put a price on that?

If a person is going to be incontinent for the rest of their life, if they are scarred in the face or another part of their body, if they are in pain and unable to function, is that worth something? In the mind of Senator GREGG, it is only worth $250,000—no matter what. That is it. If your pain is going to be with you for a year, 5 years, 10 years, or 20 years—the same amount, $250,000.

It would reduce the statute of limitations within which an injured patient can bring a lawsuit. It is more restrictive than the majority of the States in the Union, cutting off claims for injuries or diseases. If you do not file the claim on time, Senator GREGG says: Sorry. Bad luck. Sorry that this poor woman is not going to have a chance to recover, but that is the price she is going to have to pay for his reform.

It would allow a reduction of damage awards because of other health or accident insurance the patient might have. Imagine for a minute that you have been wise enough, thoughtful enough, to buy health insurance to cover yourself and your family. Your wife goes in to deliver a baby. The doctor makes a serious error. The wife is injured. The baby is injured, and the baby dies.

Now there are medical bills. Well, it turns out you had health insurance. According to Senator GREGG, we should give to the offending doctor or hospital credit for your wisdom in buying health insurance. In other words, they do not pay for the medical bills if you paid for them yourself through your own health insurance. Does that make sense? Is that fair that the hospital or doctor guilty of malpractice would profit because the victim had health insurance?

His amendment makes it harder for patients to pursue punitive damages, and it would limit how much can be awarded—even when a wrongdoer is found to have acted with malicious intent.

His amendment would allow insurers to string out damage payments over a long period of time, meaning the insurers could keep the interest on that money for themselves.

It would preempt State laws on lots of issues, including whether patients' insurance coverage affects payments, how soon victims are compensated, and, of course, statutes of limitations.

The amendment only applies to lawsuits involving OB/GYNs in rural areas. Women living in rural areas are the ones on whom Senator GREGG has focused. They are the only group of Americans he wants to deny an opportunity in court for full compensation for their damages. I am sure the women of America will be grateful. I do not think, if they read this bill closely, they will believe it is fair or just. I do not.

Why would we want to treat rural mothers differently than those living in the suburbs or cities? This amendment is the wrong solution to the wrong problem on the wrong bill. Congress should not decide what injured patients should receive. We have a system called a justice system. We have judges, and we take an average group of people in America—your neighbors and friends—11 or 12, and they sit in the jury box to listen to the deliberations and decide what is fair.

I think that system has worked pretty well. And over the years, we have said we will allow the States to write the laws about how these lawsuits will be conducted. Over the years, there have been problems with malpractice premiums, problems with patient safety, and the States have responded to it, including my State of Illinois, by changing State law. I believe the majority of States have already changed their malpractice statutes.

That is the proper and appropriate way to approach this issue. Senator GREGG wants to federalize this. He wants to make it a Federal matter. He wants Congress to preempt the decisions of the States, and he wants his law to preempt the decisions of a jury. He believes his wisdom on what a person should be entitled to recover in a lawsuit should be trumping the wisdom of a judge and a jury.

I guess I have more trust in those judges and juries. They do not always come in and award for the plaintiff. Before I came to Congress, I used to handle these lawsuits. I spent a number of years defending doctors and hospitals, and a number of years suing them for medical malpractice.

They talk about frivolous lawsuits. I want to tell you, we fought long and hard before we took a case in my office involving medical malpractice. They are complicated and expensive and went on for a long time. I was not going to take a case that I did not think I could win. It was not fair to the doctor. It was not fair to the plaintiff. It sure was not fair to my family and my law practice. So we did not file anything we knew to be frivolous, just to make noise. We made a point of not doing that.

In this situation, for Senator GREGG to decide that a class of Americans—women in rural areas—are going to be denied their recovery in court, they are going to be treated differently—well, certainly this is a worthy topic for the Judiciary Committee and others to debate at some time about patient errors and medical safety, about malpractice and premiums. But to do it on a farm bill?

We just had a debate earlier about how much money we are going to give to people who grow asparagus. Yes, that was one of the amendments. Now we switch from that issue to a question about whether a mother who is giving birth to a child—where the doctor does not show up on time or does the wrong thing and the child is injured or dies—whether that mother can go to a court and receive compensation.

I think this is an amendment that should be defeated. I urge my colleagues to join me in voting against this amendment—to join me in supporting the basic concept that the States have been the source of statutory regulation of medical malpractice claims, to join me in saying it is not fair to pick out one class of people in America—in this case women living in rural areas—and to say they cannot have their day in court, to join me in saying we should be working together to reduce medical errors and make it safer to go to a hospital, make it safer to go to a doctor.

I respect the medical profession. I cannot tell you how many times in my life I have relied on a doctor or a hospital for care for a member of my family and was thanking God every moment that they were as good as they are, doing as much work as they do, having studied as hard as they did. But, please, this is a piece of legislation proposed by Senator GREGG which has not been thought through. It is not fair. It is not fair to the women who would be discriminated against by this legislation. It certainly is not fair to their families if a tragic consequence of medical malpractice means that a baby or a mother is going to be disfigured, face pain and suffering for a lifetime, to say that no matter how long it goes, no matter what happens, we cannot allow them more than $250,000.

That, to me, is unreasonable. It is unfair. And it has no place on this bill. I urge my colleagues to defeat the Gregg amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I express my appreciation to the senior Senator from New Hampshire for bringing this important amendment to the Senate floor.

We just heard from the distinguished assistant majority leader, who is one of the best lawyers we have in the Senate. But I want to offer a different perspective; that is, it does not do pregnant women a lot of good to be able to sue for unlimited damages if they are injured in a medical liability case if they cannot find a doctor to take their case or to deliver their baby.

Really, what this amendment goes to is, how do we increase access to health care and how do we deal in an area where I know there have been complaints that it only addresses pregnant women and their ability to find doctors? The fact is, if we could get agreement on the other side of the aisle, I think this should be extended to cover

all doctors and hospitals and all types of cases.

But, as the Senators know, there are issues of germaneness that mean there is only a limited ability to deal with a part of the universe of the problem, and that is why Senator GREGG has offered this legislation—which is called Healthy Mothers Access to Rural Care—on this particular bill.

This legislation, as Senator DURBIN noted, is modeled after recent reform efforts that have taken place in my State, my home State of Texas. I would like to talk a little bit about the dramatic improvements in access to care that this commonsense legislation has provided.

This is the subject of an interesting story in the New York Times, dated October 5, 2007. The title of the story—apropos of my comments a moment ago—is ''More Doctors in Texas After Malpractice Caps.''

I would say to the distinguished Senator from Illinois, this is not about denying people access to the courts and recovery. There is unlimited ability to sue for and recover economic losses as a result of a medical liability incident. But it does place reasonable caps on noneconomic losses, specifically pain and suffering.

The good news is, we do not have to guess as to whether this approach works. We know because it has worked in that laboratory of democracy known as the great State of Texas.

As I mentioned, this article highlights some of the successes of this legislation passed a few short years ago in Texas. For example, it says:

> In Texas, it can be a long wait for a doctor: up to six months.
>
> [But] that is not for an appointment. That is the time it can take the Texas Medical Board to process applications to practice.

In other words, there have been so many doctors moving to Texas who want to get a Texas medical license because of these reforms that the number of doctors has increased dramatically, and, thus, access to care has increased dramatically throughout the State.

The article goes on to say:

> Four years after Texas voters approved a constitutional amendment limiting awards in medical malpractice lawsuits, doctors are responding as supporters predicted, arriving from all parts of the country to swell the ranks of specialists at Texas hospitals and bring professional health care to some long-underserved rural areas.

This is particularly important, as the article says, in high-risk specialties such as obstetrics and gynecology and neurosurgery and other areas where it is hard to find doctors to come to practice because of skyrocketing medical malpractice rates.

Well, this reform, in Texas, 4 years ago, and what this amendment proposes are specifically designed to deal with those skyrocketing malpractice rates by providing some reasonable limits on recovery for noneconomic damages. It is fallacious to say it denies people access to the courthouse or recovery. It doesn't do that at all. This article goes on to say:

> The influx, raising the State's abysmally low ranking in physicians per capita, has flooded the medical board's offices in Austin with applications for licenses, close to 2,000 at last count.
>
> It was hard to believe at first; we thought it was a spike,

said Dr. Donald W. Patrick, executive director of the medical board and a neurosurgeon and lawyer. But Dr. Patrick said the trend—licenses up 18 percent since 2003—has held, with an even sharper jump of 30 percent in the last fiscal year, compared with the year before.

The article continues to talk about the experience of a pediatric neurosurgeon—a high-risk specialty:

> Dr. Timothy George, 47, a pediatric neurosurgeon, credits the measure in part with attracting him and his long sought-after specialty last year to Austin from North Carolina. ''Texas,'' he said, ''made it easier to practice and easier to take care of complex patients.''

Why would we want to make sure there are more pediatric neurosurgeons or specialists with that kind of ability and training and skills, to make that available to more children who need that skill? That is what this amendment would provide.

The article goes on to say:

> The increases in doctors—double the rate of the population increase—has raised the state's ranking in physicians per capita to 42nd—

Up from 48th in 2001—

> according to the American Medical Association. It is most likely considerably higher now, according to the medical association, which takes two years to compile the standings.
>
> The Texas Medical Board reports licensing—

More than 10,000 new physicians since 2003, up from roughly 8,000—

> in the prior 4 years. It issued a record 980 medical licenses at its last meeting in August, raising the number of doctors in Texas to 44—

Almost 45,000—

> with a backlog of nearly 2,500 applications.

It is another example of people voting with their feet when we allow conditions to exist that allow doctors to practice their profession in a reasonable environment rather than appear as a victim of the litigation lottery. They are going to come, and more doctors—more high-risk specialties mean more patients are going to get access to the kind of health care they need.

We know the opponents of some of this have basically said: Well, people are going to be hurt if you limit noneconomic caps. The fact is the people who are going to be hurt are the patients who are not going to be able to get the doctors. Of course, we can't forget our friends, the trial lawyers, who usually take 40 to 50 percent of every award in a medical malpractice case. I submit that is part of the resistance we have here, because trial lawyers who specialize in these kinds of cases don't want to get hit in the pocketbook. They don't care as much about access to health care as they do their own pocketbook.

> In some medical specialties—

This article goes on to say—

> the gains have been especially striking.

For example, an increase of 186 obstetricians, 153 orthopedic surgeons, and 26 neurosurgeons.

This is the reason why physicians and health care providers have found it a better place to practice their profession and why access to care has increased as a result.

This article goes on to say there was an average 21.3 percent drop in medical malpractice insurance premiums, not counting rebates for renewal.

Justice requires that we embrace a national reform, particularly in light of the fact that the American taxpayer, the Federal taxpayer, pays roughly 50 percent of every health care dollar in America today. This is no longer an isolated issue that can be handled or should be handled State by State. We ought to look at the reality, and that is that we need a Federal and national solution too. We are doing fine in Texas because we passed this reform 4 years ago. But shouldn't we make sure that more Americans—particularly more pregnant women—have greater access to health care as a result of this commonsense reform?

As a matter of principle, those who have been wrongly injured deserve their day in court. No one is suggesting we ought to close or bar the courthouse door. If a doctor is at fault, he or she should be held fully accountable. But we should also at the same time take care not to destroy our health care system in order to protect unlimited damages and the lawyers who bring those lawsuits.

The Texas approach has proven successful. This bill would simply give the same boost to all Americans, particularly those most in need—particularly rural patients and more particularly pregnant women who need access to an obstetrician and gynecologist to take care of their baby. It would be a shame if our colleagues on the other side of the aisle continue to block, as they have done time and time again, commonsense reform legislation that is guaranteed and proven to give greater access to health care and doctors and to make sure all Americans have access to the best health care possible.

I urge all of our colleagues to stand up for better access to rural health care, particularly in obstetrics and gynecology, by passing this important amendment.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I wanted to speak for a few minutes on the Gregg amendment simply because I have unique personal experience with it. I am now somewhere close or over having delivered 4,000 children. The last one was an 8 pound, 9 ounce healthy baby, no problems that we know of. I also just signed a check to pay for my malpractice insurance,

which next year will come to about $3,000 per baby I deliver—$3,000 per baby, per case. Now, that is excessive because I don't deliver that many babies anymore. But on average, it is $300 to $400 to $500 for every baby that is delivered in this country in terms of malpractice insurance.

Why is it important to fix this problem, not just for OB/GYNs but for all doctors? Well, there are a couple of reasons. The cost of defensive medicine today on the basis of the litigious aspect of medical malpractice causes us to spend $600 per person per year on tests nobody needs, except the doctor needs to be able to say he went the extra mile in case they get sued. That comes to about $150 billion a year of tests that were ordered. That doesn't include the cost of the malpractice insurance, which the year before last in Oklahoma rose 98 percent—a 1-year rise. There are significant problems with the tort system in Oklahoma that show the excessive costs. But more importantly, what about the women and children? The heck with the money. What about the women and children? What happens?

Well, we know we are not filling the spots for the OB/GYN residencies in this country anymore because you can't afford to pay the loans and get a job and earn enough and then pay for your malpractice to be able to pay off your loan and make a living. So people are opting not to go into obstetrics and gynecology. Why do they do that and what is the result of that? The result is we have fewer trained specialists to actually offer care. Who suffers the most—women in the large cities or women in the smaller rural cities? The reason this is offered on this bill is because it has tremendous direct application to the women who live in rural America. Access is denied. We are now talking an hour, 2-hour, 3-hour drives for OB care in Oklahoma because we don't have the available people who will do this service.

There are two other points I want to make as we consider this, thinking only about the women and children. One is that because of the tort system we have, if you are a woman who has a C-section—not because you can't physically deliver a baby, but because you had a sign that your baby may be in trouble—the next time you come to have a baby, there is an almost 80-percent chance that you could deliver that baby naturally, without having to undergo surgery. But because of the litigious environment, we now have hospitals all across the country that forbid vaginal delivery after cesarean section—not because it is that unsafe but because the risks associated with the procedure in terms of the legal consequences make it financially not a risk that hospitals want to take, let alone whether the doctor is capable of doing it and managing that patient at all.

So what does that mean? It means we expose women to a major surgical procedure, not because they need it but because the trial bar has forced them to do it. We are now making decisions not based on medical indications; we are making decisions based on legal implications. That is the wrong way to practice medicine.

Finally, the third point I will make is as we see this shortage of available obstetrical care in the rural areas, we say: We are going to give you care, but then we give you somebody who is great in terms of caring for you, and has some knowledge, and has some capability, but isn't a fully trained physician. We give you a nurse-midwife. But if you get in trouble, you are still going to have to have somebody come in. Well, what do we know about that? What we know is that time makes a significant amount of difference when we have a baby in trouble. So what we are going to do is we are going to continue to increase the costs of complicated deliveries, with children who get injured, when the whole goal of the tort bar in the first place was trying to prevent that, because we don't intercept and we don't interrupt a process that could have made a major difference in that child's life.

In my hospital, you can't deliver a baby unless you have the ability to do an operative procedure to handle every complication of obstetrics. But that is not true around the country anymore because we have decided we are going to do it in a less cost-efficient way.

Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. On both sides.

Mr. COBURN. I am happy with that.

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

Mr. COBURN. So our point is this: This isn't a perfect bill to be talking about this issue, but it truly has impact to our agricultural communities. They are the ones who live in the rural areas. What we have done is we have moved away from the ball where we now practice legal medicine, rather than medicine. We are offering a care that is not as good as what it could have been. We are putting women through procedures that they don't have to go through with a tremendous increase in cost, all because we can't say there ought to be some type of limitation so we can rebuild the medical structure.

If we really believe in women and children, we will grant the same equality in the rural areas that we grant around the rest of this country by making sure they have competent, well-qualified, certified obstetricians and gynecologists to take care of them at this great time of their life.

I yield the floor.

The PRESIDING OFFICER (Mrs. McCASKILL). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, how much time do we have?

The PRESIDING OFFICER. The majority has 17 minutes.

Mr. KENNEDY. I yield myself 10 minutes.

Madam President, I came over to speak on an extremely important issue dealing with the public safety of employer-employee cooperation.

First, I listened with interest to our colleagues talk about the issues of malpractice and the costs to the health care system. The fact is we have had in the Judiciary Committee extensive hearings on this issue, and the root cause of the increases are not so much the problems with the doctors and the patients, it is the insurance industry in and of itself that has made poor investments. As a result of poor investments, they have raised the tariff on the various doctors and communities. This has been well documented. I wish to have material printed at the appropriate place in the RECORD about these issues. It is a serious issue—malpractice insurance—but it is important that we find out the real reasons for that. It does appear to me we are not getting the full story, certainly here on the floor of the Senate this afternoon.

Today's vote on the Gregg malpractice amendment is a test of the Senate's character. In the past, this body has had the courage to reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in previous debates on this issue, congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme ''tort reforms'' are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

We must not sacrifice the fundamental legal rights of seriously injured patients on the altar of insurance company profits. We must not surrender our most vulnerable citizens—women and newborn babies—to the avarice of these companies. The idea of denying pregnant women living in rural areas the same legal rights as pregnant women living in urban areas is truly absurd. It is a transparent gimmick designed to make this amendment appear relevant to a totally unrelated farm bill.

This bill contains most of the same unreasonable provisions which have been decisively rejected by a bipartisan majority of the Senate many times before. The only difference is that previous proposals took basic rights away from all patients, while this bill takes those rights away only from women and newborn babies who happen to live in rural communities. That change does not make the legislation more acceptable. On the contrary, it adds a new element of unfairness.

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing arbitrary caps on

compensation for non-economic loss in all obstetrical and gynecological cases involving women in rural areas. These caps will hurt patients who have suffered the most severe, life-altering injuries.

They are the children who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who lost organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions. It would be terribly wrong to take their rights away. The Republicans talk about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

A person with a severe injury is not made whole merely by receiving reimbursement for medical bills and lost wages. Noneconomic damages compensate victims for the very real, though not easily quantifiable, loss in quality of life that results from a serious, permanent injury. It is absurd to suggest that $250,000 is fair compensation for a child who is severely brain injured at birth and, as a result, can never participate in the normal activities of day to day living; or for a woman who lost her reproductive capacity because of an OB/GYN's malpractice.

Caps are totally arbitrary. They do not adjust the amount of the compensation ceiling with either the seriousness of the injury, or with the length of years that the victim must endure the resulting disability. Someone with a less serious injury can be fully compensated without reaching the cap. However, a patient with severe, permanent injuries is prevented by the cap from receiving full compensation for their more serious injuries. The person with a life-altering injury may only be permitted to receive a relatively small portion of the compensation to which he or she is entitled.

The proponents argue that they are somehow doing these women and their babies a favor by depriving them of the right to fair compensation when they are seriously injured. It is an Alice in Wonderland argument which they are making. Under their proposal, a woman in a rural county whose gynecologist negligently failed to diagnose her cervical cancer until it had spread and become incurable would be denied the same legal rights as a man living in the same county whose doctor negligently failed to diagnose his prostate cancer until it was too late. Is that fair? By what convoluted logic would that woman be better off? Both the woman and the man were condemned to suffer a painful and premature death as a result of their doctors' malpractice, but her compensation would be severely limited while his would not. She would be denied the right to introduce the same evidence of medical negligence which he could. She would be denied the same freedom to select the lawyer of her choice which he had. She would be denied the right to have her case tried under the same judicial rules which he could. That hardly sounds like equal protection of the law to me. Yet that is what the advocates of this legislation are proposing.

Consider another real world example of how this bill would work. A woman visits her OB/GYN to be treated for infertility. She is given a medication which causes her to experience severe complications. A man goes to his doctor with an infertility problem. His doctor also prescribes medication, and he too experiences serious complications. Both suffer permanent injuries as a result, and each sues the pharmaceutical company which manufactured the two drugs. The woman's noneconomic compensation will be arbitrarily limited to $250,000 no matter how devastating her injuries and she will be unable to recover punitive damages even if the court determines that the drug company acted ''recklessly.'' In contrast, there will be no legal limitations on the compensation which the man is able to recover, and he can receive punitive damages if the drug company in his case is found to have acted ''recklessly''. How do the sponsors justify treating two patients with similar injuries so differently based solely on their gender?

Of course, this bill does not only take rights away from women. It takes them away from newborn babies who sustain devastating prenatal or delivery injuries as well. These children face a lifetime with severe mental and physical impairments all because of an obstetrician's malpractice or a defective drug or medical device. This legislation would limit the compensation they can receive for lost quality of life to $250,000—$250,000 for an entire lifetime. What could be more unjust?

This is not a better bill because it applies only to patients injured by obstetrical and gynecological malpractice. That just makes it even more arbitrary.

The entire premise of this bill is both false and offensive. Our Republican colleagues claim that women and their babies in rural areas must sacrifice their fundamental legal rights in order to preserve access to OB/GYN care. The very idea is outrageous. It is based on the false premise that the availability of OB/GYN physicians depends on the enactment of draconian tort reforms. If that were accurate, states that have already enacted damage caps would have a higher number of OB/GYNS providing care. However, there is in fact no correlation. States without caps actually have 28.2 OB/GYNs per 100,000 women, while states with caps have 27.9 OB/GYNs per 100,000 women. No difference.

And that is only one of many fallacies in this bill. If the issue is truly access to obstetric and gynecological care, why has this bill been written to shield from accountability HMOs that deny needed medical care to a woman suffering serious complications with her pregnancy, a pharmaceutical company that fails to warn of dangerous side effects caused by its new fertility drug, and a manufacturer that markets a contraceptive device which can seriously injure the user. Who are the authors of this legislation really trying to protect.

In reality, this legislation is designed to shield the entire health care industry from basic accountability for the care it provides to women and their infant children. It is a stalking horse for broader legislation which would shield them from accountability in all health care decisions involving all patients. While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; women and children whose entire lives have been devastated by medical neglect and corporate abuse.

In the last few years, the entire nation has been focused on the need for greater corporate accountability. This legislation does just the reverse. It would drastically limit the financial responsibility of the entire health care industry to compensate injured patients for the harm they have suffered. When will the Republican Party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing? Less accountability will never lead to better health care.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

(1) It would abolish joint and several liability for noneconomic damages. This means the most seriously injured people may never receive all of the compensation that the court has awarded to them. Under the amendment, health care providers whose misconduct contributed to the patient's injuries will be able to escape responsibility for paying full compensation to that patient. The patient's injuries would not have happened if not for the misconduct of both defendants, so each defendant should be responsible for making sure the victim is fully compensated.

(2) The bias in the legislation could not be clearer. It would preempt state laws that allow fair treatment for injured patients, but would allow state laws to be enacted which contained greater restrictions on patients' rights than the proposed Federal law. It is not about fairness or balance. It is about protecting defendants who provide negligent care.

(3) This bill places extreme restrictions on the right of injured patients to present expert testimony to help prove their cases. It establishes arbitrary requirements that would make it virtually impossible to qualify many of the most obviously accomplished medical experts as witnesses. Without the ability to present highly relevant expert testimony, the patient's right to her day in court will in many cases be a hollow one.

(4) The amendment preempts state statutes of limitation, cutting back the time allowed by many states for a patient to file suit against the health care provider who injured him. Under the legislation, the statute of limitations can expire before the injured patient even knows that it was malpractice which caused his or her injury.

(5) It mandates that providers and insurance companies be permitted to pay a judgment in installments rather than all at once. Delaying payment amounts to a significant reduction in the award. If the patient does not receive the money for years, he in reality is getting less money than the court concluded that he deserved for his injuries.

(6) It places severe limitations on when an injured patient can receive punitive damages, and how much punitive damages the victim can recover. This is far more restrictive than current law. It prohibits punitive damages for ''reckless'' and ''wanton'' misconduct, which the overwhelming majority of States allow.

(7) It imposes unprecedented limits on the amount of the contingent fee which a client and his or her attorney can agree to. This will make it more difficult for injured patients to retain the attorney of their choice in cases that involve complex legal issues. It can have the effect of denying them their day in court. Again the provision is one-sided, because it places no limit on how much the health care provider can spend defending the case.

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than 1 percent of the Nation's health care expenditures each year. For example, in 2003, health care costs totaled $1.5 trillion, while the total cost of all medical malpractice insurance premiums was $8.2 billion. Malpractice premiums are not the cause of the high rate of medical inflation.

A study by the Institute of Medicine at the National Academy of Sciences determined that as many as 98,000 patients die in hospitals each year as a result of medical errors. That is more than die from auto accidents, breast cancer, or AIDS each year. These disturbing statistics make clear that we need more accountability in the health care system, not less. In this era of managed care and cost controls, it is ludicrous to suggest that the major problem facing American health care is ''defensive medicine.'' The problem is not ''too much health care,'' it is ''too little'' quality health care.

Republicans in Congress and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But, there is scant evidence to support their claim. In fact, there is substantial evidence to refute it.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Enacting malpractice caps has not lowered insurance rates in the states that have them. There are other much more direct and effective ways to address the cost of medical malpractice insurance that do not hurt patients.

The claims regarding the recent malpractice reform in Texas has also been misleading. Prior to Proposition 12, 152 counties reported having no actively practicing OB/GYN doctors and 2 years after implementation, 152 counties still remain without doctors. In fact, it has not made care available to women residing in rural counties. Even more disturbing, the quality of care has diminished in urban areas and according to the Texas Medical Association, the physician organization of the state, the practice of ''defensive medicine'' has not diminished and is likely on the rise.

If a Federal cap on noneconomic compensatory damages for rural obstetrics and gynecological patients were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created market instability, will benefit.

Doctors and patients are both victims of the insurance industry. Spikes in premiums have much more to do with the rate of return on insurance company investments than with what is actually taking place in operating rooms or in courtrooms. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

I want to quote from the analysis of Weiss Ratings, Inc., a nationally recognized financial analyst conducted an in-depth examination of the impact of capping damages in medical malpractice cases. Their conclusions sharply contradict the assumptions on which this legislation is based. Weiss found that capping damages does reduce the amount of money that malpractice insurance companies pay out to injured patients. However, those savings are not passed on to doctors in lower premiums. Weiss is not speaking from the perspective of a trial lawyer or a patient advocate, but as a hard-nosed financial analyst that has studied the facts of malpractice insurance rating. Here is their recommendation based on those facts:

> First, legislators must immediately put on hold all proposals involving noneconomic damage caps until convincing evidence can be produced to demonstrate a true benefit to doctors in the form of reduced med mal costs. Right now, consumers are being asked to sacrifice not only large damage claims, but also critical leverage to help regulate the medical profession—all with the stated goal that it will end the med mal crisis for doctors. However, the data indicate that, similar state legislation has merely produced the worst of both worlds: The sacrifice by consumers plus a continuing—and even worsening—crisis for doctors. Neither party derived any benefit whatsoever from the caps.

Unlike the harsh and ineffective proposals in Senator GREGG's amendment, these are real solutions which will help physicians without further harming seriously injured patients. Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically over the past few years do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

This amendment is not a serious attempt to address a significant problem being faced by physicians in some states. It is the product of party caucus rather than the bipartisan deliberation of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation. For that reason, it does not deserve to be taken seriously by the Senate. It should be soundly rejected.

Public safety workers are on the front lines of our efforts to keep communities in America safe. They are on call 24 hours a day, 7 days a week doing back-breaking, difficult work. They never blink, they never falter. They do their duty and they do it well.

When the devastating fires raged in southern California, they battled the blazes. When the I–35 bridge collapsed in Minneapolis, they were the first on the scene. When the massive tragedy hit New York City on 9/11, their heroic work inspired the Nation and restored our spirit.

Just last week in Everett, MA, a tanker truck hauling 10,000 tons of fuel suddenly exploded on the highway. Forty cars caught fire.

It took more than 3 hours to put out the flames. But because the police, firefighters, and emergency medical technicians responded so quickly, no one was killed in the accident. Words cannot begin to express our gratitude.

These heroic men and women have earned our thanks and respect, and

they have also earned the right to be treated with dignity. That is why it is a privilege to join with Senators HARKIN and GREGG on this bipartisan public safety cooperation amendment to the farm bill, to guarantee that all firefighters, police officers, emergency medical personnel, and other first responders have a voice at the table in the life-and-death discussions and decisions about their work. It will ensure that they are treated fairly. It will help them keep our communities safe. It is no wonder that this amendment has received such strong, bipartisan support. It passed the House of Representatives with 314 votes.

The amendment guarantees that every first responder will have the same basic right that most other workers in the public sector already enjoy—the right to collective bargaining. Many first responders already have this fundamental right.

Every New York City firefighter, emergency medical technician, and police officer who responded to the disaster at the World Trade Center on 9/11 was a union member under a collective bargaining agreement. So were the 7,000 firefighters who responded to the crisis in California. They were able to respond more efficiently and effectively to the crisis because they had a voice on the job. Many other first responders, however, are not so fortunate. Twenty-nine States and the District of Columbia guarantee all public safety workers the right to collective bargaining. But 21 States—this chart reflects it—still deny some or most or even all such workers this fundamental right. Their first responders don't have a voice in policies that affect their safety and livelihoods. That is both illogical and unfair.

We see all too often how dangerous these jobs can be. In 2005, 80,000 firefighters were injured in the line of duty; 76,000 law enforcement officers were assaulted or injured; and almost 300 of these public safety employees paid the ultimate price. First responders face chronic long-term health problems as well. The brave men and women who responded at Ground Zero now suffer from crippling health problems, such as asthma, chronic bronchitis, back pain, carpal tunnel syndrome, depression, and post-traumatic stress disorder.

These men and women are profiles in courage. They walk into the fires, wade into floods, and put their lives on the line to protect our homes and families. They know what they need to have to be safe on the job. They deserve the right to have a say in the decisions that affect their lives.

The amendment grants these basic rights in a reasonable way that respects existing State laws. States that already grant collective bargaining to public safety workers are not affected by the bill. States that don't offer this protection can establish their own collective bargaining systems or ask the Federal Labor Relations Authority for help. That amendment sets a standard. Each State has full authority to decide how it will provide these basic rights.

These rights for first responders are not just important for the workers, they are key to the safety of our communities and our Nation. In the post-9/11 era, first responders have an indispensable role in homeland security. It is vital to our national interest that the essential services they provide are carried out as effectively as possible.

As study after study shows, cooperation between public safety employers and employees improves the quality of services and reduces fatalities. That is why strong, cooperative partnerships between first responders and the communities they serve are essential to public safety. As Dennis Compton, the fire chief of the city of Phoenix, has said:

> When labor and management leaders work together to build mutual trust, mutual respect, and a strong commitment to service, it helps focus [a] fire department on what is truly important . . . providing excellent service to the customers.

Our families, communities, and farms, deserve the best public safety services we can possibly provide. It starts with the strong foundation that collective bargaining makes possible.

We cannot call these brave men and women heroes in a time of crisis but turn our backs on them today. We need to act now to make these basic rights available to all of America's first responders. It is a matter of fundamental fairness, an urgent matter of public safety.

The best way to give our heroes the respect they deserve is by supporting this amendment. I urge them to do so.

How much time do I have remaining?

The PRESIDING OFFICER. Nine minutes.

Mr. KENNEDY. Madam President, let me go through some charts.

This chart is on California wildfires, farmland, crops, and livestock. This is Riverside County. I think all Americans remember these extraordinary fires that dominated the national news and newspapers and were so devastating to scores of families out West not many weeks ago. Riverside County lost $15 million in crop and farm products. The fire scorched over 900 acres of farmland. There was between $10 million and $15 million in damages to the avocado farms in Ventura County.

These men and women who fight these fires understand how to be effective and how to preserve both life and the farms in those communities. That is what this is all about—that they have a voice in the development of the policies, about how they are going to proceed. Nobody who watched and listened to those extraordinarily brave firefighters doubted the extraordinary competency and commitment these individuals have. They serve, and serve our country very well.

This is an indicator that firefighter fatalities are on the rise. All of us have seen the growth of fires. This is a rather awesome chart. Firefighter fatalities are on the rise. The red line indicates this. So we are asking more and more of them each year. This chart says that every year firefighters put their lives on the line to ensure our safety. In 2005, 80,000 firefighters suffered injuries and 115 died in the line of duty. This year, approximately 100 firefighters will pay the ultimate price while on duty.

Again, the point we are underlining here is that firefighters must have a voice in the development of policies, whether it is in the agriculture area or other areas. We need to give the first responders a voice in the development of safety measures and how to use equipment and use it effectively. You will have a more efficient kind of effort in terms of controlling fires, and it increases the safety and productivity of the firefighters.

These law enforcement officers are at risk on the job. In 2005—this legislation would apply to first responders here—76,000 law enforcement officers were assaulted or injured on the job and 157 died in the line of duty. Injuries and assaults have increased by 21 percent in the last 10 years. These jobs are becoming more hazardous. We have a responsibility to do everything we can to work with these first responders to help them do the job they can do and should do.

This chart shows that 9/11 firefighters enjoyed collective bargaining rights. I don't think any American who witnessed that extraordinary tragedy of 9/11 and witnessed those extraordinary men and women, those firefighters who lost their lives in the line of duty on September 11—they were union members with collective bargaining rights. They were prepared to do their jobs, and they did it like no others. They inspired a nation with their courage. Many are faced, as I mentioned, with many of the lung diseases, carpal tunnel syndrome, and bad backs. They need to be able to have those particular health care needs met and attended to.

Finally, the Cooperation Act protects the rights of dedicated public safety workers. This is a chart that tells what this legislation does and what it doesn't do.

First, it establishes the right to form a union and bargain over working conditions. It gives workers a voice in the working conditions, which is so important in terms of both the efficiency and effectiveness of their work. They would have the right to sign legally enforceable contracts and resolve stalled disputes through mediation or arbitration. There is a specific prohibition in terms of striking, but they can solve this through mediation. That is how disputes will be solved. It doesn't take away the authority of the State and local jurisdictions. It doesn't require any specific method to certify unions. It doesn't interfere with State right-to-work laws. It doesn't infringe on the rights of volunteer firefighters.

This is legislation which has been carefully considered and reviewed.

There are, at last count, more than 60 Members of our body, Republicans and Democrats, who have indicated support for the legislation. As we have seen and mentioned earlier, when we saw these devastating fires that went across the country and ravaged the farmland of this Nation and we saw the extraordinary work of so many first responders, it reminded us of our responsibility to make sure these extraordinary men and women who exhibited such extraordinary courage will be treated fairly and equitably. By doing so, they will be able to do their job and protect America's families and the farmland in our country more effectively.

Madam President, I withhold the remainder of our time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Madam President, I ask unanimous consent for 5 additional minutes.

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

Mr. BARRASSO. Madam President, today I join my colleagues to address an issue that is crippling America's health care system; that is, out-of-control medical malpractice costs.

Wyoming, my home State, has been listed by the AMA as one of 19 medical liability crisis States. A few years ago, one of at the time only two companies selling liability insurance in the State decided to leave, leaving over 300 physicians scrambling for liability coverage. Wyoming is losing obstetricians and gynecologists, emergency room doctors, and even general practitioners, and we are losing them because they cannot afford to pay the high cost of their liability premiums.

You may ask what is special about Wyoming in the sense that they pay exorbitant malpractice premiums and why is it so different from all of the doctors in the neighboring States. It is because all of the States bordering Wyoming have enacted liability insurance reform. Wyoming is the only State that has not. It is the ''hole in the doughnut,'' surrounded by the other States that have reform.

Providers in Wyoming fear being sued, and to compensate they spend millions and millions of dollars on what is called defensive medicine, ordering tests each year, and patients and taxpayers pick up the tab.

This liability crisis is especially unfair to rural women and children, and it is so much unfair to them because they are losing access to local doctors when they need them the most.

Rural and frontier States such as Wyoming are disproportionately impacted when a local physician who delivers babies decides to leave the State. We lost our only obstetrician/gynecologist in Wheatland, WY. He delivered babies in three counties. Wyoming is a very large State. There are only 23 counties. Many of the counties are larger than some of the States on the east coast, and he delivered babies in three counties. He left when his malpractice premiums went over $100,000 a year.

Pregnant women in Newcastle, WY, needed to travel over 80 miles to have babies delivered when practicing physicians in that community were not able to afford the cost of their liability insurance. In my own community in Casper, Dr. Hugh DePalo, who was born and raised in Casper, WY, and loved the community and wanted to live there and give back to all the people in the community, had his premiums increased 300 percent in 1 year.

Some Wyoming hospitals are paying malpractice insurance premiums that exceed the amount they receive for delivering a baby. Wyoming gynecologists/obstetricians and family physicians who deliver babies pay $20,000 to $30,000 more each year for their insurance than their counterparts in surrounding States, and that is because the State to the south, Colorado, has instituted a $250,000 cap on noneconomic damages.

This is not just a financial issue, it is a recruitment issue as we try to recruit physicians in the State. We set up the Wyoming Family Practice Program, where we train young physicians to deliver babies. They are very capably trained, and yet they leave the State. The No. 1 reason people decide where they want to practice is based on where they train, but still they leave because the malpractice premiums are so much lower in the surrounding States. Why? Because the surrounding States have passed liability reforms that are so needed and are part of this bill.

This body has a responsibility to act immediately to protect access for women who are having babies in rural communities. We should set reasonable limits on noneconomic damages, we should provide for quicker reviews of liability cases, we should assure that claims are filed within a reasonable time limit, and we should educate people that frivolous lawsuits only add to the overall cost of their health care.

That is why I support Senator GREGG and the position he has taken today. His amendment would adopt a new liability model for obstetricians and gynecologists based on the highly successful stacked-cap approach. One might say: How successful is it? A large, full-page story says:

> After Texas caps malpractice awards, doctors rush to practice there.

Of all the specialities of the physicians rushing to practice in Texas, the No. 1 speciality represented in new applicants was obstetrics and gynecology, those very people who are so needed in rural communities to deliver babies.

I thank Senator GREGG for his efforts. I encourage Members to vote for the amendment. We need to help ease the struggle rural women face, rural women who are seeking access to capable physicians, not just for themselves but also for their babies.

AMENDMENT NO. 3695

The PRESIDING OFFICER. There will now be 2 hours of debate equally divided on the Dorgan-Grassley amendment.

The Senator from Iowa.

Mr. HARKIN. Madam President, I ask unanimous consent to proceed for a couple minutes for informational purposes without taking away time from either side.

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

Mr. HARKIN. Madam President, we are about to begin 2 hours of debate on the Dorgan-Grassley amendment No. 3695. I have been in discussion with my ranking member, Senator CHAMBLISS, about getting a couple or three votes stacked. I hope sometime during this debate my colleagues will yield me a little bit of time to announce we might have a consent agreement for two or three amendments that would occur as soon as the debate has ended on the Dorgan-Grassley amendment or time is yielded back. That is what we are working on right now. Hopefully, in the next several minutes, we will have some information about when those votes might occur.

We are trying to work out this agreement. I am certain either Senator DORGAN or Senator GRASSLEY, one of the debaters, will yield us a minute at some point during the debate to line up two or three amendments.

I ask unanimous consent that at the end of the debate on the Dorgan-Grassley amendment, or time being yielded back, the Senate proceed to vote on or in relation to Alexander amendments Nos. 3551 and 3553.

Mr. CHAMBLISS. Madam President, I think the issue is as to what time those votes will take place. As I understand the unanimous consent request, it is following the debate on the Grassley-Dorgan amendment that we go to votes on the two Alexander amendments.

Mr. HARKIN. That is right.

Mr. CHAMBLISS. At whatever time that might be.

Mr. HARKIN. If we use all time, those two votes will occur, obviously, at about 6:20 p.m. If time is yielded back, it could be a little bit earlier than that.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Reserving the right to object, so we can give our colleagues further information about where we are going, is it the chairman's intention to move ahead then with debate on additional amendments, hopefully maybe the Coburn amendments and the Sessions amendment that might be voted on tonight, along with the Gregg amendment?

Mr. HARKIN. I say to my friend, yes. In speaking with the majority leader, the majority leader said this is going to be a late night. We have a number of amendments on both sides that I think we can debate and we can vote on this evening. I say to my friend, yes, I hope we can vote on the Coburn amendments, the Sessions amendment, the Gregg amendment, and the Alexander

amendments, and there may be a couple on our side we are trying to get cleared for short debates and votes yet this evening.

Mr. CHAMBLISS. I have no objection.

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

The Senator from North Dakota.

Mr. DORGAN. Madam President, I rise with my colleague from Iowa, Senator GRASSLEY, and others who will be here to discuss the Dorgan-Grassley-Ben Nelson, et al, amendment we put together to this bill. Let me make a couple points. First of all, I don't think there is anybody in this Chamber who can claim they have a stronger record for farm programs than I do, having been in Congress a good long while. Family farms are very important to me. I believe it is an important element of this country's economy and culture to have the yard lights dotting the landscape of America, people living on the land trying to raise a family, raise a crop, and produce some livestock. That is very important. I have spent a lot of time supporting family farming in this country.

The legislation brought to us by the Agriculture Committee is a good bill. I applaud my colleagues, Senator HARKIN and Senator CHAMBLISS, and my colleague, Senator CONRAD, for his work, and so many others. This is a good piece of legislation. It improves slightly the safety net so when there is trouble and tough times, family farmers understand there is a safety net. It provides a disaster title for the first time in a long time, so when there is a natural weather disaster or natural disaster hitting family farmers, they can rely on this disaster title.

There are a lot of provisions that are good in this bill, including some improvement with respect to the issue of payment limits. They eliminated the three-entity rule. That is a step forward. I appreciate that. I like what has been done, and I want to improve it because there are a couple things that can be done that should improve it, in my judgment. These deal with the issue of payment limits.

Let me start with this proposition: Does anybody in this Chamber believe and want to stand up and say: Do you know what we ought to do with the farm program? Let's give farm program benefits to people who don't farm. Does anybody want to stand up and say, yes, that is our policy, that makes a lot of sense? Let's provide farm program checks to people who don't farm.

It is happening today. It will happen under this bill unless we make this correction. My colleague from Iowa and my colleague from Georgia missed all the applause I was giving them. They have done a great job. I have applauded this bill coming out of the committee. I said I want to improve it because this committee didn't finish the work on payment limitations.

Two things: No. 1, we ought to limit farm program payments to those who are farming. We ought not be sending farm program checks in the mail to people who never farmed and will never farm. Yet that is happening and will continue to happen. No. 2, there ought to be some reasonable limit on payments.

My colleagues, Senator GRASSLEY and Senator NELSON from Nebraska and others, have joined me in saying that limit ought to be $250,000 per farm. That is a reasonable limit, a very reasonable limit.

Let me describe how it works. We still have some holes we need to patch. The Houston Chronicle described it—cowboy starter kids they called it. We have a situation in which if land had certain base acres for a crop, you didn't have to raise that crop or produce that crop. You didn't have to plant the crop at all in order to get a check. Down in Texas, they have what are called cowboy starter kits. You can have 20 acres of land or maybe 10 acres of land that were used to produce rice 20 years ago and divide it up—have a house on an acre, run a horse on the other 8 or over 10, hay it once a year, and you get a farm program payment, despite the fact you have never farmed and never will farm and that land hasn't produced a rice crop for 20 years.

Is that reasonable? I don't think it is reasonable. It will give rise to the kind of stories we have heard repeatedly, stories that describe who is getting the benefits of the farm program payments we thought were supposed to be going to help family farmers through tough times. Then we have someone with a cowboy starter kit on 10 or 20 acres who gets a payment who has never farmed and never will farm on land that isn't producing a crop.

The proposal Senator GRASSLEY and I offer today says let's not do that. Let's say, if you get a payment, you have to be farming, No. 1. And No. 2, there ought to be a limit. I normally wouldn't use a name such as this, but I am doing it because this was in the San Francisco Chronicle. This was a story in the San Francisco Chronicle, and it shows payments. This is California. We could do this for a lot of areas. This shows payments to 20 individuals and farm businesses, among the top 20 finishers from 2003 to 2005. Constance Bowles from, San Francisco, $1.21 million; George Bowles, same family, $1.190 million. That is $2.3 million to these folks.

As I indicated, this is a San Francisco Chronicle story and is an example of what is happening to undermine this farm program. Let me read from the San Francisco Chronicle:

> A prominent San Francisco patron of the arts, Constance Bowles—heiress of an early California cattle baron, widow of a former director of UC Berkeley's Bancroft library—was the largest recipient of federal cotton subsidies in the state of California between 2003 and 2005, collecting more than $1.2 million, according to the latest available data.
>
> Bowles, 88, of San Francisco, collected the $1.2 million in mostly cotton payments through her family's 6,000-acre farm, the Bowles Farming Co., in Los Banos [California]. She could not be reached for comment.
>
> Another family member, George ''Corky'' Bowles, who died in 2005, collected $1.19 million over the same period. George Bowles once ran the farm but lived on . . . Telegraph Hill. A collector of rare books and 18th century English porcelain, he served as a director of the San Francisco Opera and trustee of the Fine Arts Museum.
>
> The farm is now run by Phillip Bowles, who also lives in San Francisco. He told KGO television that he's no fan of subsidies, but if the big cotton growers in Texas get them, so should he. Many of these businesses are getting 20 to 30, sometimes 40 percent of their gross revenues directly from the government, Phillip Bowles told KGO. I don't have a good explanation for that. Somebody else might, but it beats me.

Well, if we want this sort of thing to continue, then let's not pass this amendment. This is a very simple amendment Senator GRASSLEY and I offer, which says, A, you ought to be a farmer if you are going to get a farm program payment. That is, you ought to have some active involvement in the farm. Our definition doesn't require you to live out there, but it requires you to have some active involvement. That is No. 1.

That is so reasonable that I guess I would like somebody to stand up and say, you know what, we don't think the farm program is just for farmers. We give educational loans here in this country. We appropriate money for them. We won't let you get an education loan if you are not going to go to college. There are subsidized home loans. You don't get a home loan unless you are going to buy a home. We are going to give assistance in the form of farm program paychecks, or checks to people who don't farm? That doesn't make any sense at all.

Now, some will say, well, we have corrected all that. No, they haven't. They haven't. Let me explain why. They intended to, or they wanted to correct it. There was going to be an amendment passed that would correct it, but it was not offered and not voted on. But one of my colleagues said, we have a $200,000 limitation on payments and Senators GRASSLEY and DORGAN are saying $250,000. Well, that is a little too clever. The payment limitation means you still get the loan deficiency payment under the commodity loans—you still get unlimited payments for all of the production, for the largest farm in America, you get a price support in the form of an LDP under every single bushel of product you produce. It doesn't matter how big you are. You can farm in four States, if you want to, but you are going to get a support price under everything you produce.

Does that make any sense to anybody? You have a payment limitation without a limit? That is not a payment limitation. That is unlimited payments in the LDP for the biggest farms in America, for every single thing they produce.

Senator GRASSLEY and I offer a very simple proposition, and that proposition is a $250,000 payment limit and

that you have to be involved in farming in order to get it.

Now I showed this San Francisco article. This is California, but I could show this for many States. But when one operation gets over $35 million in 5 years, I say that is farming the farm program. When 75 percent of all payments go to 10 percent of the farmers receiving commodity subsidies, you know what is happening. Much of that is going to the biggest farmers, the biggest corporate farms in the country, big agrifactories, and it is producing the revenue by which they buy out the land and bid against family properties for their property right next door. It is happening all over the country.

If one believes that is what we should do, then God bless you, you should not vote for this amendment of ours. But I believe this country has benefitted by the network of family producers out in the country. Some say, well, that is hopelessly old fashioned. You don't understand that in our part of the country we have people who have millions and millions of dollars of revenue and they are important to the economy as well. If you want to farm two or three counties, you ought to be able to do that. I just don't think the Federal Government has the responsibility to be your banker.

I believe, and when I came here I believed it and I still believe it, that a farm program ought to be a safety net that says to family farms, when you run into trouble, you have a safety net—a bridge over troubled times. We want to do that because farming is different. But providing a safety net for families is very different than providing a set of golden arches for the biggest corporate agrifactories in this country.

I don't need four reasons or three reasons or even two reasons, just give me one good reason we ought to collect taxes from hard-working Americans and say we are going to transfer that money to some corporate agrifactory that gets $30 million in 5 years. Give me one good reason to do that. I don't think it exists.

Let me end where I began. I am a strong supporter of family farming, a strong supporter of agriculture. I like what this committee has done. I appreciate very much the work of Senator HARKIN and Senator CHAMBLISS. I want to improve this bill.

Let me conclude with something a rancher and a farmer just west of Bismarck, ND wrote once. He is a guy who is a terrific writer and he asked the question—and I have asked it before on the floor of the Senate, and it describes why I support family farming and why this amendment is necessary—What is it worth? What is it worth for a kid to know how to weld a seam? What is it worth for a kid to know how to teach a calf to suck milk from a bucket? What is it worth for a kid to know how to grease a combine? What is it worth for a kid to know how to butcher a hog? What is it worth for a kid to know how to plow a field? What is it worth for a kid to know how build a lean-to? What is it worth for a kid to know how to pour cement?

You know something, farm kids know all of those things, and the only university in America where they teach it is on the family farm. Fortunately, in World War II, we sent millions of them from American farms all across the world. They could fix anything. What is it worth to have all that knowledge? You learn that on family farms across this country. That is why family farming is so important. I say, today let's stand up for a good safety net for family farmers. Let's not ruin the farm program. And we will, as sure as I am standing here, ruin the farm program and ruin the opportunity to enact a good farm program in the future, unless we do what we know is necessary.

We have a farm program that is designed to be a safety net and to help family farmers through tough times, but we cannot do that by pretending this circumstance doesn't exist, whereby in the current farm program we give farm program benefits to people who have never farmed and never will, and we provide farm program benefits to the tune of millions of dollars to the biggest corporate agrifactories in this country. That is not what I came to Congress to do.

I hope we can stand up today on behalf of family farmers and say you matter, and we are going to manifest that in the vote on this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Madam President, what time do we have on Dorgan-Grassley?

The PRESIDING OFFICER. The proponents have 46 minutes, and the opponents have 60 minutes.

Mr. GRASSLEY. I yield myself 14 minutes, as Senator DORGAN did.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. GRASSLEY. Madam President, I think everybody in this body would agree we need to provide an adequate safety net for our family farmers, and I think I ought to be totally transparent with the taxpayers who might be listening, as well as my colleagues. I want you to know that I farm in a crop share—in Iowa, we call it a 50–50 arrangement—with my son. If we get farm payments, I get 50 percent of those payments. So I have received farm payments and presently do. That is assuming prices are low enough so you do receive those payments. Right now, they aren't that low.

We are talking about an adequate safety net. In recent years, however, assistance to farmers has come under increased scrutiny by urban communities and the press. The largest corporate farms are getting the majority of the benefits of the farm payment program, with 73 percent of the payments going to 10 percent of the farmers. With a situation such as that, we could lose urban support for the safety net for farmers.

Government payments were originally designed to benefit our small- and medium-sized farmers, but instead, now, as you can see, the vast majority of them are going to the smallest percentage of the farmers—the biggest farmers. Unlimited farm payments have placed upward pressure on land prices and have contributed to overproduction and lower commodity prices. Increased land prices and cash rents are driving family farmers and young farmers from the business of farming. I have mentioned this before in other debates. Land in Iowa generally, but I will use as an example land near my farm in New Hartford, IA, has skyrocketed and is selling anywhere between $4,000 and $6,000 an acre. In my home county, the value of an acre is up 64 percent since 2000.

Anybody listening might say, well, why is that bad for farming? Well, family farmers don't buy land one day and sell it the next. You buy it for the long haul. Sometimes farms have been in what we call century farms, for well over 100 years. So this doesn't put income in farmers' pockets. It does give them value. And if they were to die, I suppose their heirs would get a lot of money.

Across the State of Iowa, the average land value per acre rose 72 percent in the last 6 years. All these figures I am citing have something to do with the inability of young people to get started farming. When the average age of farmers is 58 in my State, we ought to start thinking about what we can do to make sure that young people, the next generation of farmers, can get started.

My State isn't the only one where this is occurring, an increase in land values. In a report published by two agricultural economists at Kansas State University, land values have increased 64 percent since 2002. This trend is occurring in many other States as well. The average of typical cash rents per acre in Iowa rose 25 percent in the same period of time. Because if you can't buy land, and you want to farm, you rent land. How are family farmers and young farmers going to survive with prices like this? How can they even get started?

This brings to mind a conversation I had within the last week with a young farmer near my home. He knows who gets these big payments in the State of Iowa, and he said, so-and-so—and I am not going to give the names out—just bought 600 acres of land. Why don't you guys do something about subsidizing these big farmers to get bigger? Now, this same young farmer would say to me, any farmer can get bigger all they want to. That is their business. That is entrepreneurship. But should we be subsidizing the biggest farmers to get bigger? He says, if you want to do something to get young people started—this young farmer said to me—put

a cap on what they are getting paid from the Federal Treasury. In other words, 10 percent of the biggest farmers getting 73 percent of the benefits out of the farm program is just plain bad policy.

I have been hearing directly from producers for years what former Secretary Johanns heard in his farm bill forums held across the 50 States. Young farmers can't carry on the tradition of farming because they are financially unable to do so because of high land values and cash rents. If that was the market, okay. But if it is being influenced by subsidies for big farmers to get bigger, they would say it is wrong. They would also say it is wrong when you have 1030 exchanges, when it is cash free, as having something to drive up the value of land as well.

Professor Terry Kastens, of Kansas State University, came out with a report on this subject. The report states that since the 1930s, government farm program payments have bolstered land values above what they otherwise would have been. Dr. Neil Harl, an Iowa State University emeritus professor, worked with Professor Kastens on this subject, and he determined that:

> The evidence is convincing that a significant portion of the subsidies are being bid into cash rents and capitalized into land values. If investors were to expect less Federal funding—or none at all—land values would likely decline, perhaps as much as 25 percent.

That would give young farmers better opportunities to buy or cash rent for less in order to get started farming. And that is necessary, because the average age of farmers in the Midwest is about 58 years.

The law creates a system that is clearly out of balance. If we look at the results posted here, it emphasizes what I have already said: Ten percent of the farmers get 73 percent of the benefits out of the farm program, and the top 1 percent gets 30 percent.

Senator DORGAN and I have offered this payment limits amendment which I believe will help revitalize the farm economy for young people across this country. This amendment will put a hard cap on farm payments at $250,000. For a lot of farmers in my State, they say: Grassley, that is ridiculously high. But we have to look at the whole country, so this is a compromise.

No less important, we tighten up the meaning of the term ''actively engaged,'' a legal term in the farming business. What that means is that people have to be farming, because if we are providing a safety net to someone in farming, I think they should be required to actually be in the business of farming, sharing risks and putting their money into the operation.

I wish to make a very clear distinction here. Some Members of the Senate have advocated that the Dorgan-Grassley amendment is not as tough as what is in the Senate Agriculture Committee bill or some say it might be too tough. I want to say why this is not true, and I have a chart here to bring this to your attention. We have to compare apples to apples. That is what my chart does. Saying that the committee has a hard cap on payment limits of $200,000 is not accurate. They only have a hard cap on direct payments and counter cyclical payments. Let me remind my colleagues, we have direct payments, we have loan deficiency payments, and we have countercyclical payments. Out of those three, the bill before us that we are amending has a hard cap on direct payments and countercyclical payments, not on loan deficiency payments. The Dorgan-Grassley amendment actually caps direct payments and countercyclicals at $100,000.

In addition, the amendment will cap marketing loan gains at $150,000. While the committee—this is the loophole, this is the weakness of the argument that this bill tightens things up—it leaves loan deficiency payments unlimited. This actually weakens current law. So while the committee took some correct steps by closing the loopholes I have advocated against by including the ''three entity rule'' and by including direct attribution, it also takes a step in the wrong direction by making payments virtually unlimited. This whole debate is about good policy. Fixing one problem but leaving other doors open does not do any good.

I also wish to make a clarification for some of my colleagues. I have gotten quite a few questions about how the payment cap will actually work. We set nominal limits at $20,000, $30,000, and $75,000 respectively, then we allow folks to double. So a single farmer who would get $20,000 in direct payments can actually double to $40,000. We set it at $20,000, so if they want to attribute the payments to a husband and wife separately, they can. So a husband can have $20,000 attributed to him and $20,000 to the wife, for a total of $40,000, just like a single farmer. One more clarification: If a farmer is working with his two sons, each would be eligible for the $40,000 individually.

I wish to address some of the falsities my colleagues have raised since the payment limit debate. They have argued that this is not reform because it targets crops but not the Milk Income Loss Contract Program or conservation. To say that we do not have payment limits on these two programs is hogwash. The Milk Income Loss Contract Program has probably the strongest payment limits of any program. What came out of the Agriculture Committee includes caps on programs such as EQIP, the Conservation Reserve Program, and Conservation Security Program. Whether those caps are at appropriate levels is something that can legitimately be debated but should not detract from what we are doing on commodities through Dorgan-Grassley.

Now, our amendment produces some considerable savings. We think there is money needed in some programs that are not adequately funded to help small businesspeople, conservationists, and low-income people through commodity programs. We support beginning farmer and rancher programs and the rural microenterprise program. We also provide funds for organic cost share programs and the Farmers Market Promotion Program.

A large priority of mine has always been seeing justice is done for the Black farmer discrimination case against the U.S. Department of Agriculture. This will double the amount provided by the committee for late filers under the Pigford consent decree who have not gotten a chance to have their claims heard. It is time to make these farmers right who were discriminated against.

We support the Grassland Reserve Program, the Farmland Protection Program, and finally, while the Agriculture Committee makes significant contributions to the nutrition and food assistance programs, they were not able to go far enough in light of the tight budget constraints. So Dorgan-Grassley adds money in those areas.

The 2002 bill has cost less than expected. But this was not because of the payment limit reform in 2002. In actuality, we increased the nominal payment cap, and it continued the generic certificate loophole. Instead, what has happened is that we have had some good years in agriculture and prices have been high. That is why it cost us less to have a safety net over the last 5 or 6 years, not because reforms were put in, in 2002. I worked with Senator DORGAN on a similar measure in 2002, and it passed with bipartisan support, 66 to 31. Unfortunately, it was stripped out in conference. I voted against the farm bill because of that.

Let me remind this body that the Senate Agriculture Committee, out of conference, set up a commission called the Commission on the Application of Payment Limitations for Agriculture. That is this report right here. They did this during conference as a sop to DORGAN and me.

Is my 14 minutes up? I ask for 2 more minutes.

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

Mr. GRASSLEY. This Commission was set up as a sop to DORGAN and myself. We didn't get what we wanted, and consequently, you know, let's have a commission study it.

The Commission ended up, in this report, recommending the very measures which we have included in this bill. So they want a study? The study says what we said in 2002 that the conferees didn't think we ought to do. And we have had all the eggheads and farmers in this country study the problem we presented in 2002, and they gave us the results we have here.

The report said also that the 2007 farm bill is the time for these reforms. You might remember the last time we had a vote on payment limits was in a budget bill a couple of years ago. Many

of our colleagues said they agreed with what we were trying to do, but they said the budget was not the right time; it needs to be done on the farm bill. To all of our colleagues who said: Wait for the farm bill, we are waiting. You have your opportunity. It is 2007. We have the farm bill here.

By voting in favor of this amendment, we can allow young people to get into farming and lessen the dependence on Federal subsidies. This will help restore public respectability for the Federal farm program and keep urban support for the farm program so we can continue to have a stable supply of food for our consumers.

I call upon my colleagues to support this commonsense amendment, and I reserve the remainder of time for our side.

I yield the floor.

Mr. CHAMBLISS. I yield 15 minutes to the Senator from Arkansas, Mrs. LINCOLN.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 15 minutes.

Mrs. LINCOLN. Madam President, I rise today in opposition to the Dorgan-Grassley amendment before us. But before I explain why, I do want to say I have tremendous respect for my colleagues from North Dakota and Iowa. They are hard-working men who are interested in working hard to get things done. I very much appreciate that. I hope they can see the success they have already had from the hard work they have put in since 2001 and what has come to fruition—the underlying bill that came out of the Senate Agriculture Committee.

We worked very hard on that bill in the Senate Agriculture Committee. We came out with a very balanced bill. It is a bill that, frankly, has more reform, more substantive reform than any farm bill we have ever done. I hope those two Senators—as I said, I have tremendous respect for them and the hard work they bring to this body—I hope they do recognize the success they have had since 2001 in moving forward in reform.

I also come to the floor here to oppose this amendment because, unfortunately, it is going to probably have some very dire unintended consequences from the remaining part of this amendment that is not included in the underlying bill.

I just have to answer a couple of the questions my colleagues have brought forward.

The Senator from Iowa, Mr. GRASSLEY, mentioned land values. I have approached almost every Member in this body to discuss the farm bill. It is critically important to a small rural agricultural State such as the one I represent, Arkansas. Agriculture is the basis of our economy. In my discussions with Senator GRASSLEY, he mentioned his concern about land values. I went back to do my research, and I found a study done by Iowa State University that gives us six reasons why those land values are out of whack, and not one of those top six reasons is farm payments. So I have a little concern in terms of blaming land values on farm payments. There are multiple things there that we can see that would cause concern.

I also would like to touch on a few of the realities for the hard-working men and women who produce our food in this country, to respond to some of the other criticisms I have heard and dispel a few of those misrepresentations of farming that are out there.

The most often used—and it was used by my colleague here today—the most used misrepresentation I encounter is the argument that a disproportionate share of farm payments go to the top 10 percent of farms in terms of size. I have heard it reported at 75 percent of the payment, 80 percent—sometimes they even use the number 90 percent. Honestly, it seems to change depending on the day or the source, and that is why I thought I would bring a few charts of my own to clarify the issue and set the record straight.

My first chart includes excerpts from a speech by the famed agricultural economist from Kansas State University, Barry Flinchbaug. Here is what he has to say about the distribution of farm payments according to farm size: These programs are designed for the medium-size farmers. They have done what they were supposed to do. We have 2.1 million farms. Small farms make up 84 percent of that, ''small'' being defined as gross sales of less than $100,000. They produce 21 percent of the food supply, but they receive 30½ percent of the payments. Medium-sized farmers, on the other hand, make up 12.2 percent of the farms, and they produce 28 percent of the domestically grown food supply, and they receive 42.7 percent of the payments. Big farms with sales of more than $500,000 make up more than 3.8 percent of the farmers. They produce half of the food supply, and they receive 27 percent of the payments.

I think if we just look at this we will realize those that are producing 78 percent of the commodities are only getting 58 percent of the payments.

My second chart brings this point home a little bit more and certainly in living Technicolor. As you can see, my source here is the Department of Agriculture's Economic Research Service. We are pleased to bring this. I know the pie chart Senator GRASSLEY used probably uses the definition of a farmer which even Senator LUGAR earlier—I think today or even yesterday, perhaps—agreed is completely out of whack. If we are going to include an FHA student who earns $1,000 or more selling a calf as a farmer, then we have a problem in terms of the definition of a farmer. Unfortunately, that puts us out of whack in some of the statistical dealings that we have to get a good, clear picture of what we are up against.

I am going to go into some details on this chart, but I will first point out that the chart shows farmers today receive a portion of farm bill benefits that closely matches their percentage of total production. As you can see here by the red line, which indicates the percentage of Government payment, and the green line, which represents the percentage of production, they are almost identical in many ways. In fact, you will see the only discrepancy that exists is that the farmer who produces 78 percent of the products, combining the nonfamily farmers and the large family farms, receives only 58 percent of the total farm program.

Now, remember, those are family farmers who are producing not just food source but a safe and abundant and affordable food supply and fiber, not to mention the fact that they are doing it in an environmentally responsible way, respectful to all of the different regulations that we impose. Other countries do not do that.

I will be the first to say I think that is a good deal. I think in this country, to be able to be reassured that we are going to get a safe food supply, that it is going to be done with respect to the environment, that it is going to be done with respect to water and water resources and clean water and clean air, all of those things, that is very reasonable. It is a good investment. It is a good return on that dollar.

When you see, in that blue line—and that represents the percentage of farmers in a certain category, the percentage of farmers that accounts for the 78 percent of that production in this country, who are, in fact, that mythical and demonized 10 percent of the farmers our critics like to refer to.

So if 10 percent are producing 78 percent of the food source that we take for granted so often, then why should we not want our program to follow the crops? As you can clearly see, 10 percent receive only 58 percent of the total farm program payment. I think all of these numbers and certainly the charts make this point very well.

The bottom line is, the payments follow production. That is what we want to see. We want to see an efficiency in that what we are striving to do—and that is to provide a domestically produced, safe, abundant and affordable supply of food and fiber—is done.

That is what the insurance of our farm program is there for. And this reflects the fact that is exactly what those dollars are doing. They are a good investment, and they are returning on that investment to the American people.

Now, the other issue that was brought up in terms of my colleagues about the marketing loan cap, I am still a little bit confused on what the Dorgan-Grassley proposal does in terms of doubling those payments. I am not sure if that means they are capped at $250,000 or if it is at $500,000 if your wife or spouse is considered actively engaged in farming. But I think many of us have asked those questions, and we are still a little bit confused.

But when we talk about the cap, I would simply remind my colleagues, the current law marketing loan is uncapped. The President's proposal is uncapped. And the reason is, because we understand that in some of our crops they cannot use the disaster assistance, which we have plussed up about $5 billion, the crop insurance program is not as detailed to their needs and concerns because, quite frankly, it is hard to find a reasonable crop insurance plan that will, at a reasonable cost, protect you against the kind of risks that you have.

So that marketing loan is key. It is key because it allows them to remain competitive. So when they hit those troubled shoals they can use that marketing loan to buy themselves time in the marketplace to be able to market their crops.

We have found in years past that when we tried to cap the marketing loan, what happens is particularly farmers in my area who do have difficult times with crop insurance and have a very difficult time being able to access disaster assistance end up forfeiting their crops. So it goes to Government forfeiture and then the Government gets left holding the bag. The taxpayer gets left holding the bag. That is not what we want to see happen. We want these farmers to use the market, and we want to provide them the kind of tools that allow them to use the market, and that is what the marketing loan does, particularly for growers of southern commodities.

So it is not capped in underlying or existing law. It is not capped in the President's proposal. I think that is because people realize that Government forfeiture of those crops is unreasonable.

I feel as if I have come down here and spoken so many times. I have addressed the issue, particularly, of the Dorgan-Grassley amendment and the overall farm bill numerous times recently because I believe so strongly that the reforms already incorporated in the underlying bill are more significant than any reform effort that we have ever undertaken in farm policy.

We have made huge strides. I think both of these gentlemen will recognize that. They certainly have to me in some circumstances. But as a consequence of enacting the provisions of the Dorgan-Grassley amendment, it is going to be devastating to some.

The amendments that are not already included in the underlying bill that are in this amendment would be devastating to the hard-working farm families, particularly in my State but in other Southern States where we grew those commodities that are grown in the controlled environment, which results most devastatingly in the outsourcing of a significant amount of America's agricultural production. Eighty-five percent of the rice that is consumed is grown in this country. Over half of that is grown in my State of Arkansas. If we outsource those jobs in rural America, if we outsource the production of that unbelievable staple commodity, it is not going to go somewhere else in this country. It is going go to our two biggest competitors more than likely. It is going to go to Vietnam and Thailand.

When you look at the lack of restriction and the techniques that are used in their growing processes, you are going to realize it is not something we want to do, to outsource what we already have, and that is, a safe production of a staple food source, not just for us but also in terms of what we do globally.

Let me reiterate what outsourcing would mean. It means importing rice from those places like I mentioned, where there is no environmental regulation between sewer water or regular water on crops that are grown there. Is that what American families want? Is that what American mothers want in terms of looking at what they are going to do when they serve that rice cereal to that new infant who is just learning to eat solid foods?

Are they going to want to be reassured that what they are dealing with is a domestic product that has been regulated in how it was grown by American standards? Are they going to want to give that up and just look to the consequences of what might happen in terms of imported commodities?

I would argue that is a price far too high for us to pay. I think the American people are very serious about wanting a safe and affordable food supply. We should be very grateful for the wonderful bounty that our farmers and ranchers provide this Nation. We should support them with a modest safety net so they can continue to provide this Nation and the world with this incredible safe, abundant, affordable supply of food and fiber on the globe.

It is disappointing to me that some in the Chamber and those in the media and special interest groups would take this for granted. You know, if we look at what this costs us, the investment it makes, 15 percent of this bill is in the commodity's title. One-half of 1 percent of the entire budget goes to this insurance policy of assuring America's families they are going to get a safe food supply.

It is also disappointing that some in this Chamber would speak about the dangers of poisoned food entering the country and jobs leaving the country and not make the connection to this vital piece of legislation providing this great country of ours with both safe food and jobs in rural America.

Now, I know agricultural policy is not the most glamorous issue to some Members. I know I probably bored some of my colleagues to tears discussing the intricacies of this farm bill, and the ramifications of this amendment particularly. So if my colleagues take nothing else away from my remarks today——

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

Mrs. LINCOLN. Madam President, I ask unanimous consent for an additional 2 minutes.

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

Mrs. LINCOLN. If the Senators take nothing else away from my remarks today, please hear this: We have included the most significant reform in farm program history in the underlying bill. In the great balance and the productive piece that we produced out of the Senate Agriculture Committee that was passed by unanimous consent, not one dissenting vote, and I challenge anyone to say that is not the case, that this is not the most significant reform that we have ever provided in a farm bill. It is.

We also were very cautious not to get so close to the line that we end up outsourcing our food supply. I think that is very important to America's families across this great country. No American wants our country to rely on foreign sources of food like we do foreign sources of oil. We did not get there overnight, but we are there.

We depend on foreign oil right now. And, unfortunately, if this happens, we are going to see 10 to 15 years from now that we are becoming dependent on foreign countries for our food source. If we do not have the courage to inform the American people of that fact, then we should be ashamed of ourselves.

I urge each of you and your staffs to take a moment and look at this bill and the reforms that we have made. They are significant, and they should be enough for critics of farm policy, who, I suggest to you, will never be satisfied. Those who condemn us, those who condemn us for not taking the extra amount in terms of the reform that Senators Grassley and Dorgan want to take, will never be happy with any amount of reform. They will only be happy when we eliminate the safety net that we provide farmers, but in a slightly different way.

A vote against the Dorgan-Grassley amendment is still a vote for the most significant farm program reform in the history of our country.

I would like to take a moment and walk through the reforms included in the bill. I will wait for a later moment to do that. I certainly want to encourage my colleagues to vote against the Dorgan-Grassley amendment.

Mr. CHAMBLISS. Madam President, earlier the Senator from Iowa, Chairman HARKIN, announced a unanimous consent on two votes on amendments of Senator ALEXANDER following the debate on this particular amendment.

I ask unanimous consent, as we have agreed, that after the two Alexander votes, that Gregg amendment No. 3673 come up for a vote, and that prior thereto there be 15 minutes of debate equally divided.

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

Mr. CHAMBLISS. I would add to that, that the Gregg vote on amendment No. 3673 requires a 60-vote margin.

I yield 5 minutes to the Senator from Alabama, Mr. SESSIONS.

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

Mr. SESSIONS. Madam President, I want to thank Senator LINCOLN for her articulate and effective explanation of the difficulties in the Dorgan-Grassley amendment. I absolutely am confident that it will undermine the traditional agricultural safety net for farmers in the Southeast.

There are a lot of reasons for that. I cannot say for sure what it is like in other areas of the country. Apparently, the amendment would not have the same effect in every area, at least in the same percentage of farmers. But since the 2002 bill, input costs to produce agricultural products have increased, particularly in the Southeast and particularly for cotton, one of our most significant cash crops.

The cost of nitrogen, potassium, phosphate, and diesel fuel have risen dramatically. I do not mean a little bit; some of them have doubled during this time. However, support payments have remained level.

As a result, the safety net already has, in effect, been cut in half. The committee-passed bill essentially continues the 2002 structure of having a safety net that is half of what it was a few years ago.

Producer groups in the Southeast understand the Federal budget reality is not something they want to deny. And the lack of availability of new funding impacts our ability to provide increases in the safety net as we would normally expect to occur. But they are united in their concern and opposition to any effort to further reduce the safety net. The Grassley-Dorgan amendment would not impact producers in the Midwest, it appears. Crops such as corn and wheat are not expensive commodities to produce. As a result, payments do not have to be as high to support farmers in those areas when prices fall.

Crops grown in the Southeast, such as cotton and peanuts, are high-value commodities that cost a great deal to produce. For example, cotton currently costs approximately $450 to $500 to plant and harvest per acre. That is a lot of money. In Alabama, the average Statewide yield is approximately 700 pounds per acre from year to year. However, with current market conditions, producers are barely able to break even with the safety net currently in place. Any further attempt to limit payments will practically destroy agricultural production of high-value commodities in the Southeast.

I suggest our colleagues take note of what the farm bill did. Before, when you actually compute the support payment levels, they were $360,000. Now, with the changes in amendments and loophole closings that have occurred, it has dropped to $100,000. Multiple payments are no longer effective, and a decreased limit has the potential to be very harmful.

Let me share this thought with my colleagues. My family on my mother's and father's sides are farmers. They have been in rural Alabama for 150 years. I know something about farming, but there is more to farming than just the farmer. My father, who had a country store when I was in junior high school, purchased a farm equipment dealership. There are a lot of other people who support agriculture than just the farmers. To be effective, make a living, and farm in agriculture in Alabama and throughout the Nation, you have to be engaged in a large-scale operation with expensive equipment. You have to invest a tremendous amount of money in bringing in a crop. If crop prices fall, you can be devastated. As Senator LINCOLN said, who is going to fill the gap? It is not going to be somebody here. It is going to be somebody else around the world who is receiving far more subsidies than our people.

There is the farm equipment dealer. There is the fertilizer dealer. There are the seed people. There are the people who labor at harvesting and the people who process the cotton, the soybeans, the peanuts and convert them to marketable products. That whole infrastructure, the bankers who loan the money, the businessman in town, the hardware store that supplies their needs, is dependent on the farmer. In Alabama, as in most areas of the country, farmers are larger. They have far more at risk. If they go under, not only do they go under, but entire industries go under. We have cut this to effectively reduce the abuses in the system. I thank the committee for doing so, and I oppose the Dorgan-Grassley amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Georgia.

Mr. CHAMBLISS. Earlier, I asked unanimous consent to include the Gregg amendment to be voted on following the two Alexander amendments. In my request, I asked for 15 minutes of debate equally divided. I now ask unanimous consent that 15 minutes be withdrawn.

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

Mr. CHAMBLISS. I yield to the Senator from Louisiana, Ms. LANDRIEU, 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I am pleased to come to the floor today to join my colleagues, the Senator from Alabama and the Senator from Arkansas, in a strong appeal to our colleagues to vote against the Grassley-Dorgan amendment. As Senator LINCOLN so eloquently stated, this underlying bill is the single largest reform to the farm program practically in the last two decades, if not forever. We have made significant underlying reforms to try to limit and streamline subsidies and to make it fair. But as the Senator from Alabama said, our rural areas, particularly in the South and Southeast, need this bill to continue to grow and prosper. There are parts of the country that are doing very well. But in rural America, there are still difficulties. We have over 200,000 farmers in Louisiana.

I respect the two Senators offering this amendment. They truly are two of the most respected in this Chamber. But I have to say, perhaps it would be easy for me to support an amendment such as this if the crop in my State was getting two or three times the price it once did.

The fact is, rice and cotton are not in the best shape. We are being pressed by imports. We have different rules and subsidies. With all due respect to other Senators, corn has done very well lately. A couple of years ago it was selling on the market for $2.10 a bushel. Today the commodities rate is $4.33. So people growing corn are doing very well. I have some of them in my State as well. But because of the ethanol subsidies, because of what we have done on the fuel business, corn is doing well. We are happy for that. But rice, soybeans, and cotton fighting for markets, fighting against unfair trade practices. This amendment will do them great harm.

Senator LINCOLN has done an excellent job representing Southern farming on the Agriculture Committee. She has, with our support, put forward some reforms to reduce the cost to taxpayers. But we can't do anymore. Asking us to do it is not right. For Georgia and for Alabama and for Louisiana and parts of Texas, this is as far as we can go. I am saying to our farm guys, we help you with subsidies for ethanol. We know farmers growing corn are making a boatload of money. We are happy for that. But we cannot accept this amendment. I urge our colleagues to reject it. Let's move forward together on reform for the taxpayers and for our rural areas.

On another note, our sugar farmers have not had a loan increase in 25 years. Now with this administration supporting huge imports from Mexico, we are at a great transitional time for sugar. This is not the time to cut them anymore. For rice farmers, which Senator LINCOLN spoke about—she is from a rice farming family herself; she most certainly knows what it means to walk the rice rows—the current this amendment would unfairly penalizes producers of rice. Any further cuts to our rice industry would be detrimental.

I am pleased that with Senator LINCOLN's assistance, we were able to put in extra help for some of our specialty crops. Sweet potatoes we grow a lot of, and we are proud of that crop and others. But this is not insignificant business. This is billion-dollar business. It is important to Louisiana. We need to hold the line with the reform.

I urge my colleagues to vote no on Dorgan-Grassley. We have given enough from our region. We want to support reforms. We have supported reforms. But enough is enough.

I am happy corn is now at $4.33 a bushel. I wish my sugarcane farmers

and rice farmers were getting two or three times what they were getting a couple years ago, but they are not. Let's hold the line and vote no on the Grassley-Dorgan amendment.

Mr. CHAMBLISS. I yield 5 minutes to my colleague from Georgia, Senator ISAKSON.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I thank my colleague, Senator CHAMBLISS.

Mr. President, I have great respect for Senator GRASSLEY and Senator DORGAN. But I have respect for a lot of other people. One of them was my predecessor, a guy by the name of Zell Miller. From doing a little research about the 2002 farm bill, Zell stood on this floor and spoke. He made a statement I think is worth repeating. He said: This amendment says to those of us in the South one thing—hold on, little catfish, while we gut you.

It should not go without notice the two sponsors of this are from the Midwest. Everybody on the floor talking right now is from the greater Southeast. This is a punitive amendment to a bill they contend on the one hand doesn't constitute reform, but it is probably the most remarkable reform in farm policy in the United States in the history of the Senate. We are moving in the right direction, but we are moving there without destroying family farms. We are moving there without playing favorites in agriculture.

Supporters of this amendment say these payments go to the few and to the big. I couldn't disagree more. This amendment punishes the farmer and his family who depend solely on the farm for their livelihood. Why should we take the greatest, most abundant food supply in the world and try to mess it up. That is exactly what this amendment would do. Don't let these big numbers fool you. These farmers each year take risks equal or greater than those of their brethren in any other business. In fact, just alone, the equipment a farmer buys today in most cases exceeds the cost of the home that most other Americans buy.

Some argue it is wrong for these payments to go to a small number of big farms. But it is these very farms that are producing the vast majority of our agricultural products. We should be supporting those who are fueling the economic engine of our country. Why should anyone want to punish family farmers who have made very large investments in order to become competitive in an international marketplace? Why are we going to hurt farmers who are trying to provide a decent living for their families in the face of tremendous challenges and soaring costs of production? They do not deserve this kind of treatment. With much of our Nation's farmland in a drought and input costs at record highs, why should anyone want to limit assistance during this time, at a time when our farmers need our help and need it most?

I urge my colleagues to oppose the Dorgan-Grassley amendment. Let's unify America in our ag policy, not have sectional differences, certainly not have sectional penalties. Let's not allow one part of the country to be gutted to the benefit of another.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I thank my colleagues from Louisiana, Alabama, Arkansas, and Georgia for stepping up and making a lot of common sense in their comments. All of us are appreciative of the work Senator DORGAN and Senator GRASSLEY have done over the years in this body. They have both been very supportive of agriculture. I particularly am appreciative of that as the ranking member of the Senate Agriculture Committee. I have been to Iowa. I know the kind of farming they do there. It is different from the way we farm Georgia. I have been to North Dakota. I have seen the way their farms operate in North Dakota. It is different from the way we operate in the Southeast. There are reasons why policies have to be different for different sections of the country.

I wish to talk for a minute about this claim that all these farmers getting payments are big farmers. The proponents of the Dorgan-Grassley amendment claim that 10 percent of the farmers are getting 70 to 80 percent of the program payments. They characterize these farmers as megafarmers and corporate farmers. Both Senator GRASSLEY and Senator DORGAN talk about megafarmers and corporate farmers as opposed to family farmers they want to assist with farm programs. I wish to explain that the farmers in the States of all my colleagues fall within this 10-percent category, and they are ordinary farmers with average size operations. They have families to support, and they are a vital component of rural communities. Most of all, those 10 percent feed this country.

I wish to make it clear, particularly to those who are considering supporting Dorgan-Grassley, why an overwhelming majority of the farmers in your State would fit within the category of being in the top 10 percent of payment recipients. In order to compare apples to apples, I asked USDA to provide me with the attribution data for the 2005 direct payments. I asked for the data in an attributable form because I wanted the information to reflect what the universe of payees would look like based upon the committee-supported bill which requires direct attribution. The data from USDA is pretty interesting. It provides clarity as to the size of farming operations that comprise the top recipients.

In 2005, if a farmer received 1 penny more than $10,000 in direct payments, they would have been considered to fit within the largest 12 percent of producer recipients, exactly the category Senator GRASSLEY referred to. Some of you might ask: How many acres does a farmer have to farm to reach $10,000? Critics consider them to be megafarmers, but the facts do not support this claim and here is why.

According to the USDA attribution data, direct payments average $23.02 per acre nationally, which means if a farmer has 511 base acres, they reach the $10,000 level. Now, I will be honest with you. Maybe it is a good bit different in the Southeast from the way it is in the Midwest. But if you try to farm 500 acres in the Southeast and feed a family of four, you simply cannot do it. In areas where covered commodities are produced, there are few farmers who would consider themselves anything but a small farmer with this amount of acreage. Yet the critics are not interested in telling you these small farmers fit within the category Senator GRASSLEY referenced on the floor recently, when he claimed we have 10 percent of the large farmers in America getting 70 percent to 80 percent of all the money.

To better understand how so many typical farmers fall within this small percentage of payment beneficiaries, you must understand the entire universe of program participants. If one operator rents seven separate tracts from seven separate landowners, on a 75 percent-25 percent crop share arrangement, we end up with eight individuals receiving program benefits—one operator and seven landowners.

Each of these eight individuals counts as a program recipient. But since the operator is on a 75–25 percent crop share arrangement, he or she ends up with 75 percent of the acres and production, while all seven landowners account for 25 percent of the acres and production on their respective farm. Or another way to look at it, the individual operator accounts for 75 percent of the program payments but only 12 percent of the universe of individuals represented in that scenario. I fail to see why this is being represented as inappropriate or unfair. It is only logical that the operator, as a program recipient, who accounts for 75 percent of the acres and production, receives more than any of the other seven individual landowners, who each account for only 25 percent of the acres and production on their respective farm. This simply reflects the one individual operator receives payments in a higher proportion than the other seven individuals due to his level of production and risk.

Now, there has been conversation and statements made tonight about the fact we did not make real reforms.

Let me tell you where the heart of the difference is between the Grassley-Dorgan proposal and the underlying bill. The heart of the difference is in what we call the definition of an ''actively engaged farmer.''

Under current law and under the language in the base bill, individuals or entities must furnish a significant contribution of capital or equipment or land and personal labor or active personal management in order to be actively engaged in farming. So a farmer who qualifies for payments must put at risk money, he must furnish land, he must furnish equipment or he has to be

directly involved in the management of the operation.

Under the Grassley-Dorgan amendment, that definition is changed so that for an individual to be considered actively engaged in farming, they must furnish a significant contribution of capital or equipment or land and personal labor and active personal management.

So what that means is any young farmer—as Senator GRASSLEY referred to—who has a difficult time getting into the farming business, if he wants to come in and start farming, that young farmer, in order to qualify for payments—remember, this is the person who is going to be out there driving the tractor; this is the person who is going to be getting dirt under his or her fingernails—they have to come up with money, they have to come up with equipment or he has to come up with land, and he has to be the guy who is making all the decisions on the ground out there. He cannot have anybody helping him with it, so to speak, who gets payments that help that young man along.

Which young farmer in America today can step right out of school, step right out of high school or college, for that matter, who has the ability to come up with capital, who can come up with the $250,000 combine, who can come up with a $150,000 tractor, who can come up with even a used planter that is going to cost several thousand dollars? Who has the ability to do that?

Well, the arrangement we have that is available to a young farmer under the base bill and under current law is that when a young man or a young woman wants to get involved in farming—a lot of the time it is with their family, sometimes it is without—they have the ability now to enter into a crop share or a landlord-tenant arrangement with a landowner who oftentimes is in the retiring years of wanting to slow down his farming operation or maybe completely get out of it and let someone else get into it. But if he has land, he has equipment he is willing to put into a partnership, a landlord-tenant arrangement, then that young farmer has an opportunity today he simply would not have if the Dorgan-Grassley amendment passes.

It is pure and simple. So when we say we are going to be taking care of young farmers by putting a $250,000 cap on the payment limits any farmer can receive and, thereby, we are going to allow young farmers to come into an agricultural operation, we are kidding ourselves, and we are not being straightforward because that simply is not giving that young farmer any additional advantage.

Now, there has been conversation about abuses of the program and that a lot of people who are not farmers—who may live in Los Angeles or may live in Washington or may live in New York—are getting payments. That is true.

This is my third farm bill. I have tried in every farm bill to try to make sure that young man whom we talked about who is getting dirt under his fingernails, whether it is a young farmer or an older farmer, is the one who gets the benefit—I emphasize that, the benefit—of these safety net programs.

We have sought to do that again. We have modified the language in this bill. For example, Senator DORGAN has referred to what we commonly call the ''cowboy starter kit,'' where we have base acres on a piece of farmland that all of a sudden is turned into a subdivision or into a development of some sort, and payments are made on those base acres.

Well, we have taken those base acres out of eligibility for farm payments with language we have directly put into the bill because what we say is that in order for base acres to qualify, a farmer has ''to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under part III, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use. . . .''

So when we talk about the ability of somebody to own base acres and to take that land and develop it or maybe carve a 10-acre tract out of there and still get payments on those base acres, you are not going to be able to do that under this farm bill.

We went a little bit further because in the committee I had a dialog with Senator NELSON and Senator SALAZAR relative to an amendment which they had designed to prevent commodity program payments on land that is no longer a farming operation or used in conjunction with a farming operation. We have agreed to accept some additional language relative to the amendment they proposed and we took in the committee.

The amendment requires the Secretary to reduce base acres for covered commodities for land that has been developed for commercial or industrial use, unless the producer demonstrates that the land remains devoted exclusively to agricultural production, or for land that has been subdivided and developed for multiple residential units or other nonfarming uses, unless the producer demonstrates the land remains devoted exclusively to agricultural production.

So we are taking the ability away from a commercial developer to ever get any farm payments. I do not know who these particular individuals are who have been referred to as the examples of who ought not to get payments who have gotten payments, but I do recognize there have been abuses, and we have sought to correct that. We have sought to correct that, and we are going to make sure any payments that go on base acres under the bill go to a farmer or an individual who is using that land for agricultural purposes and not for any commercial development or residential development purposes.

Are we going to cure all the problems? Look, I wish I thought we could. I know with any program that is of this size there is going to be some abuse somewhere along the way. We do not have a Federal program in place today that is not being abused and that you cannot single out 1 or 2 or 10 individuals, particularly where we have an expenditure of billions and billions of dollars. But we are certainly doing our best to address the issue, to try to correct the abuses that have taken place.

In this particular instance, we truly have made real reforms that I think are going to close every loophole we know is out there today when it comes to making sure payments go to folks who deserve the payments and that the payments are at a level that is reasonable when it comes to making sure we have a close watch on the taxpayer dollar.

I wish to close this portion of my comments by saying we will detail, as Senator LINCOLN said earlier, some of the specific reforms. But I will highlight one.

I was involved in the writing of the 1996 farm bill, as was Senator GRASSLEY, as was Senator LINCOLN. In that farm bill, which was enacted 5 years ago, we had a payment limit cap of $450,000. In the last 5 years, from 2002 to the language that is included in the base bill we are talking about today, we have reduced that $450,000 down to $100,000. Now, that is a $350,000 reform. Senator GRASSLEY takes it up to $250,000, but that is not apples and apples. But the fact is, we have made real reforms in the dollar amount that folks are eligible to receive from $450,000 down to $100,000.

We have also made other significant changes, such as elimination of three entity, as well as the requiring of attribution to every farmer in America who is going to be receiving payments under this farm bill.

With that, I will reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 3825 WITHDRAWN

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending second-degree amendment to Gregg amendment No. 3673 be withdrawn.

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

Mr. GRASSLEY. Mr. President, I yield myself a few minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I will do it for the sole purpose of commenting on a couple things the Senator from Arkansas brought up. One was the statement where if our amendment is adopted, Senator DORGAN and I would be working to eliminate farm program payments altogether. I wish to make clear I am a believer in a safety net for farmers. We are going to maintain that safety net. So I hope people will ignore that suggested goal.

I think it is important to understand that farm programs have been around since the 1930s. They have been around

as a safety net because farmers are at the beginning of the food chain or, you might say, at the bottom of the food chain. We have a situation where farmers for input, for producing a crop—producing the food our consumers eat—pay what is charged for those imports. They might bargain a little bit, but they don't have control; they have to buy the imports or they aren't in farming. When they sell their products, they have to sell what the market bears for the day they choose to sell. They might choose a different day to sell, but eventually, whatever they sell for is what the market is there; a farmer is not bargaining for that market. So smaller farmers don't have the ability to withstand things beyond their control, such as a natural disaster or domestic policy such as, let's say, Nixon freezing beef prices, ruining the beef farmers, or stopping the exports of soybeans so that they fall from $13 a bushel to $3 a bushel. Those are things a farmer doesn't have anything to do with. So we have a safety net to help medium- and small-sized farmers get over humps and things they don't control, whereas larger farmers, the farmers whom we are putting a $250,000 cap on—the larger the farmer, the more staying power they have. Now, I admit they are affected by the same policies I have referred to, but they have the ability to withstand that to a greater extent than smaller farmers. Also, as I stated in my opening remarks, when you subsidize big farmers, it helps them to get bigger, and it makes it more difficult for people to stay in farming.

A second thing I wish to give a retort to is the use of quotes from an article that says the largest farms in America produce 78 percent of the commodities, but only get 56 percent of the farm program payments. Well, the safety net wasn't set up to match the food source. It wasn't developed to follow the crowd. It was set up to protect small- and medium-sized farmers from things beyond their control, and to maintain the institution of the family farm because it is the most efficient food-producing unit in the entire world. I would compare it to corporate farms on the one hand; I would compare it to the political State farms of the old Soviet Union as an example. The family farm has a record of being the most productive. That is to the benefit of the farmer and the entire economy. It is to the benefit of the consumer.

I am not advocating that there is anything wrong with large farms or large farms expanding; we just shouldn't subsidize them to do it.

I yield the floor.

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

Mr. DORGAN. How much time remains on the two sides?

The PRESIDING OFFICER. There is 25 minutes 50 seconds on your side, and 10 minutes 42 seconds on the other side.

Mr. DORGAN. Mr. President, my intention would be to use some time and then perhaps yield to my colleague from Georgia, and then I would prefer that we be able to close since it is our amendment, and then we would be done with the time. If that would be satisfactory to my colleague from Georgia, the ranking member, I would proceed on that basis.

Mr. CHAMBLISS. Certainly, Mr. President. That is fine.

Mr. DORGAN. Mr. President, let me begin, as a couple of my colleagues have—more specifically, my colleague from Arkansas—I have great respect for Senator LINCOLN, Senator PRYOR, Senator CHAMBLISS, and others here who may disagree with Senator GRASSLEY and myself. I very much respect their position and do not in any way denigrate a position or a philosophy or a policy choice they have made. I do think, however, this is a real choice and an important choice, and I come at it from a different perspective. I believe very strongly if we do not do the right thing, one day we won't be talking about a farm program because there won't be a farm program.

The fact is most people in this country don't farm. Only a small percentage of people live out in the country, out on the farm, under a yard light, trying to raise a family, trying to raise a crop against all the odds. They put a seed in and in the spring they hope it grows and they hope it doesn't rain too much, they hope it rains enough; they hope it doesn't hail; they hope crop disease doesn't come; and they hope that at the end of the summer, perhaps during the harvest season, they get in and harvest that land and they have a crop that comes out of the ground. Then they hope if they were lucky enough to get through all of that and get a crop and drive it to the country elevator, that they might get a decent price for it. They live on hope. The only way people living on a farm in the country can exist is living on hope. They are eternal optimists, believing that if they put a crop in in the spring, that putting that seed into that soil is going to somehow sprout into something bigger, and that at the end of the growing season, they have an opportunity to make a decent living. That is what it is about—because farmers live on hope—but because, in most cases, when international wild price swings occur and the bottom falls out of the grain market, if we don't have a safety net across those price valleys, so those family farmers get economic leverage, the opportunity to make it from one side to the other, they get wiped out. The same is true when a natural disaster comes along.

There are some big enterprises that have the economic strength to get through it. Perhaps when price declines, when disasters hit, they can get through it, but the family farmer doesn't. They get washed away, completely washed away. Then you have the auction sale. You have the yard sale, the auction sale, and that family farmer is gone. It goes on all across this country.

This country decided to do something very important. It decided to say it matters that when you fly across this country tonight, that you are able to look down and see people populating the prairies, populating the rural areas with yard lights and family farms. Look down sometime and see where they all live. Fewer and fewer of them live out in the country. There are fewer and fewer neighbors. But we are trying and struggling mightily to say to family farmers, when you are out there trying to run a family farm and raise a family and raise a crop, if you run into trouble, if you run into a tough patch, we want to help you. That is what this safety net is about.

Now this safety net has grown into a set of golden arches for some. Some of the biggest corporate agrifactories in the country suck millions of dollars out of this program. Some of them are farming the farm program—millions and millions of dollars. Is that what we believe this safety net should be about? Is it, really? Does anyone here believe that those who have never farmed and are never going to farm should receive a farm program payment? Is there anybody who believes that? Because that is what is going to happen. It is what is happening now.

According to some pretty good research that has been done on who receives and would receive the payments under the current system, there are what they call ''down south cowboy starter kits.'' I described that before. It is somebody who subdivides some land that used to produce a crop and still gets a direct payment on a crop that is not produced anymore. So they subdivide it and build a house on part of it and run a horse on another and hay it once a year, and lo and behold, someone who has never farmed and never will, living on ground that has not produced a crop for 20 years, is going to go to the mailbox some day and open up an envelope from the Federal Government and it is going to say: Congratulations. You get a farm program payment. That is exactly what happens today, and it is what is going to happen with this bill.

I support the farm bill that came out of this committee, but I want to improve it because there is a glaring hole. The hole is that under this bill, nonfarmers could get farm program payments, and the hole that is there is an unlimited opportunity to get loan deficiency payments on the LDP or the marketing loan portion. My colleague will say: Well, we have a $200,000 cap on farm program payments. But that is not true; they don't have a $200,000 cap. They have a $200,000 cap on the direct payment and the countercyclical payment, but the third piece, the marketing loan and the loan deficiency payment, is unlimited—no cap at all. The biggest farm in the country, on every single bushel of commodity they produce, will get a price protection in the form of a safety net from the American taxpayer. I don't think that adds up.

I described a few moments ago a wonderful—apparently a wonderful woman in San Francisco, a patron of the arts. I had a picture I decided not to use because I don't think it is fair to her, but she was in the San Francisco Chronicle; they did run a picture of her. Her name is Constance Bowles. She was the largest recipient of farm program funds in San Francisco. She received $1.2 million, her husband received $1.1 million. Another fellow still runs the 6,000 acres. He is receiving money. He says: Well, I don't know why I am getting this money, but if they are—if cotton and rice folks in Texas are going to get it, then I think I ought to get it as well. I don't know. Do people think this is what we ought to be doing? Do you think this represents a safety net? It doesn't look like it to me. It looks like a glaring loophole.

The committee made some improvements. I said that when I started. The three-entity rule is gone. That was something that was abusive, and that is gone. I think that is progress. But I am telling my colleagues more needs to be done, because if we pass this bill as is, people who have never farmed and never will, will still receive farm program payments. For land that hasn't produced a crop for 20 years, they will still be able to get farm program payments. In my judgment, that is not reform.

I believe when we read stories—and we will—when we read stories that operations—the big corporate agrifactory gets $35 million in 5 years, I think a lot of the American people reasonably will ask the question: What does this have to do with the safety net to help family farmers through tough times? Again, if we are for change and reform in a constructive way that says let's do the right thing, then we will pass the amendment I have offered with Senator GRASSLEY, Senator BEN NELSON from Nebraska, and others, because we think it is the right thing to do.

Someone said during this debate: This will injure the safety net. No, no. Exactly the opposite. This is the one thing we can do that will preserve and strengthen the safety net. If we don't do this, we won't have a safety net at some point in the years ahead. It will all be gone because the American people will say: If you can't do it right, we are not going to let you do it at all. That is why I believe this is important.

I yield the floor.

Mr. CHAMBLISS. Madam President, I yield 5 minutes to the Senator from Arkansas, Mr. PRYOR.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, as many others have said today, it is difficult for me on a personal level to speak against this amendment because I have such great respect for the two sponsors of the amendment. However, let me say this to my colleagues who are here, or the staff watching on C–SPAN 2 right now, for the Senators and staff who are looking at this amendment and thinking about previous votes they have made on this same subject and wondering what the differences might be between this and other votes they have cast, there is one major difference and that is the context of this vote. The context of this vote is in a reform bill. Previous votes have been, as we have talked about earlier, in budget bills, et cetera, et cetera, et cetera. This one is in an agriculture reform bill.

The farmers in our section of the country have given up a lot. What we have given up goes into nutrition programs, goes into conservation, goes into energy, rural development, and new programs for specialty crops. When we talk about adjusted gross income, the hard cap in this bill that came out of committee, the three-entity rule reform, all are major gives by farmers in our section of the country.

Quite frankly, if this amendment is adopted, I believe it will destroy the American cotton and rice industry. We will continue to use cotton and rice, but it will increase our trade deficit. We will import it from other parts of the world. Our food and fiber will be grown in countries that do not have our same standards on the environment or on labor or in many other areas. So I have to ask my colleagues: Do we think that is good public policy?

I called a friend of mine this weekend. In fact, it was on December 9. I called him and I said: Hey, are you all set up to go duck hunting, because I want to take my 13-year-old down there and go duck hunting. He said: Not yet, because we are still working the fields. They are still working on December 9 in the rice fields in Arkansas. Now, the rice is gone, but they have to maintain the levees. They have to do all kinds of things. I don't even know what they do. But the truth is my friend, and farmers all over this country, cotton and rice farmers, have huge investments they have made. They have business plans. They have bought combines. They have bought other very expensive pieces of farm equipment. They would have to totally reconfigure their fields. They would have to destroy a very elaborate and very expensive levee system.

It is not fair for us to go through these reforms we have already done and now to ask our rice farmers to do this.

So when I think about my friend, I think about what he would have to go through—in fact, he is the hardest working person I know—I think about the impact it is going to have on rural communities and about the fact that we are talking about food security and protecting the integrity of the American food supply, and we are talking about importing more rice and cotton, et cetera.

It is hard for me to understand why the Senate would want to do that. I have to remind my colleagues of a quote that our colleague in the House made, MARION BERRY. He said:

If you like importing your oil, you will love importing your food.

I hear the arguments my colleagues are making about the so-called cowboy starter kit. I have heard about that. It is a funny story, but it makes you mad as a taxpayer. The fact is, the USDA today can fix that problem. It should have already been fixed, but for whatever reason, they have not fixed it. They have the authority to fix that today.

Now, I have heard the other side say they are concerned about money going to people who don't farm. There is one key thing that my other colleagues need to understand, and that is that they may not be farming, but the land is being farmed. The land is being farmed. They share the risk in that crop. And I heard Senator GRASSLEY say a few moments ago that he and his family, and folks all over his State, enter into these rent-type agreements. Well, so do we. But the way this amendment is structured would absolutely destroy our cotton and rice farmers in our part of the country.

In closing, this is difficult for me, but I am telling you, if this amendment is adopted, I cannot support this bill. It is very hard for me to come to the Senate floor and say I cannot support a farm bill, which is so critical to our State. If this amendment is adopted, I cannot support the farm bill.

With that, I ask my colleagues to look at this very closely. I thank Senators CHAMBLISS and LINCOLN for their leadership.

The PRESIDING OFFICER (Ms. CANTWELL). Who yields time? The Senator from Georgia is recognized.

Mr. CHAMBLISS. How much time remains?

The PRESIDING OFFICER. We have 5 minutes remaining under the control of the Senator from Georgia.

Mr. CHAMBLISS. How much on the other side?

The PRESIDING OFFICER. There are 17 minutes.

Mr. CHAMBLISS. Madam President, I yield half of the 5 minutes to the Senator from Arkansas, Mrs. LINCOLN.

Mrs. LINCOLN. First of all, I want to correct something. Senator GRASSLEY had some concerns about my comments earlier, and they may have been misinterpreted. Senator GRASSLEY is a champion for his farmers, no question about it. I have no doubt about that. I didn't say it would eliminate the subsidy program. What I said the amendment would do is eliminate our ability as farmers in southern States in terms of being able to mitigate our risks without that marketing loan, uncapped as it is in current law. I wanted to make sure he knows.

Madam President, I want to take a few minutes to walk through some of the reforms in this bill that people should be proud of. Over the past 5 years, I ever consistently heard press accounts unfairly characterizing farm programs. All too often, the accounts are very misleading—and that is a nice

way of saying it. However, as members of those States, we rely on a strong farm safety net. I paid close attention to that criticism. I have taken it personally because I believe it unfairly calls into question the character and integrity of my farmers, the hard-working farm families I am proud to represent in the Senate. Largely because they are hard working, they are salt-of-the-Earth people, and they go by the rules. The fact is, they may farm something different, and they may farm a little differently than others, but they are still the hard-working farm families of this country.

We have eliminated today in the underlying Senate Agriculture Committee bill some of the often cited loopholes, the so-called three-entity rule, and banned the use of generic certificates, which producers use to make their entire crop eligible for the marketing loan cap in less transparent ways. We have been asked to be transparent, and that is what we have done.

For reformers, the underlying bill also creates direct attribution of program benefits to a ''warm body'' by requiring the Secretary to track payments to a natural person regardless of the nature of the farming operation earning these payments.

Folks also wanted to dramatically lower the overall level that an individual farmer can receive. That is what we have done.

I thank you for the opportunity to be here and represent those great farmers. I want to say to all of my colleagues that a vote against the Dorgan-Grassley amendment is still a vote for the most significant reform in the history of our farm bill.

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

Mr. GRASSLEY. Madam President, how much time is left on our side?

The PRESIDING OFFICER. There is 17 minutes remaining.

Mr. GRASSLEY. I yield myself 5 minutes.

Madam President, one of the things I think we have to remember is there is reform in the bill that the committee has presented to the Senate—reform that probably should have been done a long time ago.

I pointed it out in my opening remarks and in closing I want to kind of emphasize that there are limits put on in the bill that sound very reasonable. But I have to tell you there is one gigantic loophole you have to consider, and out of the three forms of payments—direct payment, loan deficiency payment, and countercyclical payment—the caps that are in the bill, adding up to $200,000, are for countercyclical and direct payments.

So if you don't have a cap on loan deficiency payments, that means the payments farmers can receive are unlimited and, from that standpoint, when loan deficiency payments are considered, there is not a hard cap. Now, the adjective, ''hard,'' is applicable to Dorgan-Grassley, and it is very important because we have had caps on farm programs for, I will bet, three or four decades. They have been ineffective caps because there has been legal subterfuge to get around it.

The underlying bill, as well as our amendment, takes care of some of that legal subterfuge. But we maintain one for loan deficiency payments within this bill. So you, consequently, don't have a hard cap. Some people would say you don't have a cap at all. I will not go that far. But it is one gigantic opportunity for people to get payments that are really not limited. And it is particularly important for big farmers because the loan deficiency payment is paid out so much per bushel for what the market price is under the target price. So the more bushels you produce, the larger the farm, the more deficiency payments you are going to get. Consequently, we are trying to stop subsidizing farmers from getting bigger.

But when the loan deficiency payment is left out, you are going to give these farmers the same opportunity they have under existing law to use a legal subterfuge that basically makes the limits less meaningful. So I hope you will consider whether you think, when we have a cap, it ought to be an effective cap and, in the words of Dorgan-Grassley, a hard cap. It is very important that we do that.

Remember the background for the farm safety net. It is to help medium- and small-sized farmers, to protect them against things beyond their own control. And natural disaster is a natural one to speak about because floods and hail and windstorms and inability because of a wet spring to get the crop in, et cetera, et cetera, are all natural disasters that a farmer cannot do anything about. Only God can do something about natural disasters.

Then there are political decisions. I keep mentioning them because they ruined so many farmers in the 1970s. Nixon put a freeze on beef prices, and the President also put a limit on exports of soybeans so the price would plummet when it was very high in the early 1970s. And there is international politics: the cost of energy, what OPEC does—all of that is beyond the control of the small- and medium-sized farmers.

But the larger you get, the more staying power you have in it, and we don't need to have a safety net so strong that it subsidizes big farmers to get bigger, and 10 percent of the biggest farmers are getting 73 percent of the benefits out of the farm program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Madam President, how much time remains on our side?

The PRESIDING OFFICER. There is 1½ minutes remaining.

Mr. CHAMBLISS. Senator GRASSLEY said a little earlier that the payment limit provision increased the land prices or contributed to the increase in land prices in his State. I simply say that I understand they have risen 64 percent from 2000. I remember very well, in 2002, when we were drafting the farm bill, the price of corn was $1.90 a bushel. Today, the price is $3.16 a bushel in Iowa, and in Texas it is about $3.85 a bushel. It is pretty easy to see why the price of land in the midwestern part of the United States increased. It has nothing to do with payment limits and everything to do with crops.

By contrast, in the mid-1950s, cotton was selling at 55 cents a pound. Today, a pound of cotton is selling somewhere in the range of 62 cents, and it is up. That is a pretty drastic contrast.

My colleagues have said it is their position that farmers simply get too much money, and we need to cap payments. I think it is interesting to note that we tried to put a cap on conservation payments, and we were stymied from doing it in the committee.

There is nothing in the Grassley-Dorgan amendment to put any payment limit on the conservation payments that are made. The conservation payments that are made, I daresay, are virtually all of the payments to which the Senator from North Dakota referred. I urge colleagues to vote no on this amendment.

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

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. DORGAN. Madam President, to suggest that perhaps we believe that farmers were getting too much money, nothing could be further from the truth. A whole lot of farmers are not getting enough help when they need it. The reason is because we don't have enough money in the farm program to provide a decent safety net. We have money leaking out the back door in the form of millions of dollars of payments to big corporate agrifactories. I have some examples. We have all heard these and read about them.

Constance Bowles, a prominent San Francisco art collector, from 2003 to 2005 received $1.2 million. Her husband received an equivalent amount during that period. Mark Burkett, a bonafide farmer, received payments for corn, wheat, cotton, peanuts, and sorghum from 2003 to 2005 totaling $1.8 million. Tommy Dildine collected $1.04 million. By the way, his wife Betty received exactly the same amount down to the penny. That is just over $2 million for that couple. I could go on.

Is this a safety net helping family farmers? I don't think so. There is nothing, as I indicated previously, in this legislation that stops some of the practices I described earlier.

My colleague said this issue of cowboy starter kits—I am tired hearing about cowboy starter kits. The USDA can shut that down. Yes, they can, but they won't. Why wouldn't we shut down a loophole that says somebody

who has never farmed and never will farm and living on land that hasn't produced a crop for 20 years ought to open the mailbox and get a check from the Federal Government, a farm program payment? Why wouldn't we close that loophole? Why? Because this bill doesn't go far enough and won't close it and those who are opposing us on the floor of the Senate today don't want it closed.

There are a lot of reasons to support family farming. Some say it is hopelessly old-fashioned, that farming has gone a different direction; it is mechanized, it is big, these are big operators farming from California to Maine. I believe it is not hopelessly old-fashioned to think we can keep families on the farm putting in a crop and contributing more than a crop, but contributing to building communities. They are the economic blood vessels that flow into our rural communities in our country.

There is a songwriter, a farmer, a rancher from North Dakota named Chuck Suchy. He sings a song about ''Saturday Night at the Bohemian Hall,'' where all the neighbors, all the farmers in the region gather and talk about the weather, they talk about their crops, and they talk about their families. It is an unusual culture and one that is important to this country. Some say that is yesterday, it is certainly not tomorrow. I, for one, hope we can construct a farm bill that is about tomorrow and that says to family farmers living on the land: We care about you. You are out there alone trying to make it against the odds. So we have a safety net. But some of my colleagues believe that safety net should be a set of golden arches, providing millions to the biggest agrifactories in this country. That is not what the farm program was designed to do.

When we do a program here, it doesn't mean it has to be perverted. We don't need snow removal in Hawaii, we don't need beachfront restoration in North Dakota, and we don't need to pervert a farm program by allowing millions of dollars—and, by the way, since the year 2000, $1.3 billion has been spent by this Federal Government in crop subsidies to people who are not farming—$1.3 billion. What might that have done in the form of health care for children who don't have health care or strengthening education so that when kids walk through a classroom door, we can believe they are walking into one of the best classrooms in the world? What might that have done in a whole range of areas where we could have improved life? What might that have done had that money gone in to strengthening the farm program itself or providing a disaster provision 2, 3 years ago for a farm program that doesn't have it?

Madam President, how much remains on my time?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. DORGAN. Again, I know some think it is hopelessly old-fashioned to talk about family farms. I don't. I know some farms have been very successful and they have grown, and I don't mean at all they should be penalized. That is not my intention. We only have a certain amount of money, and we ought to provide the best safety net and farm program we can up to a certain amount of production because that is the money we have. But we ought not dissipate our energy, strength, and money on people who are not farming and they go to their mailbox and open a check, and they get a farm program payment even if they don't farm. That does not make sense to me.

Let me tell a story about a young man named Waylon. I was invited to the White House to the East Room some while ago when they brought in some youngsters who were heroes and the President presented these youngsters with medals. One of them was a North Dakotan. Twelve-year-old Waylon was on the farm with his brother and sister. His parents went to a neighbor farm for a moment to see the neighbors. It was winter, and in North Dakota in the winter, the stock pond was frozen. They were playing on the ice. This 12-year-old boy and his brother and sister were playing on the stock pond ice and his sister fell through the ice. It cracked and she fell through the ice and was drowning.

Waylon, age 12, sent his brother to go 1 mile to fetch his parents. His 6-year-old brother went off to fetch the parents. Waylon, age 12, meanwhile lay on his belly with his winter clothes on and cowboy boots toward the edge of the hole on the ice where his sister was drowning.

Some while later, about 20 minutes later, his parents came rushing into the yard, driving into the yard. What they saw was a 12-year-old boy in this area where the ice had broken who couldn't swim, who broke into that ice trying to find his sister who was drowning. What his parents saw was a young 12-year-old boy with his sister's head in the crook of his arm. He was treading water as fast as he could tread still 20 minutes later.

He was given a medal for heroism at the White House along with some other boys. I asked young Waylon: How did you do that? He said I watched ''GI Joe'' and I learned safety tips. He said: I kicked as hard as I could. He kicked so hard that his cowboy boots came off. On that day, a 12-year-old boy who couldn't swim reached out his hand for his sister who was drowning.

That same type of love, that kind of commitment, that outreach of a hand, not just from that 12-year-old boy, but from a country to farmers all across this country to say, let us help you when you are in trouble—that is the instinct of this country and why we created a safety net in the first place, to reach out our hands to say we want to help, you are not alone when prices collapse, when disease comes, when it hails, when it rains, when it rains too much, when it doesn't rain enough. This country has said we want to help because we believe family farmers are important to this country. We want people on Saturday night to come to the Bohemian Hall and swap stories about the weather, the crops, and their neighbors. We want that. The way you get that, it seems to me, is to preserve a safety net. We will not preserve a safety net for family farmers by deciding we ought to give millions and millions of dollars to the biggest agrifactories in this country that are farming the farm program.

When we give $1.3 billion in farm program payments to people who are not farming—let me say that again—when we send checks to the mailboxes of people who are not farming to the tune of $1.3 billion and call it a safety net in a farm program, I am saying it is a perversion of what we ought to do as a government to help family farmers in the future.

This ought not be a difficult choice. The committee made some improvements in this bill; yes, they did. But without this amendment, we will still have people who are not farming now and have never farmed in the past and will never farm in the future living on land that has not produced a crop for 20 years, and they are going to continue to get farm program payments. If you don't believe that is wrong, then vote against this amendment.

Senator GRASSLEY and I believe there is a much better way. We don't do it by suggesting anybody at all should ever be penalized. We just believe we should use the resources we have to provide the best safety net we can to those family farms out there struggling to try to make ends meet during tough times. That is why we have a farm program. It is why we designed a safety net. It has not worked as well as any of us would have liked.

I would like to improve the safety net, but we can't improve the safety net if we are using this precious money to send it to Telegraph Hill in San Francisco to somebody who gets $2.4 million with her husband, a patron of the arts, who gets money from the farm program and whose brother now runs the farm and says: I don't know why we get this money, but if they get it down in Texas, we ought to get it here in San Francisco.

I am telling you, the American people expect more from us. Let me finish by saying this again. I deeply respect my colleagues who disagree with me. I respect my colleagues who have spoken in support of their bill and against this amendment. But I say to them, if they are for constructive change, if they are for reform that the American people understand makes sense, then they have to support this amendment and believe let's at least do the right thing.

This is a good bill that came out of the committee, but it needs to have this hole plugged. To have a bill come out of the committee and have loan deficiency payments or the marketing

loan be totally unlimited for the biggest farm in America for everything they ever will produce, that is wrong. It is a hole big enough to drive a truck through. If we can fix that, I say we have done a good day's work and done something very important for family farmers in the future.

One of my colleagues says, if we do this, he won't vote for the bill. I am going to vote for the bill one way or the other because this bill is an advancement in public policy. But Senator GRASSLEY has said it well, my colleague BEN NELSON and others believe as I do that we should do this, we should have done this 6 years ago. And by the way, we had 66 Senators vote for this approach the last time we wrote a farm bill, and it got dropped in conference. My hope is we will at least have 60 votes tomorrow in support of change, constructive reform that the American people want. If you went to a cafe anyplace in this country, set this out and said: What do you think we should do? I tell you it will be 99 percent saying fix this, fix this, do this in support of the American taxpayers, and do this in support of family farmers.

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

AMENDMENT NO. 3551

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes for debate equally divided prior to vote on amendment No. 3551, the amendment offered by the Senator from Tennessee, Mr. ALEXANDER.

Who yields time?

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask the manager of the bill if he wishes us to begin our 1-minute discussion?

Mr. HARKIN. Go ahead.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, this is a wonderful opportunity to take wasteful Washington spending and turn it into higher farm family income by using our secret weapon, land grant universities' competitive grants to create value-added agricultural products to get that program back on track. It is fully paid for, $74 million, by striking a provision that uses taxpayers' dollars so taxpayers in Virginia and Georgia, for example, will pay for transmission lines in Tennessee and other States. Those should be paid for by utilities.

The group that hopes Senators vote ''yes'' includes the National Association of State Universities and Land Grant Colleges, the National Coalition for Food and Agricultural Research, the National Association of Wheat Growers, and the National Cattlemen's Beef Association.

I urge a ''yes'' vote.

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

Who yields time in opposition?

The Senator from Iowa.

Mr. HARKIN. Madam President, I hope the Senate will reject these Alexander amendments. The first one on transmission easement payments, again, if we want to encourage the building of renewable energy resources, they are going to take place in rural areas. These easements they have to get have to take place on farms and rural areas.

I was pleased the Finance Committee in their tax package provided this income exclusion for transmission easement payments because it can help support transmission access development and it does it for renewable energy. So this is part of the tax package that came from the Finance Committee supported both by the Finance Committee and the Agriculture Committee.

If you want renewable resources built in rural America, then this amendment should be defeated because it will slow it down and stop it from happening.

The PRESIDING OFFICER. All time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3551.

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), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote ''nay.''

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 19, nays 75, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—19

Alexander	Dole	Snowe
Allard	Graham	Specter
Bennett	Hutchison	Sununu
Bond	Kyl	Voinovich
Bunning	McConnell	Warner
Burr	Sessions	
Cochran	Shelby	

NAYS—75

Akaka	Cornyn	Johnson
Barrasso	Craig	Kennedy
Baucus	Crapo	Kerry
Bayh	DeMint	Klobuchar
Bingaman	Domenici	Kohl
Boxer	Dorgan	Landrieu
Brown	Durbin	Lautenberg
Brownback	Ensign	Leahy
Byrd	Enzi	Levin
Cantwell	Feingold	Lieberman
Cardin	Feinstein	Lincoln
Carper	Grassley	Lott
Casey	Gregg	Lugar
Chambliss	Hagel	Martinez
Coburn	Harkin	McCaskill
Coleman	Hatch	Mikulski
Collins	Inhofe	Murkowski
Conrad	Inouye	Murray
Corker	Isakson	Nelson (FL)
Nelson (NE)	Salazar	Tester
Pryor	Sanders	Thune
Reed	Schumer	Vitter
Reid	Smith	Webb
Roberts	Stabenow	Whitehouse
Rockefeller	Stevens	Wyden

NOT VOTING—6

Biden	Dodd	Menendez
Clinton	McCain	Obama

The amendment (No. 3551) was rejected.

AMENDMENT NO. 3553

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate prior to a vote on amendment No. 3553, offered by the Senator from Tennessee, Mr. ALEXANDER.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Madam President, the words I would like my colleagues to remember are ''farms, yes; residential, no.'' If the Alexander amendment is adopted, there would be subsidies for wind turbines up to 12 stories tall in agricultural areas, but there would be no subsidies for wind turbines in residential areas. This is called ''small wind.'' Twelve stories is not very tall, but I would not want to go home and explain to my constituents why I took their tax dollars and helped a neighbor build a 12-story-tall wind turbine with flashing lights in a residential neighborhood.

Farms, yes; residential, no. I ask for a ''yes'' vote.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Madam President, I ask my colleagues to vote no on the Alexander amendment. The Alexander amendment would essentially strip out what came out as a bipartisan supported amendment from both the Finance Committee and the Agriculture Committee. It is a step in the right direction in terms of moving forward with small wind microturbines that are very essential to our renewable energy future. This is something which is part of our whole renewable energy agenda.

I urge my colleagues to vote against the Alexander amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3553.

Mr. ALEXANDER. Madam 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 bill 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), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote ''nay.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the

Senator from North Carolina (Mr. BURR).

The PRESIDING OFFICER (Mr. CASEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 14, nays 79, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—14

Alexander	DeMint	McConnell
Bennett	Dole	Sessions
Bond	Domenici	Shelby
Bunning	Kyl	Warner
Cochran	Lott	

NAYS—79

Akaka	Feingold	Murkowski
Allard	Feinstein	Murray
Barrasso	Graham	Nelson (FL)
Baucus	Grassley	Nelson (NE)
Bayh	Gregg	Pryor
Bingaman	Hagel	Reed
Boxer	Harkin	Reid
Brown	Hatch	Roberts
Brownback	Hutchison	Rockefeller
Byrd	Inhofe	Salazar
Cantwell	Inouye	Sanders
Cardin	Isakson	Schumer
Carper	Johnson	Smith
Casey	Kennedy	Snowe
Chambliss	Kerry	Specter
Coburn	Klobuchar	Stabenow
Coleman	Kohl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Tester
Corker	Leahy	Thune
Cornyn	Levin	Vitter
Craig	Lieberman	Voinovich
Crapo	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	Martinez	Wyden
Ensign	McCaskill	
Enzi	Mikulski	

NOT VOTING—7

Biden	Dodd	Obama
Burr	McCain	
Clinton	Menendez	

The amendment (No. 3553) was rejected.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 3673 offered by the Senator from New Hampshire, Mr. GREGG.

Mr. GREGG. Mr. President, parliamentary inquiry: What is the proper order for the 2 minutes? Is there a tradition or an order on the 2 minutes?

The PRESIDING OFFICER. There is no order of speakers. There is 2 minutes equally divided.

Mr. GREGG. Thank you.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be charged equally to both sides.

Mr. DURBIN. Mr. President, obviously the Senator from New Hampshire does not want to explain his amendment. I will. This is a medical malpractice amendment on a farm bill. This amendment picks a class of Americans who will be denied their day in court and restricted in what they can recover if they are victims of medical malpractice.

The people who will be denied their day in court, a class, women, women living in towns of 20,000 of population or less, and their children, those are the only people who will be denied the right to go to court.

If you think this is wise policy for America, to say to victims of medical malpractice who live in small towns they cannot go before the court and jury for fair compensation for their injuries, then I assume you will support this amendment.

But if you believe the medical malpractice does not belong in the farm bill, should not specify one class of Americans to be discriminated against and that we should give those victims a chance for their day in court, please vote no.

Mr. GREGG. Mr. President, I appreciate the courtesy of the Senator from Illinois in going first. Let me simply make this point. This is not a complicated amendment. In rural America today, there is a distinct lack of obstetricians. Women who are going to have children are having a very serious problem finding doctors who can take care of them.

That is because of the cost of malpractice insurance. This bill tracks the Texas experience and the California experience and is a very reasonable approach. You have a simple choice in this bill on this amendment. You can vote for women who need decent health care when they are having children or you can vote for trial lawyers. That is the choice. I would appreciate it if people voted for women. Thank you.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3673.

The clerk will call 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), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) and the Senator from New Jersey (Mr. MENENDEZ) would each vote ''nay.''

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 41, nays 53, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—41

Alexander	Craig	Lott
Allard	DeMint	Lugar
Barrasso	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Bunning	Grassley	Smith
Burr	Gregg	Stevens
Coburn	Hagel	Sununu
Cochran	Hatch	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	

NAYS—53

Akaka	Graham	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shelby
Casey	Leahy	Snowe
Chambliss	Levin	Specter
Conrad	Lieberman	Stabenow
Crapo	Lincoln	Tester
Dorgan	Martinez	Webb
Durbin	McCaskill	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murray	

NOT VOTING—6

Biden	Dodd	Menendez
Clinton	McCain	Obama

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 53. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

Mr. REID. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the managers have made a lot of progress on this bill today. The end is in sight. We are going to have a couple more votes tonight. There will be a little more debate tonight.

So I ask unanimous consent that the following amendments be debated tonight for the time limits specified in the order listed and that all other provisions of the previous order remain in effect regarding time division and intervening amendments: Sessions amendment No. 3596, 20 minutes evenly divided; Coburn amendment No. 3632, 20 minutes evenly divided; that the Klobuchar amendment be debated tonight for whatever time she may consume of her 30 minutes—she has 30 minutes; whoever opposes the amendment will have 30 minutes; they are going to debate part of that time tomorrow—Senator KLOBUCHAR will use whatever time she feels appropriate tonight within her 30 minutes but the vote occur in relation to the amendment during Thursday's session; that upon the conclusion of the debate with respect to the Klobuchar amendment, the Senate proceed to vote in relation to amendment No. 3596 and then amendment No. 3632—I am sorry, the debate on the Klobuchar amendment will begin after we complete the votes tonight on the two amendments I mentioned—that the following two amendments be debated during tomorrow's session: Senator BROWN will have 60 minutes on amendment No. 3819, evenly divided; Senator TESTER will have 60 minutes evenly divided on amendment No. 3666.

So in effect, we are going to have debate for a relatively short period of time, and they will yield back their time if they wish. We will have two votes. Senator KLOBUCHAR will start her debate tonight and use whatever of her 30 minutes she desires, and then tomorrow we will have a number of

amendments, but locked in is the Brown amendment and the Tester amendment, as I outlined.

I have spoken to Senator HARKIN. He, of course, is in touch often with Senator CHAMBLISS. There is every possibility we could finish this bill tomorrow. As everyone knows, we have some votes in the morning on the Dorgan-Grassley amendment and on cloture on the Energy bill.

After that, we will have to see what happens and try to get back to this bill as quickly as we can.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, reserving the right to object, if I could ask the distinguished majority leader to add the other unanimous consent request we have agreed to.

Mr. REID. Yes. I did not have that.

AMENDMENT NO. 3803 TO AMENDMENT NO. 3500

Mr. President, I ask unanimous consent that amendment No. 3803, which is at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The amendment (No. 3803) was agreed to, as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the tax treatment of horses, and for other purposes)

At the appropriate place, insert the following:

SEC. __. ASSET TREATMENT OF HORSES.

(a) 3-YEAR DEPRECIATION FOR ALL RACE HORSES.—

(1) IN GENERAL.—Clause (i) of section 168(e)(3)(A) of the Internal Revenue Code of 1986 (relating to 3-year property) is amended to read as follows:

''(i) any race horse,''.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

(b) REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.—

(1) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) of the Internal Revenue Code of 1986 (relating to definition of livestock) is amended by striking ''and horses''.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. __. ELIMINATION OF PRIVATE PAYMENT TEST FOR PROFESSIONAL SPORTS FACILITY BONDS.

(a) IN GENERAL.—Section 141(a) (defining private activity bond) is amended by adding at the end the following new flush sentence:

''In the case of any professional sports facility bond, paragraph (1) shall be applied without regard to subparagraph (B) thereof.''.

(b) PROFESSIONAL SPORTS FACILITY BOND DEFINED.—Section 141 is amended by adding at the end the following new subsection:

''(f) PROFESSIONAL SPORTS FACILITY BOND.—For purposes of subsection (a)—

''(1) IN GENERAL.—The term 'professional sports facility bond' means any bond issued as part of an issue any portion of the proceeds of which are to be used to provide a professional sports facility.

''(2) PROFESSIONAL SPORTS FACILITY.—The term 'professional sports facility' means real property and related improvements used, in whole or in part, for professional sports, professional sports exhibitions, professional games, or professional training.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act, other than bonds with respect to which a resolution was issued by an issuer or conduit borrower before January 24, 2007.

The PRESIDING OFFICER. The majority leader is recognized.

ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Mr. REID. Mr. President, I ask that the Chair lay before the Senate the message from the House on H.R. 6.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate 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.

MOTION TO CONCUR WITH AMENDMENT NO. 3841

(Purpose: In the nature of a substitute.)

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to the text with the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment to the text of H.R. 6, with an amendment numbered 3841.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. Mr. President, 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.

AMENDMENT NO. 3842 TO AMENDMENT NO. 3841

Mr. REID. Mr. President, I have a second-degree amendment at the desk I wish to have reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3842 to amendment No. 3841.

The amendment is as follows:

At the end of the amendment add the following:

This section shall take effect one day after the date of this bill's enactment.

CLOTURE MOTION

Mr. REID. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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, 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.

Mr. REID. Mr. President, I ask unanimous consent that the live quorum under rule XXII be waived and that the Senate resume consideration of the farm bill, H.R. 2419.

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

FARM, NUTRITION, AND BIOENERGY ACT OF 2007—Continued

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: What is the order before the Senate at the present time?

AMENDMENT NO. 3596

The PRESIDING OFFICER. Under the previous order, 20 minutes of debate, evenly divided, on the Sessions amendment No. 3596.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will attempt to complete my remarks in less than the 10 minutes I have.

MODIFICATION TO AMENDMENT NO. 3596

Mr. President, I ask unanimous consent that I be allowed to amend my amendment. We got a score today that indicated it would cost $1 million over 10 years. This would be an offset for that. So I send this modification to the amendment to the desk and ask unanimous consent that I be allowed to amend the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, we have not seen the modification.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I renew my unanimous consent request that I be allowed to modify my amendment to allow for an offset for the $1 million cost over 10 years.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

At the end of the amendment, add the following:

(j) OFFSET.—Notwithstanding any other provision of this Act or an amendment made

by this Act, for the period beginning on October 1, 2007, and ending on September 30, 2011, each amount provided to carry out administration for a program under this Act or an amendment made by this Act is reduced by an amount necessary to achieve a total reduction of $1,000,000.

Mr. SESSIONS. Mr. President, I will try to be succinct.

Crop insurance is a critical part of farm policy in America. It is not working perfectly. A number of farmers do not like it and do not take it out. Many do take it out and are not happy with the way it works.

We spend a lot of money on it. The Federal Government contributes 58 percent of the premiums for crop insurance, totaling $3.2 billion a year.

One of the goals of crop insurance was to eliminate ad hoc individual disaster relief bills when farm disasters occur. Yet, since 2002, we have averaged $1.3 billion in additional disaster relief to agriculture. So it has not met that goal.

In 1999, the Alabama Farmers Federation, now affiliated with the National Farm Bureau, had a study of crop insurance. Farmers recommended—these were farmers—they recommended we adopt a system in which farmers, if they chose, could take the subsidy from the Federal Government, plus their own premium, and pay that into a farm disaster savings account and draw on that account if a disaster occurred—but only if they voluntarily chose to do so.

I have studied that. I believe it is a good policy. I talked to Secretary Johanns when he was Secretary of Agriculture a few months ago. He tells me he thought it would be particularly good if we moved forward in this way as a pilot program.

So I have offered this amendment which would call on the U.S. Department of Agriculture to create farm savings accounts for insurance purposes, which would allow the Federal contribution to Federal crop insurance to go into that account, along with the farmer's contribution, but only for 1 percent of the farmers in America. That would limit it to a number of 20,000. Then we would try it out and see how it works. I think it could work very well for quite a number of farmers; I don't know how many. It certainly will not eliminate the need for crop insurance. Most farmers, I am sure, would want to have crop insurance.

Under my amendment, farmers would have to have catastrophic insurance. Their crop insurance numbers would be a smaller amount to take care of the more routine financial losses that farmers incur. I think it is a good program. It has been thought out pretty carefully. We have worked with the Department of Agriculture, the Alabama Farm Bureau, the Farmers Federation. They support it strongly. The National Farm Bureau has not taken a position. So I think it is the kind of legislation we ought to consider, and I urge my colleagues to do so.

In a few years, we will see how it is working. If it is not working, so be it. If it is working, we might want to make it permanent. So I ask my colleagues to support this amendment.

I yield the floor, reserving the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, we are constantly coming to the floor or going into committees and talking about the fact that when it comes to the complicated programs we deal with, it is critically important that Members, as well as our staffs, think outside the box and come up with new ideas, new concepts that make sense, where we can take bureaucratic programs and streamline them, make them better, make them easier, make them more, in this case, farmer friendly. For that reason I compliment the Senator from Alabama. I think he has come up with an excellent idea. It has the potential for providing something similar to an idea that was prevalent in the House several years ago that was proposed by a Congressman from Kansas, KENNY HULSHOF, and that was to create farm savings accounts that the farmer could use to take excess money in good years and put it, tax-free, into a savings account and save it for a time down the road where he knows he was going to have a tough year and he would have that money available. That is exactly something along the lines of what Senator SESSIONS is talking about. I do think it is a great concept.

The problem I have with the amendment right now is that we have had no hearings on it in the committee, and we are not sure of whether it can even be implemented as a part of this particular farm bill in conjunction with the crop insurance provisions that are in our bill. I have talked to my dear friend Senator SESSIONS. I have told him I regret I will have to vote against it, but a vote against it is not a vote against the concept or against the fact that he has now come in and has thought outside the box, and I think he has a very good concept that I would encourage the chairman to look at as we move in the next year into the implementation of this farm bill. Let's have some hearings. Let's get some economists, some crop insurance folks to think about it and see if we can't maybe even think about a stand-alone bill for it and not wait for the next farm bill.

So I think it has merit. I just think trying to incorporate it into this bill presents complexities that I don't think we can accommodate.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I join my colleague and concur in his remarks on the Sessions amendment. For a lot of subjects before us we get good ideas, interesting ideas that come up via amendments on bills. This isn't the first time it has happened. As Senator CHAMBLISS said, this idea has been talked about, floated around for a while. Senator SESSIONS has perhaps focused it more than I have seen in the past on the savings account idea.

But I think Senator CHAMBLISS is right. This is a very complicated subject. It involves a lot of different considerations and as well as interactions with other programs in agriculture. I would just say to my friend from Alabama that I would, with Senator CHAMBLISS, be willing to have some hearings on this next year, and I invite the Senator to testify and bring some witnesses in, as Senator CHAMBLISS says, some agricultural economists, some agricultural producers, and see what this proposal would do. If it has legs, if it has some merit, we could move it.

Just because we pass a farm bill doesn't mean that our committee is dormant for 5 years. We will be holding hearings and working on legislation. The occupant of the chair, too, will be actively involved in a lot of those discussions next year as a valuable member of our committee.

So I would just say to the Senator from Alabama, I am going to join Senator CHAMBLISS in opposing the amendment. Not that I am absolutely, irrevocably opposed to it, but it is a little bit too much of a change on a bill now, without the kind of hearings and due diligence that we should apply to it. So I will oppose it. But I will say this to Senator SESSIONS: I look forward to having some hearings on it next year.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the chairman for his willingness to consider this. I do believe I have given a good bit of thought to it, and I have shared it with the committee for the last several or couple weeks. But at any rate, I urge my colleagues to support it, recognizing that it is a pilot program involving only 1 percent of the farmers in America, and from that pilot program, we may learn that we have a good program indeed. So I urge support for it.

I yield the floor, and I yield the remainder of my time.

The PRESIDING OFFICER. There is 5½ minutes remaining.

The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I am here to speak briefly on my amendment, which is amendment No. 3810. I am going to reserve most of my time for tomorrow because some of my colleagues want to address this bill.

Mr. President, America's farm safety net was created during the Great Depression. It was created to protect struggling family farmers from volatile prices and from volatile weather. I think the reasons for that safety net still remain today. That is why I am a strong supporter of this farm bill.

I believe there are some forward thinking provisions in this farm bill, including with regard to energy, cellulosic energy—something near and

dear to my heart. We have worked hard on those provisions. The permanent disaster relief is so important for the farmers in my State. I think the safety net that helped our farmers in the 2002 farm bill and allowed them to take risks and revitalize a lot of the areas in this country are good. That is why I support this farm bill.

But I also believe there is a need for reform in this farm bill. I believe the money that is set aside for a safety net for our farmers should be going to the hard-working farmers in this country and not to urban millionaires. When you look at what happened over the last few years, there are scandals. There are people who should not have gotten this money. There are art collectors in San Francisco and real estate developers in Florida. When we look at where the money went, I think we can conclude there are not a lot of farms in, say, the District of Columbia, where we stand today. Mr. President, $3.1 million in farm payments went to the District of Columbia, $4.2 million has gone to people living in Manhattan, and $1 billion of taxpayer money for farm payments has gone to Beverly Hills 90210. The last time I checked, there is not a lot of farmland in those areas.

I believe we can fix this problem. As Senator DORGAN said today, if we don't fix it ourselves, someone is going to fix it for us. I believe the people who live in farm States have an obligation to make sure these programs are appropriate and that they are going to the right people.

That is why I am proud that in this last farm bill, as a member of the Agriculture Committee, we have included in this farm bill an end to the three-entity rule. We have eliminated it. It will cut down the abuse by applying payment limits strictly to individuals and married couples and to ending the practice of dividing farms into multiple corporations so they get multiple payments.

I also support the Dorgan-Grassley amendment that puts some sensible limits on the total number of subsidies. But also I believe it is very important that we put some reasonable limits on income eligibility.

Now, what we have here with our amendment is reasonable. Let me go through what the law is right now. Right now, the law, for full-time farmers, says if you get at least 75 percent of your income from farming, you have an unlimited amount of income and profit you can make, and you can still get Government subsidies. That is how it works. It says for part-time farmers, if you get $2.45 million—you may just be an investor in Beverly Hills—you can still make up to $2.5 million, and you get the subsidies. We know that with the budget problems this country is facing, we need to make some sensible reforms.

The President has proposed a $200,000 limit on income for both part-time and full-time farmers. The House-passed version has suggested a $1 million limit on income for full-time farmers and a $500,000 limit for part-time farmers. So it is more generous than the administration, but it is still a big change from what the current law is. Our Senate bill that came out of committee, unfortunately, still allows for unlimited income for full-time farmers, and then basically for part-time farmers ends up after a number of years at $750,000.

What our amendment does, the Klobuchar-Durbin-Brown amendment—and we have a number of people on the other side of the aisle who are going to be supporting this as well, as well as the Department of Agriculture. It simply says for full-time farmers, if you make in profit $750,000, at that point you are not going to get any more Government farm payments. Now, if you have a bad year, and disaster strikes and you go below that amount, you will be eligible for those payments. For part-time farmers, some of the investors, the people who are making less than 66 percent of their income from farming, if you make $250,000, then, at that point, you are no longer eligible for these payments.

Now, I don't think this is something outrageous. I think this is good policy. When I think about the farmers in my State, the average income of a farmer is $54,000. That is why as we look at this farm bill and what we want to do for the new and beginning farmers, we want to get more farmers involved in agriculture. We want to do more for nutrition, conservation, and most important to me, moving to this next generation of cellulosic ethanol, we have to acknowledge that at some point, multimillionaires who live in urban areas should not be getting these farm payments.

So I am going to reserve the remainder of my time for tomorrow because my colleagues want to address this issue. I think we will have a good debate. But I wanted to put it in people's minds tonight so they can go back and talk to their staffs about how important it is and how sensible it is to put some reasonable income limits on this farm bill. Right now, our Senate bill has no income limits for full-time farmers and goes all the way up to $750,000 for part-time farmers. I believe we can do better and still strongly support the family farmers in this country. I support them. My State is sixth in the country for agriculture; No. 1 turkey producer in the country. We have a lot of corn. We have some great people who are revitalizing our State because of the hard work they did, and the 2002 farm bill helped them. We want to keep those strong reforms in place, keep the safety net in place, add the disaster relief, add the conservation focus, but we also want to have some reasonable reforms so the money goes where it should go, and that is to our hard-working farmers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. First of all, I would like to take just a moment—we had an amendment No. 3530 which I think the committee has agreed to accept and will come to later, but I wanted to spend a moment talking about it.

Over the last 20 years, the U.S. Department of Agriculture has paid out $1.1 billion to dead farmers. Forty percent of them have been dead over 7 years; 19 percent of them have been dead over 11 years. Yet they continued to pay them. I very much appreciate the chairman and ranking member for their consideration.

What this will do is to make USDA go back and say: If you haven't gotten your estate settled in 2 years, you have to be talking to us rather than us continuing to make farm payments to people who are no longer alive. I appreciate their acceptance of that amendment.

AMENDMENT NO. 3632

I wish to set aside the pending amendment and call up amendment No. 3632.

The PRESIDING OFFICER. The amendment is pending.

Mr. COBURN. Thank you, Mr. President. This is a fairly straightforward amendment. It fits with a lot of things they have done in this bill. This is about the EQIP program. This is about environmental capacity to save in terms of runoff, decrease load streams, and do a lot of things in terms of the environment, and the basic goals behind it are good. This amendment is very simple. All it says is that you ought to be a real farmer to get EQIP money.

You ought to get two-thirds of your money from agriculture before you are eligible for getting this money. Why is that a problem? The problem is that our real farmers are not getting the vast majority of the money; it is our nonfarmers. If you buy 160 acres, what the marketing guy says is: I have a way for you to refence this land and build a new pond, and it will increase the value and you can turn around and sell it, except the American taxpayers pay for 40 percent of the improvements on it. You never have to run a head of cattle on it; you never have to raise a crop on it. You can just invest in the land and qualify. That is not the intended purpose for EQIP or why we created it. I believe EQIP funds ought to go for what they are intended. What this does is take the doctor who is play-farming or play-ranching and using American taxpayer money to improve the value of his land so he can turn around in a year and a half and sell it and make money. It doesn't save us anything in terms of the intended purpose of EQIP.

All this says is that if you are a real farmer and you get two-thirds of your income from farming, agriculture, this would not apply to you. But if you are gaming the system, gaming EQIP to advantage yourself, and not as a person in production agriculture but as an investor in land or as a speculator in

land, you ought not to be able to use these moneys to increase the value. Fencing hardly improves the environment. Yet we spend money out of EQIP for farms and ranches that are small and are not owned by real farmers but gentlemen farmers who don't produce anything. Yet they go out and have fun on some land they own and they qualify. We ought not to be paying for that with American taxpayer money. It is straightforward. It says you ought to be a real farmer before we allow EQIP money to be used to improve the environmental conditions on your farm.

There is a marked increase in the demand for these EQIP dollars. We see pivots. We can markedly decrease water consumption if we have modern pivots. We help farmers to put them in. We use less water, get less runoff, and do more no-till farming. So the demand for the dollars associated with EQIP, the Environmental Quality Incentives Program, was designed for working farms and working ranches, not for the weekend farmer.

The Environmental Quality Incentive Program emerged as the most important USDA program providing financial assistance for conservation on working farms and ranches and is measured by the number of participants and acres under contract—the largest financial assistance conservation program in all of USDA. Yet we have real farmers and ranchers who cannot get enough help to make a difference when it comes to the environment.

I want real farmers who are really in it to produce agriculture to have this money available, and I don't want the American taxpayers paying for somebody else who has the money to do it already but is using their money to enhance the value of their property, and they are not real farmers, not real ranchers, they are not a vegetable farmer, they are not in production agriculture, they are not an orchard farmer, they are not in timber, but, in fact, they own 40 acres of timber, and therefore they qualify even though it is purely an investment and they have no intent to harvest a crop, but they are utilizing taxpayer money.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Iowa has 10 minutes.

Mr. HARKIN. Mr. President, when I hear the Senator describe how the money is going out, of course it sounds bad. No one wants EQIP money going for doctors who buy a little bit of acreage and want to put in a pond and have a fishing hole. We don't want EQIP money going for that, and it should not go for that.

But the way the amendment is drafted, it just says two-thirds of your income has to be from farming before you can qualify for EQIP. The problem with that is there are a lot of young, beginning farmers who are farming, but they are not making enough money from the farm to sustain themselves, and they and their spouse need to work at other jobs. They may have a night job and the spouse may have a job. Most of their income may not be from that farming venture, but the money they are earning is going into the farm and they are building up their farm asset base. I see this happening, and we don't want to discourage that. Those are the people who may need some EQIP money. They may need to build a fence for livestock production. That EQIP money ought to be there for them to do that. Maybe they are improving their land and they need a water-holding facility to provide livestock with water on an around-the-year basis. That happens in our State, and I am sure it happens in Oklahoma too. They may not be getting two-thirds of their income from farming for a while. Later, they may, as they build up their assets and become better farmers and they get more income from farming.

So according to the Economic Research Service data, this amendment would bar EQIP contracts for 71.2 percent of all producers who receive them in 2006. You cannot say that 71 percent of all those people are these rich doctors putting in a fence and putting their horses out there. That may be a small part of these contracts, but it seems to me you are going after a lot of people who deserve EQIP contracts to go after some who don't deserve them.

The farms that would still qualify under the Senator's amendment would tend to be relatively large farms—that is, with gross income on average over $654,000. Again, these are the producers that have a greater ability to pay for conservation. I repeat: the larger farms, where the producers get more than two-thirds of their income from farming, average over $654,000 in gross income. If you compare that to a beginning farmer, they would actually have more ability to pay for conservation on their own, but this amendment would hurt the younger farmers with lower incomes and second jobs to make ends meet.

As I said, I just think this kind of a shotgun approach isn't the way to go. I wish there were some way to refine it to get at the very problem the Senator spoke about.

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

Mr. HARKIN. Yes.

Mr. COBURN. If 72 percent of the people getting EQIP money today would not get the money, that means 72 percent of the people who are getting EQIP today get less than 66 percent of the money from agriculture. That is an even bigger problem. In fact, three quarters of the people who are eligible aren't primarily getting the vast majority of their income from agriculture. Yet we are sending three quarters of the money to those people. I see that as an even bigger problem.

Would the chairman work with me to try to figure out a way to exclude those who are advantaging themselves and have no intention of working into an agriculture position as a lifestyle or as a primary vocation? Would he agree to work with me so we might come to a point where we can define the difference between those who are primarily interested in agriculture and building a young farm and excluding those who are using the American taxpayer money to improve the quality of their land so they can turn around and sell it?

Mr. HARKIN. I could not agree with the Senator more. When I hear what he says, the answer is, yes, I wish we could figure out how we do that. We have not done that, and we should do that.

On the 71 percent, that might sound alarming, but that says to me there are a lot of people out there farming who aren't making a lot of money on the farm. They do have some farm income, but think about it this way: people who may be bona fide farmers or ranchers, but they may have another business in town—maybe they are an elevator operator or something, but they are farmers.

I think we have to be very careful about this. I think there are a lot of these people in that 71 percent—I haven't looked at the breakdown—who are these younger farmers and have to have some off-farm income to help make ends meet or maybe they need farm income to put away for college savings or something.

Mr. COBURN. Will the chairman yield for another question?

Mr. HARKIN. Sure.

Mr. COBURN. Would the Senator think a certification as to intent by people who apply for EQIP that their primary vocation is either now or is intended to be agriculture would be a way in which we might accomplish the goal? I am willing to withdraw this amendment if we can work on that.

Mr. HARKIN. That sounds interesting.

Mr. COBURN. I don't want the small farmer to be excluded, but I think the amount of money going to nonfarmers is a lot greater than you think it is. It is not going to real farmers who have real needs and the vast majority of the acres where we are going to make the biggest difference on the environment. I ask if he would work with me between now and the time the bill comes out of conference to see if we cannot address that, and if he would do so, as well as the ranking member, I will ask unanimous consent to withdraw this amendment.

Mr. HARKIN. I give the Senator my word. I want the same thing he wants. It burns me up, too, to see some of these people who buy acres and they get EQIP money to put up a nice pond or a horse shed. I agree with him. Maybe we can get our staffs and get people to think about how we might fashion this to exclude those people from the EQIP program. I would love to see that happen.

Mr. CHAMBLISS. I say to the Senator from Oklahoma, also, he knows I sympathize with him on this issue. We talked about it. He talked to me about a couple of specific instances that are just wrong. I talked earlier today about as hard as we try to prohibit abuses that crop up in farm programs, we know they are there. Whatever we can do to close the loopholes, I would like to do it here. Obviously, I am happy to continue to work with the Senator from Oklahoma.

Mr. HARKIN. If the Senator will yield further, maybe the Senator is onto something in terms of intent or what they are doing, coupled with, perhaps, the productive capacity and what that land is actually producing on an annualized basis.

Mr. COBURN. I think we can work that out.

AMENDMENT NO. 3632, WITHDRAWN

I ask unanimous consent to withdraw my amendment, and I will work with the chairman and ranking member on this issue.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. COBURN. Mr. President, what is the pending business before the Senate? Is there a unanimous consent request as far as further amendments?

The PRESIDING OFFICER. Under the previous order, all time having expired on the two amendments that were being debated, the time now occurs for a vote on the Sessions amendment.

The Senator from Iowa is recognized.

Mr. HARKIN. 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. COBURN. 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. COBURN. Under the consent order, is it possible that a modification to the amendment be sent to the desk?

The PRESIDING OFFICER. The Senator will need further consent for that.

AMENDMENT NO. 3807, AS MODIFIED

Mr. COBURN. Mr. President, I ask unanimous consent to send to the desk a modification to my amendment No. 3807, as discussed with the chairman and ranking member.

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

The amendment, as modified, is as follows:

On page 1362, between lines 19 and 20, insert the following:

SEC. 1107__. EXPENDITURE OF CERTAIN FUNDS.

None of the funds made available or authorized to be appropriated by this Act or an amendment made by this Act (including funds for any loan, grant, or payment under a contract) may be expended for any activity relating to the planning, construction, or maintenance of, travel to, or lodging at a golf course, or resort.

Strike section 6023.

Strike section 6025 and insert the following:

SEC. 6025. HISTORIC BARN PRESERVATION.

Section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o) is amended—

(1) in subsection (c)(4)—

(A) by striking ''There are'' and inserting the following:

''(A) IN GENERAL.—There are''; and

(B) by adding at the end the following:

''(B) LIMITATION.—If, at any time during the 2–year period preceding the date on which funds are made available to carry out this section, Congress has provided supplemental agricultural assistance to agricultural producers or the President has declared an agricultural-related emergency—

''(i) none of the funds made available to carry out this section shall be used for the program under this section; and

''(ii) the funds made available to carry out this section shall be—

''(I) used to carry out programs that address the agricultural emergencies identified by Congress or the President; or

''(II) returned to the Treasury of the United States for debt reduction to offset the costs of the emergency agricultural spending.''; and

(2) by adding at the end the following:

''(d) REPEAL.—If, during each of 5 consecutive fiscal years, Congress has provided supplemental agricultural assistance to agricultural producers or the President has declared an agricultural-related emergency, this section is repealed.''.

Mr. COBURN. 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. Mr. President, we have had Senator CHAMBLISS and Senator HARKIN working on a number of amendments. Senator COBURN is not requiring a vote on his amendment. It has been withdrawn. So tonight under the order before the Senate, we have one vote on the Sessions amendment. After that, there will be no more votes tonight. The first vote in the morning will be at 9:15. We are going to have to keep to the time schedule in the morning because we have four people anxious to go other places tomorrow.

AMENDMENT NO. 3596, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3596, as modified, offered by the Senator from Alabama, Mr. SESSIONS.

Mr. SESSIONS. 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 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), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote ''nay.''

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Mississippi (Mr. LOTT) and 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 35, nays 58, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—35

Alexander	Dole	Murkowski
Allard	Domenici	Nelson (FL)
Barrasso	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Graham	Snowe
Cantwell	Gregg	Specter
Casey	Inhofe	Sununu
Coburn	Kyl	Tester
Collins	Levin	Vitter
Corker	Lugar	Voinovich
Cornyn	Martinez	Warner
DeMint	McConnell	

NAYS—58

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (NE)
Bennett	Hagel	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Roberts
Brown	Inouye	Rockefeller
Brownback	Isakson	Salazar
Byrd	Johnson	Sanders
Cardin	Kennedy	Schumer
Carper	Kerry	Smith
Chambliss	Klobuchar	Stabenow
Cochran	Kohl	Stevens
Coleman	Landrieu	Thune
Conrad	Lautenberg	Webb
Craig	Leahy	Whitehouse
Crapo	Lieberman	Wyden
Dorgan	Lincoln	
Durbin	McCaskill	

NOT VOTING—7

Biden	Lott	Obama
Clinton	McCain	
Dodd	Menendez	

The amendment (No. 3596), as modified, was rejected.

Mr. HARKIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, we are making good progress. Senator CHAMBLISS and I have been working very hard today to get amendments up. I think we are down to just a few we will be voting on tomorrow, and we will do perhaps a little bit more work tonight. I would say to any Senator whose amendment is on the list who wants to debate it, we are here. They could debate the amendment tonight and get in order tomorrow. I have a couple of things I want to wrap up.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 3830

Mr. HARKIN. I ask for regular order with respect to amendment No. 3830.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 3844 TO AMENDMENT NO. 3830

Mr. HARKIN. Mr. President, I send an amendment to the desk.

Mr. CHAMBLISS. Mr. President, reserving the right to object—

Mr. HARKIN. It is just a second-degree.

Mr. CHAMBLISS. I withdraw my objection.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3844 to amendment No. 3830.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 3539

Mr. HARKIN. Mr. President, I call up amendment No. 3539. It is an amendment by Senator DURBIN, No. 3539. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending and without objection the amendment will be made the pending question.

AMENDMENT NO. 3845 TO AMENDMENT NO. 3539

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. KENNEDY, for himself and Mr. DURBIN, proposes an amendment numbered 3845 to amendment No. 3539.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1170_. ACTION BY PRESIDENT AND CONGRESS BASED ON REPORT.

(a) PRESIDENT.—Not later than 180 days after the date on which the Congressional Bipartisan Food Safety Commission established by section 11060(a)(1)(A) submits to the President and Congress the report required under section 11060(b)(3), the President shall—

(1) review the report; and

(2) submit to Congress proposed legislation based on the recommendations for statutory language contained in the report, together with an explanation of the differences, if any, between the recommendations for statutory language contained in the report and the proposed legislation.

(b) CONGRESS.—On receipt of the proposed legislation described in subsection (a), the appropriate committees of Congress may hold such hearings and carry out such other activities as are necessary for appropriate consideration of the recommendations for statutory language contained in the report and the proposed legislation.

(c) SENSE OF SENATE.—It is the sense of the Senate that—

(1) it is vital for Congress to provide to food safety agencies of the Federal Government, including the Department of Agriculture and the Food and Drug Administration, additional resources and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional inspectors are required to improve the ability of the Federal Government to safeguard the food supply of the United States;

(3) because of the increasing volume of international trade in food products, the Federal Government should give priority to entering into agreements with trading partners of the United States with respect to food safety; and

(4) based on the report of the Commission referred to in subsection (a) and the proposed legislation referred to in subsection (b), Congress should work toward a comprehensive legislative response to the issue of food safety.

Mr. DURBIN. Mr. President, I rise to speak in support of the pending amendment offered by friend and colleague Senator KENNEDY.

This is an amendment that would make important changes to America's food safety policy.

We clearly need to make a change. For far too long, we have gone without a comprehensive review of our food safety laws.

Ancient statutes remain on the books, standards have not been updated, budgets have atrophied, and consumers have suffered from food borne illness.

In 2007, the Government Accountability Office, GAO, added the food safety system to its ''High Risk List'' of government functions that pose a risk to the United States.

The designation follows an extensive series of GAO, National Academies of Science, and inspector general reports calling for major improvements in our food safety system.

This year alone, we have witnessed 48 recalls of contaminated products regulated by the U.S. Department of Agriculture, USDA, Food Safety Inspection Service, FSIS, and more than 150 recalls of contaminated products regulated by the Food and Drug Administration, FDA.

Included in these statistics are recalls of more than 3 years of production of certain brands of peanut butter tainted with salmonella, a full year of production of ground beef tainted with E. coli, and more than 100 brands of popular cat and dog food.

In the past 2 months alone, there have been recalls of 5 million units of frozen pizza and 1 million more pounds of beef tainted with E. coli.

According to the Centers for Disease Control and Prevention, CDC, there are approximately 76 million cases of food borne disease each year in the United States. While many of these cases are mild, CDC estimates that food borne illness causes 325,000 hospitalizations and 5,000 deaths each year.

The food industry is one of the most important sectors of the national economy, generating more than $1 trillion in economic activity annually and employing millions of American workers.

Unfortunately, over the past several months, consumer confidence in the safety of our food supply has dropped precipitously, posing a risk to this sector of the economy.

According to the Food Marketing Institute's 2007 survey of consumer confidence, the number of consumers confident in the safety of supermarket food declined from 82 percent in 2006 to 66 percent today—the lowest point since 1989. The same survey shows that consumer confidence in restaurant food is even lower, at 43 percent.

Although the United States continues to have one of the safest food supplies in the world, the authorities and standards we set and the investments in food safety we make are being surpassed by other major industrialized nations.

A significant portion of the responsibility for this trend rests with Congress. While other countries have updated their food safety laws to reflect best available science, technology, and practices, we have allowed our statutes to become dated and obsolete.

We have underfunded this critical government function.

It is alarming that the safety of our food supply depends on ancient statutes that were written to address vastly different food safety challenges.

The Federal Meat Inspection Act was passed in 1906 partly in response to Upton Sinclair's accounts of Chicago's meat packing plants in his novel ''The Jungle.''

There has been only one major review of our meat laws and that occurred 40 years ago.

The Poultry Products Inspection Act celebrates its 50th anniversary this year and the Egg Products Inspection Act is more than 35 years old.

The Federal Food, Drug, and Cosmetic Act was passed in 1938 and has never been comprehensively reauthorized.

This is the key statute used by the Food and Drug Administration to regulate about 80 percent of our food supply.

Since then, although our understanding of food borne illness, preventative measures, microbiology, sanitation practices, and industry best practices has been transformed by developments in science and technology, the core principles of these statutes remain in place.

Into this void has stepped an uncoordinated, irregular sweep of crises-specific legislation, such as the Infant Formula Act of 1980 and Import Milk Act, as well as dozens of regulatory efforts to improve the safety of specific products.

Agencies have faced legal challenges as to whether they have the authority to implement some of these regulations.

It is time that Congress stepped forward to exercise oversight and ensure that we comprehensively improve our food safety system.

That is why my colleague Senator KENNEDY and I are offering an amendment to the farm bill that would set a trajectory toward a comprehensive review of the laws that underpin our food safety system.

Although food safety is one of the most dynamic functions of the federal government and relies heavily on developments in science, technology, and best practices, there is no mechanism for Congress to regularly review developments and reauthorize the agencies that perform these tasks.

Already included in the bill we're considering is language that would create a Food Safety Commission, a mechanism for Congress, the administration, academia, industry, consumer groups, and others to work together on comprehensive food safety reform and recommend specific statutory language.

The Commission is tasked with studying the in our current system and making specific legislative recommendations to the President and Congress on how to improve our laws.

We have directed the Commission to do its work based on universally agreed upon principles—allocate resources according to risk, base policies on best available science, improve coordination of budgets and personnel.

This amendment goes further than that language. It directs the President to review these recommendations and findings and report his or her recommendations back to Congress in a timely fashion.

The language puts Congress on a track of holding hearings and moving such comprehensive food safety reform through the process.

Lastly, the language contains sense-of-the-Senate language that it is the policy of the U.S. Senate to provide our food safety functions with adequate resources, that we increase the number of inspectors looking at food shipments, and that it is vital for Congress to move forward with comprehensive food safety reform.

This amendment will compel the participation of all stakeholders in the Commission process and will compel Congress and the Administration to act on its recommendations.

I offer this amendment and ask for my colleagues to support this effort to modernize our food safety system.

Mr. HARKIN. I ask that the second-degree amendment be agreed to.

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

The amendment (No. 3845) was agreed to.

Mr. HARKIN. I ask the amendment, No. 3539, as amended, be agreed to.

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

The amendment No. 3539, as amended, was agreed to.

CHESAPEAKE BAY WATERSHED CONSERVATION PROGRAM

Mr. CARDIN. Mr. President, I wish to engage the distinguished chairman and ranking member of the Agriculture Committee in a colloquy.

Mr. HARKIN. I am happy to yield to my friend from Maryland.

Mr. CHAMBLISS. I, too, am happy to engage my friend from Maryland in discussion.

Mr. CARDIN. Mr. Chairman, all of us who represent Chesapeake Bay watershed States in the Senate are grateful that the bill reported out by the Agriculture Committee recognizes the very serious challenge that we have with excess nutrients and sediments in the bay. As I testified to your committee back in the spring, every year huge areas of the Chesapeake Bay and its tidal tributaries become ''dead zones,'' which occur when there isn't enough dissolved oxygen for aquatic life to thrive. Not all the excess nutrients that create these dead zones come from agriculture, but a substantial part of them do. The Chesapeake Bay Watershed Conservation Program in your bill will go a long way in assisting farmers in our States implement projects to better manage their nutrient-rich runoff. The new program represents a significant part of the $700 million annually that scientists and agricultural experts estimate is needed on the ground to bring the runoff to ecologically acceptable levels.

My question is just to clarify the intent of the committee regarding this new program. Am I correct in my understanding that, although the Chesapeake Bay Watershed Conservation Program uses EQIP authorities, it has its own funding stream and therefore will not reduce the normal EQIP allocations to Maryland and the other Chesapeake Bay watershed States?

Mr. HARKIN. That is correct, Senator. Section 2361 provides an additional funding stream totaling $165 million from 2007 through 2012 to address the critical needs of the Chesapeake Bay. This funding is separate from EQIP and is not intended to offset funding allocated under that program.

Mr. CARDIN. I thank the chairman for that clarification. I would like to ask the distinguished ranking member, the same question. Is it your understanding that the legislation before us today provides a unique funding stream for the Chesapeake Bay Watershed Conservation Program without reducing the normal EQIP allocations to the Maryland and the other Chesapeake Bay watershed States?

Mr. CHAMBLISS. I am happy to confirm with the Senator from Maryland that he understands the provision correctly. The Chesapeake Bay Watershed Conservation Program is to be implemented by the NRCS in addition to EQIP or any other existing conservation program. The Chesapeake Bay basin is the watershed for our Nation's Capital and the Bay is a national treasure. The committee is providing this extraordinary support for this extraordinary watershed and its farmers.

Mr. CARDIN. I thank the chairman and distinguished ranking member for their clarifications. I invite both of my friends to join me in visiting the farms of the Chesapeake region in the coming year so they can see for themselves how effectively and enthusiastically these needed funds are being used to benefit both our farmers and our treasured Chesapeake Bay watershed.

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

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

The Senator from Hawaii is recognized.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2462 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

VETERANS AFFAIRS

Mr. AKAKA. Mr. President, as chairman of the Committee on Veterans' Affairs I have tried to advance two pieces of legislation—the Veterans' Traumatic Brain Injury and Other Health Programs Improvement Act of 2007 and S. 1315, the Veterans Benefits Enhancement Act of 2007.

Once again, Members on the other side are objecting to moving forward with these bills—they are setting up a procedural roadblock. These bills deserve to be heard and debated and discussed, and I welcome that, but Republicans will not allow that to happen. Let me make that point again—we are only asking for debate. Not for the immediate passage of the bills that the Senate simply pass the bills as reported by the committee. Surely it is not too much to ask that the Senate be allowed to do its business.

Earlier today, the former ranking member of the committee, Senator LARRY CRAIG, made the latest objection for himself and for the Republican leadership.

This is new territory for a VA bill. When Senator CRAIG was chairman of the committee, he and I negotiated on a variety of legislative initiatives leading up to our markup but could not reach agreement on a number of matters. At the markup, I offered amendments on a number of the issues about which I had strong feelings. I did not, however, continue to pursue those matters on the floor. And I most assuredly did not do anything to block Senate consideration of the legislation that I had sought to amend. In fact, as ranking member, I worked with then-chairman CRAIG to gain passage of the legislation by unanimous consent.

There is much in S. 1233, the committee's omnibus VA health bill, that needs to be enacted, like an increase in the reimbursement rate for veterans who must travel long distances for VA care, and vital provisions to help veterans from becoming homeless. Never, in my memory, have we let a disagreement on one provision stand in the way of passing a legislative package, especially at such a critical time.

Senator CRAIG feels most strongly about allowing middle-income veterans to enroll for VA health care. In 2003, the Bush administration shut the doors to these veterans, and since that time, hundreds of thousands of veterans have been turned away. I want to be clear that these veterans are not asking for a free ride. Indeed, they will be required to make copayments for their care. What they are asking for is entry into the system. We estimate that 1.3 million veterans want this opportunity. And some in this body are standing in their way.

Many veterans have been denied VA health care under the current ban. Take, for example, California, where over 22,500 veterans have been denied enrollment; or Texas, where 23,800 have been denied access since 2003. This phenomenon is not limited to the larger States—17,000 veterans in Pennsylvania; 12,300 in Illinois; 36,000 in Florida; and over 14,000 in North Carolina have all been denied VA health care.

Also, I want to clarify that we are not talking about allowing veterans with ''upper-income'' entry into VA care. While the administration, and some of my colleagues, characterize Priority 8 veterans as ''higher-income,'' that is not necessarily the case. The current income eligibility threshold for VA health care is under $28,000 a year—which can hardly be classified as a ''high-income'' salary. In my home State of Hawaii, where the cost of living is one of the Nation's highest, the average salary for a veteran who has been denied is $39,300 a year.

It is not just in Hawaii, but in many other States as well. For example, in South Carolina, the threshold is $31,650 a year; in North Carolina, $32,000 a year is considered low-income. These are not meaningless numbers—the dollar values represent the hard work of veterans who have served honorably and are now earning well below the median income for their area.

No, these are not poor veterans. But one devastating illness without health care coverage, and make no mistake about it, they will be impoverished.

Many of these veterans do not have any other form of health insurance. A recent study conducted by researchers at Harvard University found that nearly 1.8 million veterans are uninsured. This suggests that there are veterans in Priority 8 who are stuck in the middle between not making enough money to afford their own private insurance and making too much to qualify for VA care. No veteran who served their country honorably should be denied care when they need it because they were fortunate enough not to have been wounded in combat.

I also urge Members to read the text of the contested provision relating to Category 8 veterans. If the Secretary of Veterans Affairs sees opening up enrollment as too much of a financial burden, the Secretary could simply publish a decision in the Federal Register to again block these veterans. Congress is not seeking to overstep the Secretary's authority to determine who can come through VA's doors.

Finally, Senator CRAIG calls the inclusion of enrollment for middle-income veterans, a ''last minute'' addition. I say with a smile, that while time does seem to stand still in the Senate, I would remind my colleague that the bill enabling full enrollment was introduced last April, it was the subject of a hearing last May, and was marked up by the committee in June. This is not something that can be characterized as a ''last-minute'' change.

Now I turn briefly to address concerns raised about S. 1315, the committee's omnibus veterans benefits legislation. The proposed Veterans' Benefits Enhancement Act of 2007 is a comprehensive bill that includes benefits for a broad constituency of servicemembers and veterans, particularly those who are service-disabled. Provisions in this bill would also improve benefits for World War II Filipino veterans, virtually all of whom are now in their 80s or 90s.

While not providing Filipino veterans living outside the United States with benefits identical to those provided to veterans living in the United States, I am satisfied that the provisions in S. 1315 are equitable and should be adopted. It is important to note that S. 1315 would fix a historical wrong.

Filipino veterans served under the command of the United States military during World War II. They were considered by the Veterans' Administration, the predecessor of the Department of Veterans Affairs, to be veterans of the United States military, naval and air service until that status was revoked by the Rescission Acts of 1946. Therefore, as a matter of fundamental fairness and justice, Filipino veterans' benefits should be similar to those of other veterans.

Those who oppose the pension provision in S. 1315 argue that the pension that would be provided through this legislation is too high. However, pension benefits are designed to allow wartime veterans and their survivors to live in dignity—above the poverty level. I am satisfied that the levels of pension designated in this bill would allow these veterans to live with such dignity, while finally giving them the recognition that they so richly deserve.

I urge my colleagues on the other side of the aisle to take a good look at the facts surrounding the provisions contained in both S. 1233 and S. 1315 that some on the other side are objecting to, and to realize that opposing these bills on the current basis provided effectively denies valuable and meaningful benefits to our Nation's veterans.

In closing, I again stress that all we are seeking is a time agreement that will allow for debate. For those who believe that there are provisions in these two bills that should not be approved by the Senate, offer amendments, debate the merits, let the Senate vote. That is the least we can do as we seek to meet the needs of our Nation's veterans.

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

Mr. SALAZAR. 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.

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.

TRIBUTE TO BRIGADIER GENERAL BENJAMIN J. SPRAGGINS

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding Air Force officer, BG Benjamin J. Spraggins, upon his retirement from the Air Force after more than 34 years of service. Throughout his career, Brigadier General Spraggins has served with distinction, and it is my privilege to recognize his many accomplishments and commend him for his service to the Air Force, the Congress, and our grateful Nation.

Brigadier General Spraggins is a longtime resident of my home State and devoted public servant of Harrison County, MS. He enlisted in the U.S. Air Force on March 17, 1972. After over 6 years of successful enlisted service, reaching the grade of technical sergeant, Brigadier General Spraggins received his commission from the Academy of Military Science, McGhee Tyson, TN. Following graduation from Officer Candidate School, Brigadier General Spraggins completed aviation school at Mather Air Force Base, CA, and RF–4C training at Shaw, Air Force Base, SC. Brigadier General Spraggins was then stationed with the 187th TRG at Dannelly Field, AL, flying the RF–4C fighter aircraft. While stationed in the 187th, Brigadier General Spraggins served in many critical positions, including instructor, scheduling officer and assistant chief of standards and evaluations. He flew the RF–4C from 1979 to 1983 and was a weapons instructor in the F–4D from 1983 to 1988 at the 187th Fighter Wing. Brigadier General Spraggins completed his military flying career with over 2,500 hours in the T–37, T–43, RF–4C, and F–4D aircraft.

On September 23, 1987, Brigadier General Spraggins was assigned to the Combat Readiness Training Center, Gulfport, MS. During his tenure at the training center, he served in various positions, including range control officer, director of operations, operations group commander, and finally as commander of the Combat Readiness Training Center. As commander, Brigadier General Spraggins was responsible for operations and training of over 20,000 military personnel annually and provided oversight for a $75 million budget.

Concurrently, Brigadier General Spraggins was sent to Andrews Air Force Base, DC, in 2002 to run the Crisis Action Team for the Air National Guard. In 2003, he also served as the commander of the 186th Air Refueling Wing, where he was responsible for operations of KC–135 aircraft wing, with

over 1,000 personnel and oversight of a $48 million annual budget. He was the first member of the Mississippi Air National Guard to simultaneously command two major units, the Combat Readiness Training Center and the 186th Air Refueling Wing.

Brigadier General Spraggins was assigned to the Tennessee Air National Guard in November 2005 as the chief of staff. In this capacity he was responsible to the adjutant general for readiness of Tennessee's three flying wings and three mission support units. In addition to duties as chief of staff, Brigadier General Spraggins also served as the air deputy commander, joint forces Headquarters, Tennessee National Guard. Brigadier General Spraggins was also attached as the battle commander for Air Force North, Tyndall AFB, FL. In this capacity he was responsible for ensuring the air sovereignty and air defense of the continental United States.

During his long and distinguished career, Brigadier General Spraggins successfully completed Squadron Officer School, Air Command and Staff, and the Air War College with the Air University. His decorations and awards include Legion of Merit, Meritorious Service Medal, Air Force Commendation Medal, Mississippi Magnolia Cross, Tennessee Meritorious Service Medal, Combat Readiness Medal, Air Reserve Forces Meritorious Service Medal, National Defense Service Medal, Air Force Longevity Service Medal, Armed Forces Reserve Medal and the Air Force Training Ribbon.

Upon the retirement of Brigadier General Spraggins after 34 years of dedicated service, I offer my congratulations to him and his wife Judy. Brigadier General Spraggins is a credit to both the Air Force and the United States of America. I know that I speak for all my colleagues in expressing heartfelt appreciation to him. I wish Brigadier General Spraggins blue skies and safe landings and congratulate him on completion of an outstanding and successful career.

HONORING OUR ARMED FORCES

CORPORAL TANNER O'LEARY

Mr. JOHNSON. Mr. President, I rise today to pay tribute to Corporal Tanner O'Leary and his heroic service to our country. As a member of the Army's C Company, 1st Battalion, 508th Parachute Infantry Regiment, 82nd Airborne Division based in North Carolina, Corporal O'Leary was serving in support of Operation Enduring Freedom. On December 9, 2007, he was killed in action in Afghanistan.

A native of rural Eagle Butte and a 2003 graduate of Timber Lake High School, Tanner joined the Army in 2005. His teachers remember Tanner as a student who loved to learn. He was active in school science fairs and on the football team. As his former science teacher recalls, ''Once Tanner latched on to something he didn't let go; I know that was how it was with him with the Army as well.''

Growing up on a ranch west of Timber Lake, Tanner was a hard worker who enjoyed spending time with his family. He took great pride in his daughter Alexis, and his family will always remember what a wonderful father he was. Friends and family will miss Tanner's easygoing, fun-loving personality.

Corporal O'Leary gave his all for his soldiers and his country. Our Nation owes him a debt of gratitude, and the best way to honor his life is to emulate his commitment to our country. I join with all South Dakotans in expressing my deepest sympathy to the family and friends of Corporal O'Leary. He will be missed, but his service to our Nation will never be forgotten.

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. 3551 offered by Senator ALEXANDER 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	2,024.841
FY 2009	2,121.615
FY 2010	2,176.237
FY 2011	2,357.103
FY 2012	2,498.980
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−25.955
FY 2009	14.689
FY 2010	12.516
FY 2011	−37.447
FY 2012	−98.116
(2) New Budget Authority:	
FY 2007	2,371.470
FY 2008	2,508.833
FY 2009	2,526.124
FY 2010	2,581.393
FY 2011	2,696.822
FY 2012	2,737.603
(3) Budget Outlays:	
FY 2007	2,294.862
FY 2008	2,471.548
FY 2009	2,573.005
FY 2010	2,609.877
FY 2011	2,702.851
FY 2012	2,716.412

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	17,088
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	0
FY 2008 Outlays	0
FY 2008–2012 Budget Authority	74
FY 2008–2012 Outlays	36
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	76,955
FY 2008–2012 Outlays	71,085

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. 3551, 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. 3551. 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. 3551.

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	2,508.833
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	17,088
FY 2008 Outlays	14,629
FY 2008–2012 Budget Authority	76,955
FY 2008–2012 Outlays	71,085
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	0
FY 2008 Outlays	0
FY 2008–2012 Budget Authority	−74
FY 2008–2012 Outlays	−36
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

EXECUTIVE BRANCH NOMINATIONS

Mr. LEAHY. Mr. President, with only a few legislative days left to us before the Christmas holidays and the end of this session, we continue seeking to make progress in filling the many U.S. attorney vacancies across our Nation and the high-level vacancies at the Justice Department.

Today, the Senate will confirm three more nominations for U.S. attorneys, including the nominations of Gregory A. Brower to the District of Nevada, Diane J. Humetewa to the District of Arizona, and Edmund A. Booth, Jr. to the Southern District of Georgia. Two of the three nominations—Ms. Humetewa and Mr. Brower—are replacements for two of the outstanding U.S. attorneys who were fired almost a year ago as part of the ill-advised, partisan plan to replace well-performing U.S. attorneys. I thank the home State Senators—Senators REID, ENSIGN, MCCAIN, KYL, CHAMBLISS, and ISAKSON—for their consideration of these nominations.

We also are proceeding to fill one of the many high-level vacancies at the Department of Justice by confirming the nomination of Ronald Jay Tenpas to be Assistant Attorney General for the Environment and Natural Resources Division at the Justice Department. I thank Senator WHITEHOUSE for chairing his hearing.

Over the course of this year, the Judiciary Committee's investigation into the firing of United States attorneys and the influence of White House political operatives on Federal law enforcement has led to resignations at the highest ranks in the Justice Department, including the Attorney General, the Deputy Attorney General, the Associate Attorney General, the chiefs of staff of the Attorney General and Deputy Attorney General, the White House liaison, as well as several White House officials.

When I met with Michael Mukasey before his confirmation hearing to replace Alberto Gonzales as Attorney General, I emphasized the need to fill the many vacancies that remain at the Department with nominees who will restore the independence of Federal law enforcement.

In the days before the congressional Thanksgiving recess, the White House made a show of releasing the names of a score of nominees for high-level positions in the Department of Justice. Yet, that announcement was mostly bluster. We received the nomination of Mark Filip to be the Deputy Attorney General nearly 3 full weeks after the announcement was made. Had the nomination been sent immediately following the White House announcement, the committee could have considered Judge Filip's nomination in early December. As it was, after a 3-week White House delay in sending up the nomination, I immediately set a hearing on his nomination for next Wednesday, December 19, once the Senate received it.

Nearly a month after the White House announced its intent to nominate Kevin O'Connor be the Associate Attorney General and Gregory Katsas to be the Assistant Attorney General of the Civil Division at the Department of Justice we have only now received those nominations. We have not yet been provided with their background materials to allow us to review them. Because of the administration's delay, we will not be able to consider those nominations before the end of the year.

The Judiciary Committee has reported 20 executive nominations this year. To make further progress, the committee is holding back-to-back hearings next week, before the Christmas break, on six nominations for senior leadership posts at the Justice Department and Executive Office of the President, including the recently received nomination to be Deputy Attorney General.

There are now 23 districts with acting or interim U.S. attorneys instead of Senate-confirmed, presidentially appointed U.S. attorneys, over a quarter of all districts. Many of these vacancies, including several for which we consider nominations today, could have been filled a year ago had the White House worked with the Senate.

In the course of the committee's investigation into the unprecedented mass firing of U.S. attorneys by the President who appointed them, we uncovered an effort by officials at the White House and the Justice Department to exploit an obscure provision enacted during the Patriot Act reauthorization to do an end-run around the Senate's constitutional duty to confirm U.S. attorneys. The result was the firing of well-performing U.S. attorneys for not bending to the political will of political operatives at the White House.

When it comes to the United States Department of Justice and to the U.S. attorneys in our home States, Senators have a say and a stake in ensuring fairness and independence in order to insulate the Federal law enforcement function from untoward political influence. That is why the law and the practice has always been that these appointments require Senate confirmation. The advice and consent check on the appointment power for U.S. attorneys is a critical function of the Senate.

I had hoped when the Senate unanimously voted to close the loophole created by the Patriot Act, passing S.214, the ''Preserving United States Attorneys Independence Act of 2007,'' it would send a clear message to the administration to make nominations that could receive Senate support and begin to restore an important check on the partisan influence in law enforcement.

Yet, even as we closed one loophole, the administration has been exploiting others to continue to avoid coming to the Senate. Under the guidance of an erroneous opinion of the Justice Department's Office of Legal Counsel, the administration has been naming acting U.S. attorneys and interim U.S. attorneys sequentially. They have used this misguided approach to put somebody in place for 330 days without the advice and consent of the Senate. This approach runs afoul of congressional intent and the law.

We will continue to make progress when we can, and I will continue to urge the White House to send the Senate consensus, qualified nominees. I congratulate the nominees and their families on their confirmation today.

NNSA SECURES HIGHLY ENRICHED URANIUM

Mr. DOMENICI. Mr. President, I wish today to bring attention to the progress being made by the National Nuclear Security Administration, NNSA, on the front of global nuclear non-proliferation. Yesterday the NNSA announced that 176 pounds of highly enriched uranium, HEU, had been secured from the Nuclear Research Institute in Rez, Czech Republic and safely returned to Russia. With the cooperation of several countries, this nuclear fuel has been secured and returned to its country of origin, reducing the risk of it falling into the wrong hands.

Nuclear nonproliferation programs such as the NNSA's Global Threat Reduction Initiative, GTRI, are some of the most important tools we have to curb the threat of nuclear material being acquired by those who wish to do us harm. With the addition of this most recent shipment, the GTRI program has returned over 1300 pounds of HEU to Russia from civilian sites worldwide. I applaud the work being done through the GTRI, and I look forward to the day when we no longer have to be concerned with the possibility of an illicit acquisition of nuclear fuel.

SAUDI ARABIA ACCOUNTABILITY ACT

Mr. FEINGOLD. Mr. President, I wish to express my support for Senator SPECTER's Saudi Arabia Accountability Act of 2007, S. 2243. I am pleased to cosponsor this bill, which addresses the importance of Saudi cooperation with the U.S. on counterterrorism issues.

It is also important, however, that we raise concerns about Saudi Arabia's poor human rights record, weak rule of law, ongoing political and religious repression, and poor treatment of women. For instance, last month a court in Saudi Arabia doubled its sentence of lashings for a rape victim who had elected to speak out publicly about her case and her attempt at justice. According to human rights organizations, the court also harassed her lawyer, banned him from the case, and confiscated his professional license.

Similarly, 2 of the country's leading reformers, the brothers Abdullah and Isa al-Hamid, were recently sentenced to 6 months in jail after they themselves were arrested for reportedly requiring the Saudi intelligence forces to produce an arrest warrant when seeking to detain peaceful demonstrators protesting the lengthy imprisonment of their relatives.

The State Department's 2007 human rights report notes that very serious problems persist in Saudi Arabia, including no right to peacefully change the government; infliction of severe pain by judicially sanctioned corporal punishments; beatings and other abuses; inadequate prison and detention center conditions; arbitrary arrest and detention, sometimes incommunicado; denial of fair public trials; exemption from the rule of law for some individuals and lack of judicial independence; arbitrary interference with privacy, family, home, and correspondence; and significant restriction of civil liberties—freedoms of speech and press, including the Internet; assembly; association; and movement. In addition, the Saudi government committed severe violations of religious freedom and has very strict limitations on workers, especially for foreign workers. While the State Department continues to condemn Saudi Arabia for its abhorrent policies on human trafficking—and place it in the worst tier for such abuses—the President continues to waive sanctions that are supposed to be triggered by this designation, in the interest of national security.

What message are we sending if we don't act on these pervasive human rights abuses in Saudi Arabia? Such abuses should not be overlooked or sidelined in the interest of national security. In fact, they are critical to our national security and our ongoing efforts to combat al-Qaida and related extremist threats. The United States must continue to push for freedom of speech, religion, and association, and the rule of law around the globe. I will continue to support S. 2243, but also encourage my colleagues to also speak up about the crucial role that free and fair societies play in curbing human rights abuses and reducing the alienation, oppression and despair that feed extremism.

IN CELEBRATION OF BRUNO NOWICKI'S 100TH BIRTHDAY

Mr. LEVIN. Mr. President, I rise today to recognize the 100th birthday of my friend Bruno Nowicki, of Warren, MI.

Bruno has led a remarkable life. He was born in Sosnowiec, Poland, immigrating to the United States as a young man. His love for his native Poland is exceeded only by his love for Michigan and the United States of America. He launched a career as a journalist and writer in Pittsburgh and Chicago before moving to Detroit where he became a small businessman and raised a family. I had the privilege of appointing Bruno's granddaughter, Genevieve Nowicki, to serve as a Senate page in 1991.

Bruno is an expert chess player. He once played against Bobby Fischer, and chess is an activity that he continues to enjoy today. Years ago, Bruno urged me to examine the educational benefits of chess. We found that chess is proven to help students develop high order thinking skills, discipline and increased math skills. The Goals 2000: Education America Act includes language that Bruno Nowicki inspired, and that I pushed for in the Senate, that allows Federal funds for low-achieving schools to be used for chess instruction as an enrichment program. This bill has helped bring chess into schools across America.

In Michigan, Bruno has been instrumental in acquiring and placing sculptures that pay tribute to his Polish heritage. The sculptures appear across the State, from the southeast, where he lives, to northern Michigan, serving as a reminder of the rich Polish heritage of so many people in Michigan and of Poland's significant contributions to America's history and culture. A statue of Astronomer Nicolaus Copernicus sits in the Detroit Public Library. A sculpture of Frederic Chopin is placed in Interlochen, home to a world-renowned fine arts school. And a bust of Joseph Conrad graces the Hamtramck Public Library.

Conrad wrote: ''Each blade of grass has its spot on earth whence it draws its life, its strength; and so is man rooted to the land from which he draws his faith together with his life.'' These words are certainly apt for Bruno. In his 100 years, Bruno has been rooted in both his Polish homeland and his American home in Michigan, drawing life and strength from each and making Michigan the better for it.

The Polish birthday song ''Sto Lat'' includes the refrain ''I hope you live one hundred years.'' Bruno was never quite willing to settle for only 100 years. Now, as he enters his second century, I wish Bruno many more years of happiness, and I offer my congratulations and my thanks for his friendship and his contributions to his beloved America.

ADDITIONAL STATEMENTS

100TH ANNIVERSARY OF PINNACLES NATIONAL MONUMENT

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 100th anniversary of Pinnacles National Monument, located in San Benito County, CA.

On January 16, 1908, President Theodore Roosevelt proclaimed 2,080 acres of the Pinnacles National Forest Reserve as Pinnacles National Monument. This year, we celebrate its centennial anniversary. Part of an extinct volcano, the spectacular geology of Pinnacles National Monument has fascinated visitors for decades. A variety of flora and fauna flourishes in this unusual landscape, including an exquisite chaparral ecosystem and nearly 400 species of bees, the highest known bee diversity of anyplace on earth.

Situated near the San Andreas Rift Zone with the central coast to the west and Gabilan Mountain Range to the east, Pinnacles National Monument now occupies over 26,000 acres 14,000 acres of which are congressionally designated wilderness. With surrounding lands tended by farmers whose ancestors homesteaded the region, and cowboys who watch over the cattle that graze on the expansive plains, Pinnacles National Monument offers a sublime glimpse into California's past.

Pinnacles is home to 20 endemic species holding special Federal or State status, and is also the ancestral home range of the California condor. Pinnacles is the only National Park site that releases and maintains this extremely endangered bird species and is critical to the overall condor recovery effort. Pinnacles is also located within the Pacific Flyway migratory route and contains the highest concentration of nesting prairie falcons of any national park in the country.

Only 100 miles from the urban centers of San Francisco and San Jose, Pinnacles National Monument remains a haven of solitude for nature enthusiasts and offers a stunning reflection of California's rural history and heritage. For 100 years, Pinnacles National Monument has served as a recreational escape for hikers, outdoor enthusiasts, and those seeking a glimpse of California's rich history. It is a powerful reminder of the beauty of nature and the importance of conservation efforts.

I commend the National Park Service staff and volunteers for maintaining the natural beauty and historical significance of Pinnacles National Monument. I look forward to future generations having the opportunity to study and enjoy this unique piece of our State and national history for another 100 years.●

LEADERSHIP AT KANSAS STATE UNIVERSITY

● Mr. BROWNBACK. Mr. President, I wish today to applaud my alma mater, Kansas State University, and three of its students. Recently, three Kansas State University students and a student from the University of Delaware teamed up to win first place in a student case study competition at the ninth annual International Leadership Association conference in Vancouver, British Columbia.

Members of the winning team from Kansas State were Chance Lee, senior in sociology and political science with a minor in leadership studies, Manhattan, KS; Lauren Luhrs, senior in human ecology and mass communications-public relations with minors in leadership studies and business, Overland Park, KS; and Anthony Carter, senior in sociology with a minor in nonprofit leadership, Colorado Springs, CO.

The Leadership Studies Minor at Kansas State University has been a tremendous success. The mission of the Leadership Studies at Kansas State University is to develop knowledgeable, ethical, caring, inclusive leaders for a diverse and changing world. Mr. President, this program is doing just that. I am proud of this program, my alma matter, and the three students who represented Kansas State University so well.

In the competition participating teams were given a 23-page document from the Harvard Business School which detailed specifics for leadership development at Goldman Sachs. The document provided key details for the case study, including the purpose of the leadership development program to be created. It also gave six factors that were essential in the design of the program: form and location, faculty, content and format, method, target audience, and governance and sponsorship.

I again congratulate these three students for their success.●

TRIBUTE TO CHARLES M. EVERS

● Mr. CRAPO. Mr. President, I am honored to publicly recognize an Idahoan who has received one of our Nation's highest military honors, the Silver Star Medal. United States Marine Corps SSG Charles M. Evers, of Lewiston, ID, was awarded this medal for ''conspicuous gallantry and intrepidity in action against the enemy while serving as Platoon Commander, 3d Platoon, India Company, 3d Battalion, 5th Marines, Regimental Combat Team, 1 Marine Expeditionary Force Forward in Support of Operation Iraqi Freedom from 8 June to 12 June 2006.'' Over the course of a 4-day firefight, Sergeant Evers led his platoon in withstanding and repulsing a platoon-sized enemy attack that, on the third day, included a massive truck bomb that burst through the entry control point at an observation post the Marines were defending. During this fight, approximately 60 well-trained insurgents attempted, but were unable to take the observation post held by Evers' 22 marines, a fight in which no Americans perished. Citing repeated decisive combat leadership under intense and sustained machine gun and small arms fire, General James T. Conway, Commandant of the Marine Corps, recognized Sergeant Evers' ''resolve'' and ''refusal to submit to the enemy's will'' in the Silver Star Medal Citation.

As you know, the Silver Star is the Nation's third highest combat medal behind the Medal of Honor and the Navy Cross, Distinguished Service Cross or Air Force Cross. Sergeant Evers' extraordinary achievement recognizes his unflinching commitment to our Nation, his fellow soldiers and the mission for which he was trained. Sergeant Evers' courage and skill rivals his humility: when given the Silver Star, he said, ''I was just doing my job. I'm proud of my Marines. I led them and they did their job.''

I am honored and proud to call Sergeant Evers a fellow Idahoan, and I thank him for his bravery, patriotism and commitment to and support of the military mission of the United States of America. Most of all, I thank him and his fellow Marines for continuing to defend my freedom and that of my family.●

HONORING OLIN SIMS

● Mr. ENZI. Mr. President, Wyoming lost a beloved member of its agricultural community this weekend to a tragic accident. Olin Sims, a fourth generation rancher from McFadden, WY, and president of the National Association of Conservation Districts served his community with a great passion for conservation, agriculture, and family values. Olin provided this body with sound advice and testimony on a number of occasions regarding the natural resource needs of our Nation. Although his life ended early, his contributions to our State and Nation will never end. The good he has done will benefit generations to come. He did what all of us should strive to do—leave this world a better place. Diana and I offer our thoughts and prayers to the family, friends, and colleagues of Olin Sims.●

CONGRATULATING THE UNIVERSITY OF CENTRAL ARKANSAS

● Mr. PRYOR. Mr. President, it is with the greatest pleasure that I rise today to honor the University of Central Arkansas for its 100th anniversary. The university is located in Conway, AR, which lies in the central part of my State.

The University of Central Arkansas began as the Arkansas State Normal School under the leadership of John James Doyne in 1907. In 1909, the first commencement ceremony was held to recognize 10 graduates. The school conferred its first baccalaureate degree in 1922 and was renamed Arkansas State Teachers College in 1925.

The school was renamed State College of Arkansas in 1967, but was granted university status and renamed as the University of Central Arkansas in 1975. Since then, UCA has continued to excel by establishing the State's first Honors College, joining the National Collegiate Athletic Association, NCAA, and beginning its first doctoral program in 1998. Currently, the University of Central Arkansas has more than 100 undergraduate courses of study, 33 master's degree programs, and 3 doctoral programs.

Arkansas has always made education a top priority and the University of Central Arkansas has a proud history of scholastic progress. The university is an integral part of the Arkansas community and the educational opportunities available provide graduates with the skills needed to succeed in today's workforce.

Mr. President, I ask my colleagues to join me today in congratulating the University of Central Arkansas on its 100th anniversary and in wishing the university another 100 years of success.●

MAINE MUTUAL GROUP INSURANCE COMPANY

● Ms. SNOWE. Mr. President, today I recognize Maine Mutual Group Insurance Company, MMG, a premier regional property and casualty insurance company that continues to grow and flourish. I am particularly pleased that

MMG recently completed a major expansion of its headquarters this October.

Like many American success stories, MMG has humble roots. The company was founded in Houlton, ME, in 1897, by a group of local farmers who were concerned about the cost and limited availability of insurance in Aroostook County. In 1906, the company moved to Presque Isle, where it remains today. In 1968, the company changed its name when it merged with Maine Mutual Fire Insurance Company. It subsequently merged with United Mutual Insurance Company 10 years later. The company grew exponentially following these mergers, from a premium volume of under $1 million in 1968, to over $20 million by 1988, and over $107 million by 2006.

Evolving from a modest local business to a regional force, MMG expanded into Vermont in 1981, New Hampshire in 1984, and Pennsylvania in 2006. In March 2002, the company restructured as a mutual holding company and adopted its present name. By 2006, MMG's policyholder surplus reached a record high of $55.9 million, a 127-percent increase over the previous 5 years. And all the while, the company maintained its presence in Maine's northernmost county, Aroostook County, or ''the County'' as Mainers know it. The County finds itself hundreds of miles from urban and financial centers, and the fact that MMG remains in Aroostook County speaks volumes to its commitment to the community and people of this rural county.

Two months ago, MMG completed a $5 million expansion of its headquarters in Presque Isle, adding 20,000 square feet to the facility and creating an additional 50 jobs. Anticipating further growth, the new headquarters can accommodate about 200 employees. The phenomenal growth is first and foremost attributable to the hard work ethic of the people in northern Maine and the company's outstanding leadership.

Additionally, in order to continue to grow its business, the company must retain additional investment, and thankfully, through the new markets tax credit, NMTC, Coastal Enterprises of Wiscasset, ME, will soon be enabled to make a sizeable investment in this company. The new markets tax credit program continues to promote investment and economic growth for rural communities throughout Maine. And that is why as a member of the Senate Committee on Finance, I fought for and successfully secured an extension of the NMTC through the end of 2008 to ensure this pivotal program wouldn't just expire at the end of this year—but continue. I am not stopping there, and I am in the process of fighting for another extension. The credit's impact on our State cannot be overstated. This expansion alone of a progressive, regional company in Maine Mutual Group reinforces the value and power of the New Markets Tax Credit in strengthening our communities, exemplifying the best that public-private cooperation can offer.

Maine Mutual Group's numerous achievements have not gone unnoticed. In 1991, the firm gained the Governor's Award for Business Excellence. More recently, MMG garnered the Maine Insurance Company of the Year Award in 2000 and 2005, and the New Hampshire Insurance Company of the Year Award in 2004. With all insurance companies operating within those States being eligible for the awards, it is particularly impressive that MMG bested larger national competitors several times over the last decade.

In 2007, MMG was rated the top performer on Deep Customer Connections Inc.'s Ease of Doing Business survey. In this survey, more than 8,000 independent agents and brokers assessed the performance of over 220 property and casualty carriers, by comparing them in areas such as underwriting responsiveness and promptness in handling claims, as well as providing effective technology. In addition, MMG was ranked the number one medium-sized company in Maine on the ''Best Places to Work in Maine'' list this year.

I congratulate MMG on a job well done, and I look forward to watching its bright future unfold. As MMG continues building on recent achievements, it is well positioned to pursue new market opportunities in the years ahead. MMG is truly a valued member of our business community, and I am honored that it has served Maine so well.●

TRIBUTE TO JOHN MASSAUA

● Ms. SNOWE. Mr. President, today I recognize a man who has gone above and beyond for the State of Maine and the country as a whole. On December 31 of this year, John Massaua will step down from his position as the State director for the Maine Small Business Development Centers, SBDCs.

John joined the Maine SBDC as State director just over 6 years ago, with a rare blend of private sector and nonprofit experience. I remember learning about John's background as a founding officer of Staples and becoming excited at the prospect of what he could do for a program that had long underachieved.

After more than 6 years as State director for the Maine SBDC, John's retirement will be a loss to Maine's 151,000 small businesses. For a program that counseled over 2,500 clients for more than 14,000 hours last year, replacing his leadership will prove to be a difficult challenge. John has demonstrated an unsurpassed dedication to his job, as reflected by the fact that the Maine SBDC returns $3.30 annually to the Federal Government for each Federal dollar invested.

During John's tenure, the Maine SBDC achieved national recognition as an effective and worthwhile investment of taxpayer dollars. The Maine SBDC, which just celebrated its 30th anniversary, has helped create or retain 15,000 jobs and assisted 2,650 entrepreneurs in starting a business. Since its inception, the Maine SBDCs have provided one-on-one counseling to over 42,000 entrepreneurs, including over 200,000 hours of direct assistance and 3,000 workshops and courses. There is no doubt in my mind that Maine's nationally recognized program came of age under John's tutelage, and I will always be thankful that he built something of which the State of Maine can be proud.

John's personal accomplishments and awards that the Maine SBDC received over the past 6 years are far too numerous to count—for example, during John's tenure he personally received the Thomas A. McGillicuddy Award for Excellence, the Maine SBDC was a recipient of the prestigious Margaret Chase Smith Quality Award, the Best of the Web Award, and in 2003 the Maine SBDC became only the fourth program in 4 years to earn the ''T'' designation from the Association of Small Business Development Centers. This national accreditation authorizes the Maine SBDC to formally provide technology support to Maine's small businesses and independent workers.

During the time that John was developing a program with a national reputation for regional excellence at the Maine SBDC, he also helped SBDCs on the national level through the Association of Small Business Development Centers, ASBDC. The ASBDC is an association which represents the collective interests of SBDCs throughout the country, and on numerous occasions John was selected to serve on their board and within its various committees.

Not only was John beneficial to Maine's small business communities, but he was a vital resource to me and my staff. I specifically remember one instance, when in 2005, John testified before the Senate Committee on Small Business and Entrepreneurship about the financial burden the 63 State, regional, and territorial SBDCs were under. As expected, John provided a well researched and persuasive argument as to why Congress should provide additional funds to this vital and successful program. Due in large part to John's testimony and dedicated activism, we are finally starting to see a commitment from Congress to provide more funds to the SBDC program. For this, John should always be remembered and duly credited.

The State of Maine and small businesses across the country owe a debt of gratitude to John Massaua for his work to protect and improve something as crucial as the Small Business Development Center program. Although he will be missed, I applaud John's years of commitment and hard work in providing entrepreneurs with the management and professional expertise required to achieve success. I sincerely hope that John and I can continue to work together ensuring that Maine maintains a leading role in assisting our Nation's most committed and creative small businesses.●

RECOGNIZING JIM SHEEHAN

• Mr. THUNE. Mr. President, today I recognize Jim Sheehan, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Jim is a graduate of Stanley County High School in Fort Pierre, SD. Currently he is attending Lake Forest College, where he is majoring in history and political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Jim for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING TYLER CUSTIS

• Mr. THUNE. Mr. President, today I recognize Tyler Custis, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Tyler is a graduate of Custer High School in Custer, SD. He is a recent graduate of Texas A&M University where he majored in economics. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Tyler for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING LUKE LOVING

• Mr. THUNE. Mr. President, today I recognize Luke Loving, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Luke is a graduate of O'Gorman High School in Sioux Falls, SD. Currently he is attending the University of South Dakota, where he is majoring in psychology. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Luke for all of the fine work he has done and wish him continued success in the years to come.•

RECOGNIZING CHRISTY VAN BEER

• Mr. THUNE. Mr. President, today I recognize Christy Van Beek, an intern in my Sioux Falls, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Christy is a graduate of Netherlands Reformed Christian School in Rock Valley, IA. Currently she is attending the University of Sioux Falls, where she is majoring in political science. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Christy for all of the fine work she has done and wish her continued success in the years to come.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:24 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 bills, in which it requests the concurrence of the Senate:

H.R. 123. An act to authorize appropriations for the San Gabriel Basin Restoration Fund.

H.R. 1413. An act to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports, and for other purposes.

H.R. 2601. An act to extend the authority of the Federal Trade Commission to collect fees to administer and enforce the provisions relating to the ''Do-not-call'' registry of the Telemarketing Sales Rule.

H.R. 3079. An act to amend the joint resolution that approved the covenant establishing the Commonwealth of the Northern Mariana Islands, and for other purposes.

H.R. 3541. An act to amend the Do-not-call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal ''do-not-call'' registry.

H.R. 3739. An act to amend the Arizona Water Settlements Act to modify the requirements for the statement of findings.

H.R. 3890. An act to amend the Burmese Freedom and Democracy Act of 2003 to impose import sanctions on Burmese gemstones, expand the number of individuals against whom the visa ban is applicable, expand the blocking of assets and other prohibited activities, and for other purposes.

H.R. 3986. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

H.R. 4009. An act to designate the facility of the United States Postal Service located at 567 West Nepessing Street in Lapeer, Michigan, as the ''Turrill Post Office Building''.

H.R. 4108. An act to amend section 3328 of title 5, United States Code, relating to Selective Service registration.

H.R. 4343. An act to amend title 49, United States Code, to modify age standards for pilots engaged in commercial aviation operations.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 215. Concurrent resolution supporting the designation of a week as ''National Cardiopulmonary Resuscitation and Automated External Defibrillator Awareness Week''.

H. Con. Res. 261. Concurrent resolution commemorating the centennial anniversary of the sailing of the Navy's ''Great White Fleet,'' launched by President Theodore Roosevelt on December 16, 1907, from Hampton Roads, Virginia, and returning there on February 22, 1909.

H. Con. Res. 264. Concurrent resolution honoring the University of Hawaii for its 100 years of commitment to public higher education.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 797) to amend title 38, United States Code, to improve compensation benefits for veterans in certain cases of impairment of vision involving both eyes, to provide for the use of the National Directory of New Hires for income verification purposes, to extend the authority of the Secretary of Veterans Affairs to provide an educational assistance allowance for qualifying work study activities, and to authorize the provision of bronze representations of the letter ''V'' for the graves of eligible individuals buried in private cemeteries in lieu of Government-provided headstones or markers, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 597) to extend the special postage stamp for breast cancer research for 4 years, with amendments, in which it requests the concurrence of the Senate.

At 4:18 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 269. Concurrent resolution directing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 1585.

At 5:22 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. 4299. An act to extend the Terrorism Insurance Program of the Department of the Treasury, 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. 1585) to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy,

to prescribe military personnel strengths for such fiscal year, and for other purposes.

At 7:29 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, 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. 4351. An act to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

ENROLLED BILLS SIGNED

At 9:10 p.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 bills:

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.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 123. An act to authorize appropriations for the San Gabriel Basin Restoration Fund; to the Committee on Environment and Public Works.

H.R. 1413. To direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2601. An act to extend the authority of the Federal Trade Commission to collect fees to administer and enforce the provisions relating to the ''Do-not-call'' registry of the Telemarketing Sales Rule; to the Committee on Commerce, Science, and Transportation.

H.R. 3079. An act to amend the joint resolution that approved the covenant establishing the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3541. To amend the Do-not-call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal ''do-not-call'' registry; to the Committee on Commerce, Science, and Transportation.

H.R. 3739. An act to amend the Arizona Water Settlements Act to modify the requirements for the statement of findings; to the Committee on Indian Affairs.

H.R. 3890. To amend the Burmese Freedom and Democracy Act of 2003 to impose import sanctions on Burmese gemstones, expand the number of individuals against whom the visa ban is applicable, expand the blocking of assets and other prohibited activities, and for other purposes; to the Committee on Foreign Relations.

H.R. 3986. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4009. An act to designate the facility of the United States Postal Service located at 567 West Nepessing Street in Lapeer, Michigan, as the ''Turrill Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4108. An act to amend section 3328 of title 5, United States Code, relating to Selective Service registration; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 215. Concurrent resolution supporting the designation of a week as ''National Cardiopulmonary Resuscitation and Automated External Defibrillator Awareness Week''; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 261. Concurrent resolution commemorating the centennial anniversary of the sailing of the Navy's ''Great White Fleet,'' launched by President Theodore Roosevelt on December 16, 1907, from Hampton Roads, Virginia, and returning there on February 22, 1909; to the Committee on Armed Services.

H. Con. Res. 264. Concurrent resolution honoring the University of Hawaii for its 100 years of commitment to public higher education; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2461. A bill to authorize the transfer of certain earmarked funds to accounts for operations and activities in Iraq and Afghanistan.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4330. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Fair Credit Reporting Affiliate Marketing Regulations'' (RIN3064–AC83) received on December 7, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–4331. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (including 9 regulations beginning with CGD08–07–040)'' (RIN1625–AB09) received on December 10, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4332. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 9 regulations beginning with CGD11–07–014)'' (RIN1625–AB09) received on December 10, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4333. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 5 regulations beginning with CGD08–07–037)'' (RIN1625–AB09) received on December 10, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4334. A communication from the Administrator, Saint Lawrence Seaway Development Corporation, Department of Transportation, transmitting, pursuant to law, the Corporation's annual financial audit and management report for fiscal year 2007; to the Committee on Environment and Public Works.

EC–4335. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the National Source Tracking System; to the Committee on Environment and Public Works.

EC–4336. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois; Source-Specific Revision for Cromwell-Phoenix, Incorporated'' (FRL No. 8503–5) received on December 10, 2007; to the Committee on Environment and Public Works.

EC–4337. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clethodim; Pesticide Tolerance'' (FRL No. 8340–7) received on December 10, 2007; to the Committee on Environment and Public Works.

EC–4338. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Finding of Failure to Attain; California—Imperial Valley Nonattainment Area; PM–10'' (FRL No. 8504–2) received on December 10, 2007; to the Committee on Environment and Public Works.

EC–4339. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Rhode Island: Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL No. 8504–4) received on December 10, 2007; to the Committee on Environment and Public Works.

EC–4340. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Water Quality Standards for Puerto Rico'' (FRL No. 8504–9) received on December 10, 2007; to the Committee on Environment and Public Works.

EC–4341. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's Performance and Accountability Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4342. A communication from the General Counsel, Government and Accountability Office, transmitting, pursuant to law, a report relative to the number of federal agencies that did not fully implement a recommendation made by the Office in response to a bid protest during fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4343. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–190, ''Neighborhood Investment Clarification Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4344. A communication from the Chairman, Council of the District of Columbia,

transmitting, pursuant to law, a report on D.C. Act 17–186, ''Washington Convention Center Authority Advisory Committee Continuity Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4345. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–185, ''Closing Agreement Temporary Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4346. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–184, ''Real Property Tax Benefits Revision Temporary Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4347. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–183, ''East of the River Hospital Revitalization Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4348. A communication from the Chief Executive Officer, Millennium Challenge Corporation, transmitting, pursuant to law, the Semiannual Report of the Corporation's Inspector General for the six-month period from April 1, 2007, to September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4349. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–182, ''Appointment of the Chief Medical Examiner Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4350. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–189, ''Fire Hydrant Inspection, Repair, Maintenance, and Fire Preparedness Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4351. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–188, ''East of the River Hospital Revitalization Tax Exemption Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4352. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–187, ''Access to Youth Employment Programs Temporary Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4353. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–181, ''Uniform Prudent Management of Institutional Funds Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4354. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–180, ''District of Columbia Consumer Protection Fund Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4355. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–179, ''Doubled Fines in Construction or Work Zones Amendment Act of 2007'' received on December 10, 2007; to the Committee on Homeland Security and Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–268. A resolution adopted by the Board of County Commissioners for Miami-Dade County of the State of Florida urging the Florida Legislature to develop and implement a system for providing homeowners discounts on their property insurance if they install carbon monoxide detectors; to the Committee on Banking, Housing, and Urban Affairs.

POM–269. A resolution adopted by the Board of County Commissioners for Miami-Dade County of the State of Florida urging the Florida Legislature to pass legislation regulating crane operations; to the Committee on Health, Education, Labor, and Pensions.

POM–270. A resolution adopted by the Board of County Commissioners for Miami-Dade County of the State of Florida opposing legislation that would preempt local governments from suing firms that rent hotel rooms over the Internet to recover unpaid bed taxes; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 506. A bill to improve efficiency in the Federal Government through the use of high-performance green buildings, and for other purposes (Rept. No. 110–241).

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment:

S. 1429. A bill to amend the Safe Drinking Water Act to reauthorize the provision of technical assistance to small public water systems (Rept. No. 110–242).

By Mrs. BOXER, from the Committee on Environment and Public Works:

Report to accompany S. 1785, a bill to amend the Clean Air Act to establish deadlines by which the Administrator of the Environmental Protection Agency shall issue a decision on whether to grant certain waivers of preemption under that Act (Rept. No. 110–243).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 781. A bill to extend the authority of the Federal Trade Commission to collect Do-Not-Call Registry fees to fiscal years after fiscal year 2007 (Rept. No. 110–244).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1965. A bill to protect children from cybercrimes, including crimes by online predators, to enhance efforts to identify and eliminate child pornography, and to help parents shield their children from material that is inappropriate for minors (Rept. No. 110–245).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2096. A bill to amend the Do-Not-Call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal ''do-not-call'' registry (Rept. No. 110–246).

By Mr. AKAKA, from the Committee on Veterans' Affairs, without amendment:

S. 2004. A bill to amend title 38, United States Code, to establish epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes (Rept. No. 110–247).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 911. A bill to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments and information regarding pediatric cancers, establish a population-based national childhood cancer database, and promote public awareness of pediatric cancers.

S. 1916. A bill 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.

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. REID (for Mr. DODD (for himself, Mr. REED, Mr. SCHUMER, Mr. MENENDEZ, Mr. AKAKA, Mr. BROWN, Mr. CASEY, Mr. KENNEDY, Mr. KERRY, Mr. HARKIN, Ms. MIKULSKI, Mrs. BOXER, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. FEINSTEIN, and Mr. DURBIN)):

S. 2452. A bill to amend the Truth in Lending Act to provide protection to consumers with respect to certain high-cost loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALEXANDER:

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; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself, Mr. SPECTER, and Mr. BROWN):

S. 2454. A bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services; to the Committee on Commerce, Science, and Transportation.

By Mr. COLEMAN (for himself and Mr. LEAHY):

S. 2455. A bill to provide $1,000,000,000 in emergency Community Development Block Grant funding for necessary expenses related to the impact of foreclosures on communities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REID (for Mrs. CLINTON (for herself and Mr. ROBERTS)):

S. 2456. A bill to amend the Public Health Service Act to improve and secure an adequate supply of influenza vaccine; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2457. A bill to provide for extensions of leases of certain land by Mashantucket

Pequot (Western) Tribe; to the Committee on Indian Affairs .

By Ms. LANDRIEU:

S. 2458. A bill to promote and enhance the operation of local building code enforcement administration across the country by establishing a competitive Federal matching grant program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ:

S. 2459. A bill to authorize appropriations for research and enforcement activities of the Federal Trade Commission related to misleading mortgage advertisements; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mrs. DOLE, Mr. DURBIN, Mrs. FEINSTEIN, Ms. STABENOW, Mr. SALAZAR, Mr. KERRY, Mr. BROWN, Mrs. MCCASKILL, Mr. SCHUMER, Mrs. BOXER, Mr. LEVIN, Mr. BAYH, Mr. BURR, Mr. MARTINEZ, Mrs. CLINTON, Mr. PRYOR, Mr. LEAHY, Mrs. LINCOLN, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. ROCKEFELLER, Mr. ISAKSON, and Mr. BOND):

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; to the Committee on Finance.

By Mr. DEMINT:

S. 2461. A bill to authorize the transfer of certain earmarked funds to accounts for operations and activities in Iraq and Afghanistan; read the first time.

By Mr. AKAKA (for himself, Mr. DODD, and Mr. OBAMA):

S. 2462. A bill to provide that before the Secretary of Defense may furlough any employee of the Department of Defense on the basis of a lack of funds, the Secretary shall suspend any nonessential service contract entered into by the Department of Defense, and for other purposes; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

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. KYL, Mr. SESSIONS, and Mr. SMITH):

S. Res. 402. A resolution recognizing the life and contributions of Henry John Hyde; to the Committee on the Judiciary.

By Mr. HAGEL (for himself and Mr. NELSON of Nebraska):

S. Res. 403. A resolution congratulating Boys Town on its 90th anniversary celebration; considered and agreed to.

ADDITIONAL COSPONSORS

S. 805

At the request of Mr. DURBIN, the name of the Senator from North Dakota (Mr. DORGAN) 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. 958

At the request of Mrs. MURRAY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 958, a bill to establish an adolescent literacy program.

S. 988

At the request of Ms. MIKULSKI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 988, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 1003

At the request of Ms. STABENOW, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1003, a bill to amend title XVIII of the Social Security Act to improve access to emergency medical services and the quality and efficiency of care furnished in emergency departments of hospitals and critical access hospitals by establishing a bipartisan commission to examine factors that affect the effective delivery of such services, by providing for additional payments for certain physician services furnished in such emergency departments, and by establishing a Centers for Medicare & Medicaid Services Working Group, and for other purposes.

S. 1232

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1464

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1464, a bill to establish a Global Service Fellowship Program, and for other purposes.

S. 1506

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1506, a bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

S. 1514

At the request of Mr. DODD, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1514, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 1664

At the request of Mr. FEINGOLD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1664, a bill to require the Secretary of the Treasury to mint coins in commemoration of Robert M. La Follette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States.

S. 1665

At the request of Mr. FEINGOLD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1665, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Robert M. La Follette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States.

S. 1841

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 1841, a bill to provide a site for the National Women's History Museum in Washington, District of Columbia, and for other purposes.

S. 1991

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1991, a bill to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of extending the Lewis and Clark National Historic Trail to include additional sites associated with the preparation and return phases of the expedition, and for other purposes.

S. 1995

At the request of Mr. SALAZAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1995, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2056

At the request of Mr. ROCKEFELLER, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2056, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 2064

At the request of Mr. DURBIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2064, a bill to fund comprehensive programs to ensure an adequate supply of nurses.

S. 2080

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2080, a bill to amend the Federal Water Pollution Control Act to ensure that sewage treatment plants monitor for and report discharges of raw sewage, and for other purposes.

S. 2112

At the request of Mr. INOUYE, the name of the Senator from Delaware

(Mr. BIDEN) was added as a cosponsor of S. 2112, a bill to amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment program, and for other purposes.

S. 2140

At the request of Mr. DORGAN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Illinois (Mr. DURBIN), the Senator from Illinois (Mr. OBAMA) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors 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. 2257

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. 2257, a bill to impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

S. 2277

At the request of Mr. SMITH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2277, a bill to amend the Internal Revenue Code of 1986 to increase the limitation on the issuance of qualified veterans' mortgage bonds for Alaska, Oregon, and Wisconsin and to modify the definition of qualified veteran.

S. 2341

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2341, a bill to provide Individual Development Accounts to support foster youths who are transitioning from the foster care system.

S. 2400

At the request of Mr. SESSIONS, the name of the Senator from Minnesota (Mr. COLEMAN) 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.

S. 2408

At the request of Mr. KERRY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2408, a bill to amend title XVIII of the Social Security Act to require physician utilization of the Medicare electronic prescription drug program.

S. CON. RES. 53

At the request of Mr. NELSON of Florida, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from California (Mrs. FEINSTEIN) 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. 388

At the request of Mr. CRAPO, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 388, a resolution designating the week of February 4 through February 8, 2008, as ''National Teen Dating Violence Awareness and Prevention Week''.

S. RES. 401

At the request of Mr. LIEBERMAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 401, a resolution to provide Internet access to certain Congressional Research Service publications.

AMENDMENT NO. 3614

At the request of Mr. DOMENICI, the names of the Senator from Nebraska (Mr. NELSON), the Senator from South Dakota (Mr. JOHNSON), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of amendment No. 3614 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. 3639

At the request of Mr. HARKIN, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of amendment No. 3639 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. 3673

At the request of Mr. GREGG, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Colorado (Mr. ALLARD), the Senator from Texas (Mr. CORNYN), the Senator from Tennessee (Mr. CORKER), the Senator from North Carolina (Mrs. DOLE), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of amendment No. 3673 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. 3674

At the request of Mr. GREGG, the name of the Senator from Pennsylvania (Mr. SPECTER) 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. 3826

At the request of Mr. SANDERS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 3826 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. HARKIN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New Hampshire (Mr. SUNUNU) 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. REID (for Mr. DODD (for himself, Mr. REED, Mr. SCHUMER, Mr. MENENDEZ, Mr. AKAKA, Mr. BROWN, Mr. CASEY, Mr. KENNEDY, Mr. KERRY, Mr. HARKIN, Ms. MIKULSKI, Mrs. BOXER, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. FEINSTEIN, and Mr. DURBIN)):

S. 2452. A bill to amend the Truth in Lending Act to provide protection to consumers with respect to certain high-cost loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, today we are facing a crisis in the mortgage markets on a scale that has not been seen since the Great Depression: over 2 million homeowners face foreclosure at a loss of over $160 billion in hard-earned home equity; the Conference of Mayors recently reported, November 26, 2007, that they expect a decline of $1.2 trillion in property values in 2008 because of the crisis; over one out of every 5 subprime loans is currently delinquent according to First American Loan Performance, an industry research firm. These high default rates have frozen the subprime and jumbo mortgage markets and infected the capital markets to the point where central banks around the world have had to inject liquidity into the system to avoid the crisis from spreading to other segments of the market.

One of the fundamental causes of this serious crisis is abusive and predatory subprime mortgage lending. The Homeownership Preservation and Protection Act of 2007, which I am introducing today with a number of my colleagues, is designed to protect American homeowners from these practices, and prevent this disaster from happening again. The legislation will: realign the interests of the mortgage industry with borrowers to insure the availability of mortgage capital on fair terms both for the creation and sustainability of homeownership; establish new lending standards to ensure that loans are affordable and fair, and provide for adequate remedies to make sure the standards are met; and create

a transparent set of rules for the mortgage industry so that capital can safely return to the market without bad lending practices driving out the good.

The fundamental problem in the subprime market today is that the mortgage system has become extremely fragmented, with different entities responsible for selling, underwriting, originating, funding, and securitizing the loans. Too few of these entities have a stake in the long-term success of the mortgage. A recent article in The Economist, February 17, 2007, described the process succinctly:

> Banks are traditionally supposed to know a bit about the borrowers on their books. But, in many cases, their loans did not stay on their books long enough for them to care. Mortgages were written for a fee, sold to investment banks for a fee, then packaged and floated for another fee. At each link in the chain, the fees mattered more than the quality of the loans. . . .

As the GAO concluded, ''Originators [mortgage brokers and lenders] had financial incentives to increase loan volume, partially at the expense of loan quality,'' October 10, 2007. For example, mortgage originators have an incentive to get a borrower to take out a larger loan than he or she needs, and at a higher interest rate than that for which the borrower would qualify, because the originator gets a higher commission for such loans.

Comptroller of the Currency John Dugan recently described the corrosive impact of this system on underwriting standards. In a speech to the American Bankers Association October 9, 2007, Mr. Dugan said:

> When a bank makes a loan that it plans to hold, the fundamental standard it uses to underwrite the loan is that most basic of credit standards that . . . the underwriting must be strong enough to create a reasonable expectation that the loan will be repaid. But when a bank makes a loan that it plans to sell, then the credit evaluation shifts in an important way: the underwriting must be strong enough to create a reasonable expectation that the loan can be sold or put another way, the bank will underwrite to whatever standard the market will bear.

The vast majority of subprime loans were made to be sold, and, hence, their underwriting standards simply were not sufficient to ensure a reasonable prospect of repayment for too many Americans.

While the focus of much of the news coverage has been on the impact of the crisis on financial institutions and markets, I ask my colleagues to keep in mind the affect this is having on individuals who are losing their homes, and on their neighbors, who are seeing their home equity erode as foreclosures in their neighborhoods increase.

It is important to keep in mind that only about 10 percent of subprime mortgages in the past several years have been made to first time home buyers. This market has not been primarily about creating a new set of homeowners; a majority of subprime loans have been refinances. While maintaining access to subprime credit on fair terms is important, too much of the subprime market in the past several years has actually put the homes and home equity of American families at risk.

The legislation seeks to set high standards for brokers, lenders, appraisers, servicers, and Wall Street and provide for strong remedies to restore accountability to the system. Specifically, the legislation will establish new protections for all borrowers including a prohibition on steering prime borrowers to subprime loans, which the Wall Street Journal recently found was widespread in the market. The bill establishes a fiduciary duty for mortgage brokers towards borrowers. It provides for a duty of good faith and fair dealing toward borrowers for all lenders.

The bill will establish new protections for subprime borrowers and borrowers who get exotic mortgages. First and foremost, brokers and lenders will have to establish the borrowers' ability to repay the loan, including for interest-only and option ARMs. In addition, the bill prohibits prepayment penalties and YSPs on these loans, and requires that these loans provide a net tangible benefit to the borrower.

The bill will tighten the definition of high cost loans and provide increased protections for these borrowers, including a prohibition of balloon payments, financing of points and fees, prepayment penalties and yield spread premiums, YSPs.

The bill will provide strong remedies to make sure these standards are met. The bill puts more ''cops on the beat'' by allowing state attorneys general to enforce the provisions of the law, and it does not preempt State law. States should be allowed the flexibility to address new abuses as they arise.

The bill will provide for limited liability for holders of a mortgage made in violation of law, whether it is the original lender or a subsequent investment trust. Unlike current law, which puts the burden on the borrower to find the party responsible for causing the harm, the legislation allows the borrower to go directly to the current mortgage holder for a cure.

The bill will also prohibit lenders from influencing appraisers, limit the ''junk'' fees mortgage servicers can charge, and require them to credit payments promptly, require foreclosure prevention counseling or loss mitigation before a foreclosure can take place, and uuthorize the hiring of additional FBI agents to fight mortgage fraud.

In the coming months, the housing crisis is going to get worse. We will need to continue to press lenders and servicers to provide real relief for homeowners threatened with foreclosure. FHA and the GSEs will have to play an expanded role. But as we deal with the cleaning up the current crisis, let us keep in mind the need to address the underlying problems that have created the crisis, and move to address those underlying causes by passing the ''Homeownership Protection and Preservation Act.''

Finally, I want to acknowledge the work of a number of my colleagues on this issue. Senators SCHUMER, BROWN, and CASEY introduced a bill on this topic earlier this year, S. 1299, from which I took some important provisions. In addition, Senators REED and MENENDEZ both made important contributions to the deliberations leading up to the introduction of this legislation.

Mr. President, I ask unanimous consent that the text of the bill and a detailed summary be printed in the RECORD.

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

S. 2452

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 ''Home Ownership Preservation and Protection Act of 2007''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Effective date and regulations.

TITLE I—HIGH-COST MORTGAGES

Sec. 101. Definitions relating to high-cost mortgages.
Sec. 102. Additional protections for HOEPA loans.

TITLE II—PROTECTIONS APPLICABLE TO SUBPRIME AND CERTAIN OTHER LOANS

Sec. 201. Truth in Lending Act amendments.

TITLE III—PROTECTIONS FOR ALL HOME LOAN BORROWERS

Sec. 301. Mortgage protections.

TITLE IV—GOOD FAITH AND FAIR DEALING IN APPRAISALS

Sec. 401. Duties of appraisers.

TITLE V—GOOD FAITH AND FAIR DEALING IN HOME LOAN SERVICING

Sec. 501. Duties of lenders and loan servicers.
Sec. 502. Real estate settlement procedures.
Sec. 503. Effective date.

TITLE VI—FORECLOSURE PREVENTION COUNSELING

Sec. 601. Foreclosure prevention counseling.

TITLE VII—REMEDIES AND ENFORCEMENT

Sec. 701. Material disclosures and violations.
Sec. 702. Right of rescission.
Sec. 703. Civil liability.
Sec. 704. Liability for monetary damages.
Sec. 705. Remedy in lieu of rescission for certain violations.
Sec. 706. Prohibition on mandatory arbitration.
Sec. 707. Lender liability.

TITLE VIII—OTHER BANKING AGENCY AUTHORITY

Sec. 801. Inclusion of all banking agencies in the regulatory authority under the Federal Trade Commission Act with respect to depository institutions.

TITLE IX—MISCELLANEOUS

Sec. 901. Authorizations.

SEC. 2. DEFINITIONS.

Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following:

''(cc) DEFINITIONS RELATING TO HOME MORTGAGE LOANS.—

''(1) HOME MORTGAGE LOAN.—The term 'home mortgage loan' means a consumer credit transaction secured by a home, used or intended to be used as a principal dwelling, regardless of whether it is real or personal property, or whether the loan is used to purchase the home.

''(2) MORTGAGE BROKER.—The term 'mortgage broker' means a person who, for compensation or in anticipation of compensation, arranges or negotiates or attempts to arrange or negotiate home mortgage loans or commitments for such loans, refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made.

''(3) MORTGAGE ORIGINATOR.—The term 'mortgage originator' means any creditor or other person, including a mortgage broker, who, for compensation or in anticipation of compensation, engages either directly or indirectly in the acceptance of applications for home mortgage loans, solicitation of home mortgage loans on behalf of consumers, negotiation of terms or conditions of home mortgage loans on behalf of consumers or lenders, or negotiation of sales of existing home mortgage loans to institutional or noninstitutional lenders. It also includes any employee or agent of such person.

''(4) NONTRADITIONAL MORTGAGE LOAN.—The term 'nontraditional mortgage loan' means a home mortgage loan that allows a consumer to defer payment of principal or interest.

''(5) SUBPRIME MORTGAGE LOAN.—

''(A) IN GENERAL.—The term 'subprime mortgage loan' means a home mortgage loan in which the annual percentage rate exceeds the greater of the thresholds determined under subparagraph (B) or (C), as applicable.

''(B) TREASURY SECURITIES RATE SPREAD.—A home mortgage loan is a subprime mortgage loan if the difference between the annual percentage rate for the loan and the yield on United States Treasury securities having comparable periods of maturity is equal to or greater than—

''(i) 3 percentage points, if the loan is secured by a first lien mortgage or deed of trust; or

''(ii) 5 percentage points, if the loan is secured by a subordinate lien mortgage or deed of trust.

''(C) CONVENTIONAL MORTGAGE RATE SPREAD.—A home mortgage loan is a subprime mortgage loan if the difference between the annual percentage rate for the loan and the annual yield on conventional mortgages, as published by the Board of Governors of the Federal Reserve System in statistical release H.15 (or any successor publication thereto) is either equal to or greater than—

''(i) 1.75 percentage points, if the loan is secured by a first lien mortgage or deed of trust; or

''(ii) 3.75 percentage points, if the loan is secured by a subordinate lien mortgage or deed of trust.

''(D) RULE OF CONSTRUCTION.—For purposes of subparagraph (B), the difference between the annual percentage rate of a home mortgage loan and the yield on United States Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirements of the Federal Home Mortgage Disclosure Act, whether or not such loan is subject to or reportable under the provisions of that Act.''.

SEC. 3. EFFECTIVE DATE AND REGULATIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall become effective 6 months after the date of enactment of this Act, and shall apply to all transactions consummated on or after that effective date, except as otherwise specifically provided herein.

(b) REGULATIONS REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue in final form such regulations as are necessary to carry out this Act and the amendments made by this Act.

TITLE I—HIGH-COST MORTGAGES

SEC. 101. DEFINITIONS RELATING TO HIGH-COST MORTGAGES.

(a) HIGH-COST MORTGAGE DEFINED.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by striking all that precedes paragraph (2) and inserting the following:

''(aa) HIGH-COST MORTGAGE.—

''(1) DEFINITION.—

''(A) IN GENERAL.—The term 'high-cost mortgage', and a mortgage referred to in this subsection, mean a consumer credit transaction that is secured by the principal dwelling of a consumer, other than a reverse mortgage transaction, if—

''(i) in the case of a loan secured—

''(I) by a first mortgage on such dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 8 percentage points the yield on United States Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

''(II) by a subordinate or junior mortgage on such dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on United States Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

''(ii) the total points and fees payable in connection with the loan exceed—

''(I) in the case of a loan for $20,000 or more, 5 percent of the total loan amount; or

''(II) in the case of a loan for less than $20,000, the lesser of 8 percent of the total loan amount or $1,000.

''(B) INTRODUCTORY RATES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(i), the annual percentage rate shall be determined as—

''(i) in the case of a fixed-rate loan in which the rate of interest will not vary during the term of the loan, the interest rate in effect on the date of consummation of the transaction;

''(ii) in the case of a loan in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time by the terms of the loan agreement; and

''(iii) in the case of any other loan in which the rate may vary at any time during the term of the loan for any reason, the interest charged on the loan at the maximum rate that may be charged during the term of the loan.''.

(b) ADJUSTMENT OF PERCENTAGE POINTS.—Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) An increase or decrease under subparagraph (A)—

''(i) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(I) being less than 6 percentage points or greater than 10 percentage points; and

''(ii) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(II) being less than 8 percentage points or greater than 12 percentage points.''.

(c) POINTS AND FEES DEFINED.—

(1) IN GENERAL.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended—

(A) by striking ''(1)(B)'' and inserting ''(1)(A)(ii)'';

(B) by striking subparagraph (B) and inserting the following:

''(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage broker or from any source, including a mortgage broker that originates a loan in the name of the broker in a table funded transaction;'';

(C) in subparagraph (C)(iii), by striking ''and'' at the end;

(D) by redesignating subparagraph (D) as subparagraph (G); and

(E) by inserting after subparagraph (C) the following:

''(D) premiums or other charges payable at or before consummation of the loan for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life, or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;

''(E) the maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents;

''(F) all prepayment fees or penalties that are incurred by the customer, if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and''.

(2) CALCULATION OF POINTS AND FEES FOR OPEN-END LOANS.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

''(5) CALCULATION OF POINTS AND FEES FOR OPEN-END LOANS.—In the case of a loan under an open-end credit plan, points and fees shall be calculated, for purposes of this section and section 129, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the loan documents, plus the minimum additional fees that the consumer would be required to pay to draw down an amount equal to the total credit line.''.

(d) HIGH-COST MORTGAGE LENDER.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by striking the last sentence and inserting the following: ''Any person who originates or brokers 2 or more mortgages referred to in subsection (aa) in any 12-month period, any person who originates 1 or more such mortgages through a mortgage broker in any 12-month period or in connection with a table funded transaction involving such a mortgage, and any person to whom the obligation is initially assigned at or after settlement, shall be considered to be a creditor for purposes of this title.''.

(e) BONA FIDE DISCOUNT LOAN DISCOUNT POINTS AND PREPAYMENT PENALTIES.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by inserting after paragraph (5), as added by this Act, the following:

''(6) BONA FIDE DISCOUNT POINTS.—

''(A) IN GENERAL.—For the purpose of determining the amount of points and fees under this subsection—

''(i) not more than 2 bona fide discount points payable by the consumer in connection with the mortgage shall be excluded, but only if the interest rate from which the interest rate on the mortgage will be discounted does not exceed by more than 1 percentage point the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater; and

''(ii) unless 2 bona fide discount points have been excluded under subparagraph (A), not more than 1 bona fide discount point payable by the consumer in connection with the mortgage shall be excluded, but only if the interest rate from which the interest rate on the mortgage will be discounted does not exceed by more than 2 percentage points the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'bona fide discount points' means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage.

''(C) EXCEPTION FOR INTEREST RATE REDUCTIONS INCONSISTENT WITH INDUSTRY NORMS.—Subparagraph (A) shall not apply to discount points used to purchase an interest rate reduction, unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.''.

SEC. 102. ADDITIONAL PROTECTIONS FOR HOEPA LOANS.

(a) NO PREPAYMENT PENALTIES.—Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended—

(1) by striking paragraph (2); and

(2) in paragraph (1)—

(A) by striking ''(1) IN GENERAL.—''; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left.

(b) NO BALLOON PAYMENTS.—Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended to read as follows:

''(e) NO BALLOON PAYMENTS.—No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of any earlier required scheduled payments, except that this subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer.''.

(c) OTHER PROHIBITIONS ON HIGH-COST MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end the following:

''(m) NO YIELD SPREAD PREMIUMS.—No person may provide, and no mortgage originator may receive, directly or indirectly, any compensation for originating a home mortgage loan that is more costly than that for which the consumer qualifies, or that is based on, or varies with, the terms of any home mortgage loan.

''(n) ACCELERATION OF DEBT.—No high-cost mortgage may contain a provision which permits the creditor, in its sole discretion, to accelerate the indebtedness, other than in any case in which repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or for a breach of a material provision of the loan documents unrelated to the payment schedule.

''(o) RESTRICTION ON FINANCING POINTS AND FEES.—No creditor may, directly or indirectly, finance, in connection with any high-cost mortgage—

''(1) any prepayment fee or penalty payable by the consumer in a refinancing transaction, if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced; or

''(2) any points or fees as defined in section 103(aa)(4).

''(p) PROHIBITION ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A creditor may not take any action in connection with a high-cost mortgage—

''(1) to structure a loan transaction as an open-end credit plan or another form of loan for the purpose and with the intent of evading the provisions of this title; or

''(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading the provisions of this title.

''(q) MODIFICATION AND DEFERRAL FEES PROHIBITED.—A creditor may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or to defer any payment due under the terms of such mortgage, unless the modification, renewal, extension, or amendment results in a lower annual percentage rate on the mortgage for the consumer, and then only if the fee is bona fide and reasonable.

''(r) NET TANGIBLE BENEFIT.—In accordance with regulations prescribed by the Board, no originator may make, provide, or arrange a high-cost mortgage loan that involves a refinancing of a prior existing home mortgage loan, unless the new loan will provide a net tangible benefit to the consumer.''.

TITLE II—PROTECTIONS APPLICABLE TO SUBPRIME AND CERTAIN OTHER LOANS

SEC. 201. TRUTH IN LENDING ACT AMENDMENTS.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129 the following new section:

''SEC. 129A. PROTECTIONS FOR SUBPRIME AND NONTRADITIONAL HOME LOANS.

''(a) ASSESSMENT OF ABILITY TO PAY.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Before entering into or otherwise facilitating a subprime or nontraditional mortgage loan, each mortgage originator shall verify the reasonable ability of the borrower to pay the principal and interest on the loan and any real estate taxes and homeowner insurance fees and premiums.

''(B) CONSIDERATIONS.—A determination under subparagraph (A) shall include consideration of—

''(i) the income of the borrower;

''(ii) the credit history of the borrower;

''(iii) the current obligations and employment status of the borrower;

''(iv) the debt-to-income ratio of the monthly gross income of the borrower, inclusive of all scheduled or otherwise significant debt payments and total monthly housing payments, including taxes, property and private mortgage insurance, any required homeowner or condominium fees, and any subordinate mortgages, including those that will be made contemporaneously to the same borrower;

''(v) the residual income of the borrower; and

''(vi) other available financial resources, other than the equity of the borrower in the principal dwelling that secures or would secure the loan.

''(2) VARIABLE MORTGAGE RATES.—In the case of a subprime or nontraditional mortgage loan, with respect to which the applicable rate of interest may vary, for purposes of paragraph (1), the ability to pay shall be determined based on the monthly payment that could be due from the borrower, using as assumptions—

''(A) the fully indexed interest rate;

''(B) a repayment schedule which achieves full amortization over the life of the loan, assuming no default by the borrower;

''(C) for products that permit negative amortization, the initial loan amount plus any balance increase that may accrue from the negative amortization provision;

''(D) that the loan is to be repaid in substantially equal monthly amortizing payments for principal and interest over that period of time which would be permitted after the consumer has made lower payments, as permitted under the terms of the loan, and which includes any additions to principal that will result from such permitted lower payments, with no balloon payment, unless the loan contract requires a more rapid repayment schedule to be used in the calculation; and

''(E) the reasonably foreseeable capacity of the borrower to make payments, assuming market changes as to the contract index rate over the period of the loan, using, to make such assessment, a credible market rate determined according to regulations issued by the Board, which regulations shall require reasonable market expectations to be a factor.

''(3) REBUTTABLE PRESUMPTION.—

''(A) IN GENERAL.—For purposes of this subsection there is a rebuttable presumption that a mortgage was made without regard to repayment ability if, at the time at which the loan was consummated, the total monthly debts of the borrower, including total monthly housing payments, taxes, property, and private mortgage insurance, any required homeowner or condominium fees, and any subordinate mortgages, including those that will be made contemporaneously to the same borrower, exceed 45 percent of the monthly gross income of the borrower.

''(B) REBUTTAL.—To rebut the presumption of inability to repay under subparagraph (A) the creditor shall, at minimum, determine and consider the residual income of the borrower after payment of current expenses and proposed home loan payments, except that no presumption of ability to make the scheduled payments to repay the obligation shall arise solely from the fact that, at the time at which the loan is consummated, the total monthly debts of the borrower (including amounts owed under the loan) does not exceed 45 percent of the monthly gross income of the borrower.

''(b) REQUIREMENT OF TAX AND INSURANCE ESCROWS.—No subprime or nontraditional mortgage loan may be arranged, approved, or made without requiring escrow of tax and insurance installments calculated in accordance with the requirements of section 10 of the Real Estate Settlement Procedures Act of 1974, and regulations promulgated pursuant thereto, and mortgage insurance premiums, if any.

''(c) PROHIBITION ON PREPAYMENT PENALTIES.—No subprime or nontraditional mortgage loan may contain a provision that requires a consumer to pay a penalty for paying all or part of the principal before the date on which it is due.

''(d) PROHIBITION ON YIELD-SPREAD PREMIUMS.—No person may provide, and no mortgage originator may receive, directly or indirectly, any compensation for originating a subprime or nontraditional mortgage loan that is more costly than that for which the consumer qualifies, or that is based on, or varies with, the terms (other than the amount of loan principal) of any home mortgage loan.

''(e) NET TANGIBLE BENEFIT.—

''(1) IN GENERAL.—In accordance with regulations prescribed by the Board, no originator may make, provide, or arrange a subprime or nontraditional mortgage loan that involves a refinancing of a prior existing home mortgage loan, unless the new loan will provide a net tangible benefit to the consumer.

''(2) CERTAIN LOANS PROVIDING NO NET TANGIBLE BENEFIT.—For purposes of paragraph (1), a mortgage loan that involves refinancing of a prior existing mortgage loan shall not be considered to provide a net tangible benefit to the borrower if the costs of the refinanced loan, including points, fees, and other charges, exceed the amount of any newly advanced principal, less the points, fees, and other charges, without any corresponding changes in the terms of the refinanced loan that are advantageous to the borrower.''.

TITLE III—PROTECTIONS FOR ALL HOME LOAN BORROWERS

SEC. 301. MORTGAGE PROTECTIONS.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129A, as added by this Act, the following new section:

''SEC. 129B. PROTECTIONS FOR ALL HOME LOANS.

''(a) DUTIES OF ALL MORTGAGE ORIGINATORS.—Each mortgage originator shall, with respect to each home mortgage loan and, in addition to requirements under other applicable provisions of Federal or State law—

''(1) safeguard and account for any money handled for the borrower;

''(2) follow reasonable and lawful instructions from the borrower;

''(3) act with reasonable skill, care, and diligence;

''(4) act in good faith and with fair dealing in any transaction, practice, or course of business in connection with the originating of any home mortgage loan; and

''(5) make reasonable efforts to secure a home mortgage loan that is appropriately advantageous to the borrower, considering all of the circumstances, including the product type, rates, charges, and repayment terms of the loan.

''(b) DUTIES OF MORTGAGE BROKERS.—Each mortgage broker shall with respect to each home mortgage loan be deemed to have a fiduciary relationship with the borrower, and, in addition to duties imposed by other applicable provisions of Federal or State law, shall—

''(1) act in the best interest of the borrower and in the utmost good faith toward the borrower, and refrain from compromising the rights or interests of the borrower in favor of the rights or interests of another, including a right or interest of the mortgage broker; and

''(2) clearly disclose to the borrower, not later than 3 days after receipt of the loan application, all material information that might reasonably affect the rights, interests, or ability of the borrower to receive the borrower's intended benefit from the home mortgage loan, including total compensation that the broker would receive from any of the loan options that the broker presents to the borrower.

''(c) PROHIBITION ON STEERING.—

''(1) IN GENERAL.—In connection with a home mortgage loan, a mortgage originator may not steer, counsel, or direct a consumer to a loan with rates, charges, principal amount, or prepayment terms that are more costly than that for which the consumer qualifies.

''(2) DUTIES TO CONSUMERS.—If unable to suggest, offer, or recommend to a consumer a home mortgage loan that is not more expensive than that for which the consumer qualifies, a mortgage originator shall disclose to the consumer—

''(A) that the creditor does not offer a home mortgage loan that is not more expensive than that for which the consumer qualifies, but that other creditors may offer such a loan; and

''(B) the reasons that the products and services offered by the mortgage originator are not available to or reasonably advantageous for the consumer.

''(3) PROHIBITED CONDUCT.—In connection with a home mortgage loan, a mortgage originator may not—

''(A) mischaracterize the credit history of a consumer or the home loans available to a consumer;

''(B) mischaracterize or suborn mischaracterization of the appraised value of the property securing the extension of credit; and

''(C) if unable to suggest, offer, or recommend to a consumer a loan that is not more expensive than that for which the consumer qualifies, discourage a consumer from seeking a home mortgage loan from another creditor or with another mortgage originator.

''(d) REQUIRED DOCUMENTATION.—

''(1) IN GENERAL.—With respect to any home mortgage loan, a mortgage originator shall base its determination of the ability of a consumer to pay on—

''(A) documentation of all sources of income verified by tax returns, payroll receipts, bank records, or the best and most appropriate form of documentation available, subject to such requirements and exceptions as determined appropriate by the Board; and

''(B) the debt-to-income ratio and the residual income of the consumer after payment of current expenses and proposed home loan payments.

''(2) LIMITATION.—A statement provided by a consumer of the income and financial resources of the consumer, without other documentation referred to in paragraph (1), is not sufficient verification for purposes of assessing the ability of the consumer to pay.

''(e) LIMITATIONS ON YIELD-SPREAD PREMIUMS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no person may provide, and no mortgage originator may receive, directly or indirectly, any compensation for originating a home mortgage loan that is more costly than that for which the consumer qualifies, or that is based on, or varies with, the terms of any home mortgage loan (other than the amount of loan principal).

''(2) LIMITED EXCEPTION FOR NO-COST LOANS.—Notwithstanding paragraph (1), in a home mortgage loan, other than a high-cost mortgage loan, a subprime mortgage loan, or a nontraditional mortgage loan, a mortgage broker may receive compensation in the form of an increased rate, but only if—

''(A) the mortgage broker receives no other compensation, however denominated, directly or indirectly, from the consumer, creditor, or other mortgage originator;

''(B) the loan does not include discount points, origination points, or rate reduction points, however denominated, or any payment reduction fee, however denominated;

''(C) the loan does not include a prepayment penalty; and

''(D) there are no other closing costs associated with the loan, except for fees to government officials or amounts to fund escrow accounts for taxes and insurance.

''(f) RECOMMENDED DEFAULT.—No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a mortgage loan that refinances all or any portion of such existing loan or debt.

''(g) EFFECT OF FORECLOSURE ON PREEXISTING LEASE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of any foreclosure with respect to a home mortgage loan entered into after the date of enactment of this Act, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

''(A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate; and

''(B) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

''(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease; or

''(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A).

''(2) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

''(A) the mortgagor under the contract is not the tenant;

''(B) the lease or tenancy was the result of an arms-length transaction; or

''(C) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.''.

TITLE IV—GOOD FAITH AND FAIR DEALING IN APPRAISALS

SEC. 401. DUTIES OF APPRAISERS.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129B, as added by this Act, the following new section:

''SEC. 129C. DUTIES OF APPRAISERS.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) APPRAISER.—The term 'appraiser' means a person who—

''(A) is certified or licensed by the State in which the property to be appraised is located; and

''(B) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

''(2) QUALIFYING BOND.—The term 'qualifying bond' means a bond equal to not less than 1 percent of the aggregate value of all homes appraised by an appraiser of real property in connection with a home mortgage loan in the calendar year preceding the date of the transaction, with respect to which—

''(A) the bond shall inure first to the benefit of the homeowners who have claims against the appraiser under this title or any other applicable provision of law, and second to the benefit of originating creditors that complied with their duty of good faith and fair dealing in accordance with this title; and

''(B) any assignee or subsequent transferee or trustee shall be a beneficiary of the bond, only if the originating creditor qualified for such treatment.

''(b) STANDARD OF CARE.—Each appraiser shall, in addition to the duties imposed by otherwise applicable provisions of Federal or State law, with respect to each home mortgage loan in which the appraiser is involved—

''(1) act with reasonable skill, care, diligence, and in accordance with the highest standards; and

''(2) act in good faith and with fair dealing in any transaction, practice, or course of business associated with the transaction.

''(c) DUTIES OF APPRAISERS.—

''(1) OBJECTIVE APPRAISALS.—All appraisals carried out by an appraiser shall be accurate

and reasonable. An appraiser shall have no direct or indirect interest in the property to be appraised, the real estate transaction prompting such appraisal, or the home loan involved in such transaction.

''(2) BOND REQUIREMENT.—No appraiser may charge, seek, or receive compensation for an appraisal unless the appraisal is covered by a qualifying bond.

''(3) NO TARGET VALUES.—No lender or loan servicer may, with respect to a home mortgage loan, in any way—

''(A) seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the home mortgage loan; or

''(B) select an appraiser on the basis of an expectation that such appraiser would provide a targeted value in order to facilitate the making or pricing of the home mortgage loan.

''(4) PROHIBITION ON CERTAIN DISCLOSURES.—Neither the appraisal order nor any other communication in any form by an appraiser may include the requested loan amount or any estimate of value for the property to serve as collateral, either express or implied.

''(d) APPRAISAL REPORT.—In any case in which an appraisal is performed in connection with a home mortgage loan, the lender or loan servicer shall provide a copy of the appraisal report to an applicant for a home mortgage loan, whether credit is granted, denied, or the application was withdrawn. The first copy of this report shall be provided to the applicant without charge.

''(e) REMEDIES.—In addition to other remedies, in any action for a violation of this section, the following shall apply:

''(1) REQUIRED MODIFICATION.—If a retrospective appraisal determines that the appraisal upon which the home loan was based exceeded the true market value by 10 percent or more, the holder of the loan shall modify the loan and recast the loan ab initio to a loan amount that is at the same loan-to-value which the original loan purported to be. All payments made prior to the recasting of such loan shall be applied to the reduced loan amount.

''(2) AGENCY ABILITY TO MODIFY TRUE VALUE TOLERANCE LEVEL.—If a consumer has a right of action or a defense against the holder of the home loan when the appraisal upon which the home loan was based exceeds the true market value of the home by 10 percent or more, the regulatory agency which oversees appraisers in the jurisdiction in which the collateral is located has the authority to issue rules which permit the 10 percent tolerance level established in this paragraph to deviate by no more than 2 percent where local conditions warrant.

''(3) COLLECTION FROM APPRAISER'S QUALIFYING BOND.—A consumer awarded remedies pursuant to this section shall have the right to collect such remedies from the appraiser's qualifying bond.

''(f) CIVIL LIABILITY.—

''(1) IN GENERAL.—Any appraiser who fails to comply with any requirement of this section with respect to a borrower designated in a home mortgage loan contract, is liable to such borrower in an amount equal to the sum of—

''(A) any actual damages sustained by such borrower as a result of the failure;

''(B) an amount not less than $5,000; or

''(C) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

''(2) JURISDICTION.—Any action by a borrower for a failure to comply with the requirements of this section may be brought in any United States district court, or in any other court of competent jurisdiction, not later than 3 years from the date of the occurrence of such violation. This subsection does not bar a person from asserting a violation of this section in an action to collect the debt owed on a home mortgage loan, or foreclose upon the home securing a home mortgage loan, or to stop a foreclosure upon that home, which was brought more than 3 years after the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action. An action under this section does not create an independent basis for removal of an action to a United States district court.

''(3) STATE ATTORNEY GENERAL ENFORCEMENT.—An action to enforce a violation of this section may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. An action under this section does not create an independent basis for removal of an action to a United States district court.''.

TITLE V—GOOD FAITH AND FAIR DEALING IN HOME LOAN SERVICING

SEC. 501. DUTIES OF LENDERS AND LOAN SERVICERS.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129C, as added by this Act, the following new section:

''SEC. 129D. DUTIES OF LENDERS AND LOAN SERVICERS.

''(a) STANDARD OF CARE.—

''(1) AGENCY RELATIONSHIP.—In the case of any home loan serviced by a loan servicer on behalf of a lender, the loan servicer shall be deemed an agent of that lender, and shall be subject to all requirements of agents otherwise applicable under Federal or State law.

''(2) FAIR DEALING.—Each lender and loan servicer shall, in addition to the duties imposed by otherwise applicable provisions of Federal or State law, with respect to each home mortgage loan, including any home mortgage loan in default or in which the homeowner has filed for bankruptcy—

''(A) act with reasonable skill, care, diligence, and in accordance with the highest standards; and

''(B) act in good faith and with fair dealing in any transaction, practice, or course of business associated with the home mortgage loan.

''(b) RULES FOR ASSESSMENT OF FEE.—

''(1) IN GENERAL.—No home mortgage loan contract may require, nor may any lender or loan servicer assess or receive, any fees or charges other than interest, late fees as specifically authorized in this section, or fees assessed for nonsufficient funds, and charges allowed pursuant to subsection (i)(1)(B), until the home mortgage loan is the subject of a foreclosure proceeding and the debt on such loan has been accelerated.

''(2) FEE LIMITATIONS.—Any permissible fee or charge described under paragraph (1) shall be—

''(A) reasonable;

''(B) for services actually rendered; and

''(C) specifically authorized by the terms of the home mortgage loan contract and State law.

''(3) ASSESSMENT AND DISCLOSURE.—

''(A) IN GENERAL.—Any permissible fee or charge described under paragraph (1) shall be—

''(i) assessed not later than 30 days after the date on which the fee was accrued; and

''(ii) explained clearly and conspicuously in the next monthly accounting statement provided to the borrower designated in the home mortgage loan contract.

''(B) FAILURE TO COMPLY.—Failure by a lender or loan servicer to comply with the requirements set forth under subparagraph (A) shall result in the waiver of the fee.

''(4) REQUIRED STATEMENTS.—Each month a lender or loan servicer shall provide to each borrower designated in a home mortgage loan contract entered into by such lender or loan servicer a periodic statement that clearly and in plain english explains—

''(A) the application of the prior month's payment by the borrower, including the allocation of the payment to interest, principal, escrow, and fees;

''(B) the status of the escrow account held on behalf of the borrower, including the payments into and from the escrow account; and

''(C) the assessment of fees accruing in the previous month, including the reason that such fee accrued and the date such fee accrued.

''(c) MAXIMUM ALLOWABLE LATE FEES CHARGED AFTER LOAN CLOSING.—

''(1) IN GENERAL.—No lender or loan servicer may impose a charge or fee for late payment of any amount due on a home mortgage loan—

''(A) unless the home mortgage loan contract specifically authorizes the charge or fee;

''(B) in an amount in excess of 5 percent of the amount of the payment past due;

''(C) before the end of the 15-day period after the date the payment is due, or in the case of a home mortgage loan on which interest on each installment is paid in advance, before the end of the 30-day period after the date the payment is due; or

''(D) more than once with respect to a single late payment.

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, payments on any amount due on a home mortgage loan shall be applied first to current installments, then to delinquent payments, and then to delinquency charges.

''(3) COORDINATION WITH SUBSEQUENT LATE FEES.—If a home loan mortgage payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to a late fee or delinquency charge assessed on an earlier payment, no late fee or delinquency charge may be imposed on such payment.

''(d) PROMPT CREDITING OF PAYMENTS REQUIRED.—Each home loan mortgage payment amount received by a lender or a loan servicer shall be accepted and credited on the date received. Such payments shall be credited to interest and principal due on the home mortgage loan before crediting the payment to taxes, insurance, or fees.

''(e) COLLATERAL PROTECTION INSURANCE.—

''(1) IN GENERAL.—A lender or loan servicer may not charge any borrower designated in a home mortgage loan contract for collateral protection insurance, unless—

''(A) the home mortgage loan contract requires the borrower to maintain insurance on the collateral and clearly delineates—

''(i) the terms and conditions for imposition of and payment of the collateral;

''(ii) that such insurance may not protect the interests of the borrower and may be substantially more expensive than insurance that the borrower could purchase independently; and

''(iii) that the borrower will be charged for the cost of the insurance;

''(B) the lender or loan servicer makes every effort to avoid the necessity of requiring collateral protection insurance, including at least written notice and telephone communications with the borrower and the insurance agent of record regarding the—

''(i) obligation of the borrower to maintain property insurance; and

''(ii) additional cost to the borrower on a monthly basis if collateral protection insurance is required;

''(C) clear notice is received by the borrower at least 15 days in advance of the charge for collateral protection insurance, including—

''(i) notice that the—

''(I) placement of the insurance is imminent;

''(II) costs of the insurance will be paid by the borrower; and

''(III) the insurance will not protect the borrower from loss;

''(ii) notice of the amount of the new monthly payment; and

''(iii) instructions on the steps that the borrower may take to avoid such charge; and

''(D) charges for such insurance are bona fide and reasonable.

''(2) PROHIBITION.—In no event is collateral protection insurance permitted when a lender or loan servicer is collecting fees in escrow from the borrower for the payment of property taxes and insurance, unless the borrower has had his or her insurance cancelled for some reason other than non-payment of the premium.

''(3) NOTICE OF CHARGE.—After a charge for the purchase of collateral protection insurance has been issued by a lender or loan servicer, notice of the new monthly payment requirements shall be delivered to the borrower at least 15 days prior to the first increased payment—

''(A) explaining the imposition of the new charges for such insurance; and

''(B) providing information on what the borrower can do to obviate the need for such insurance.

''(f) OBLIGATIONS OF LENDER OR LOAN SERVICER TO HANDLE ESCROW FUNDS.—A lender or loan servicer shall make all payments from the escrow account held for the borrower designated in a home mortgage loan contract for insurance, taxes, and other charges with respect to the property secured by such contract in a timely manner to ensure that no late penalties are assessed and that no other negative consequences result, regardless of whether the loan is delinquent, unless—

''(1) there are not sufficient funds in the account of such borrower to cover the payments; and

''(2) the lender or loan servicer has a reasonable basis to believe that recovery of the funds will not be possible.

''(g) INFORMATION EXCHANGE AND DISPUTE REQUIREMENTS.—

''(1) MANDATORY RESPONSE TO BORROWERS' REQUESTS.—

''(A) IN GENERAL.—A lender or loan servicer shall respond to any request for information about a home mortgage loan or for resolution of any dispute involving a home mortgage loan submitted by a borrower designated in a home mortgage loan contract entered into by such lender or loan servicer.

''(B) TIMING OR RESPONSE.—A response required under subparagraph shall occur—

''(i) without cost to the requesting borrower; and

''(ii) not later than 10 days after the receipt of such request.

''(C) SCOPE OF OBLIGATION.—The scope of the response requirement set forth in subparagraph (A), includes—

''(i) providing—

''(I) the status of the borrowers account, including whether the account is current, or if not, the date the account went into default;

''(II) the current balance due on the home mortgage loan of the borrower, including the principal due, an explanation of the escrow balance, and whether there are any escrow deficiencies or shortages;

''(III) a full payment history of the borrower, which shows in a clear and easily understandable manner all of the activity on the home mortgage loan of the borrower since the origination of the loan, including the escrow account and the application of payments; and

''(IV) a copy of the original note and security instrument;

''(ii) correcting errors relating to the allocation of payments made by the borrower, final balances for purposes of paying off the loan or avoiding foreclosure, and other lender or loan servicer obligations;

''(iii) providing the identity, address, and other relevant information about the owner or assignee of the home mortgage loan; and

''(iv) providing a telephone number on each regular account statement that gives the borrower access to a live person with the information and authority to answer questions and resolve issues.

''(2) NO SHARING OF INFORMATION.—During the 90-day period beginning on the date of the receipt of a request from a borrower under paragraph (1), a lender or loan servicer may not provide information to any reporting agency regarding any overdue payment, or other default on the home mortgage loan, by such borrower to any consumer reporting agency (as such term is defined in section 603(f) of the Fair Credit Reporting Act).

''(3) MAINTENANCE OF RECORDS.—A lender or loan servicer shall maintain written and electronic records of the handling of any oral request made by a borrower under this subsection.

''(h) MANDATORY LOSS MITIGATION.—

''(1) IN GENERAL.—A lender or loan servicer shall not initiate a foreclosure of a home mortgage loan unless that lender or loan servicer has made a good faith review of the financial situation of the borrower designated in such home mortgage loan contract and has offered, whenever feasible, a repayment plan, forbearance, loan modification, or other option to assist the borrower in bringing his or her delinquent account into arrears. In the event that such options are not feasible, the lender or loan servicer shall refer the borrower to a housing counseling agency approved by the Secretary of Housing and Urban Development under section 106(d) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)).

''(2) REPORTS ON LOSS MITIGATION ACTIVITIES.—

''(A) IN GENERAL.—Each servicer shall report to the Board once every 3 months on the extent and results of its loss mitigation activities.

''(B) FORM AND CONTENT.—The Board shall prescribe, by regulation, the form and content of the reports required by this paragraph which shall include—

''(i) categories of measures that result in modifications of loan provisions, including payment schedules, loan principle, and loan interest;

''(ii) forebearance agreements;

''(iii) acceptance of a reduced amount in satisfaction of the loan;

''(iv) assumption of the loan;

''(v) pre-foreclosure sales; and

''(vi) deeds in lieu of foreclosure, and foreclosures.

''(C) BASIS.—Data required by this paragraph shall be reported on a servicer and lender basis.

''(D) PUBLIC AVAILABILITY.—The Board shall make data received under this paragraph publicly available, and shall annually report to Congress on servicer loss mitigation activities.

''(3) FAILURE TO COMPLY.—Failure by a lender or loan servicer to comply with the requirements under paragraph (1) shall constitute a defense to any foreclosure.

''(i) PAYOFF STATEMENTS.—

''(1) PROHIBITION ON FEES.—

''(A) IN GENERAL.—No lender or loan servicer (or any third party acting on behalf of such lender or loan servicer) may charge a fee for transmitting to any borrower the amount due to pay off the outstanding balance on the home mortgage loan of such borrower.

''(B) EXCEPTION.—After a lender or loan servicer (or any third party acting on behalf of such lender or loan servicer) has provided the information described in subparagraph (A) without charge on 4 occasions during a calendar year, the lender or loan servicer (or any third party acting on behalf of such lender or loan servicer) may thereafter charge a reasonable fee for providing such information during the remainder of the calendar year.

''(2) TIMING.—The information described in subparagraph (A) shall be provided to the borrower within a reasonable period of time but in any event not more than 5 business days after the receipt of the request by the lender or loan servicer.

''(j) CIVIL LIABILITY.—

''(1) IN GENERAL.—Any lender or loan servicer who fails to comply with any requirement of this section with respect to a borrower designated in a home mortgage loan contract, is liable to such borrower in an amount equal to the sum of—

''(A) any actual damages sustained by such borrower as a result of the failure;

''(B) an amount not less than $5,000; or

''(C) in the case of any successful action to enforce the foregoing liability the costs of the action, together with a reasonable attorney's fee as determined by the court.

''(2) JURISDICTION.—Any action by a borrower for a failure to comply with the requirements of this section may be brought in any United States district court, or in any other court of competent jurisdiction, not later than 3 years from the date of the occurrence of such violation. This subsection does not bar a person from asserting a violation of this section in an action by a lender or loan servicer to collect the debt owed on a home mortgage loan, or foreclose upon the home securing a home mortgage loan, or to stop a foreclosure upon that home, which was brought more than 3 years after the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action. An action under this section does not create an independent basis for removal of an action to a United States district court.

''(3) STATE ATTORNEY GENERAL ENFORCEMENT.—An action to enforce a violation of this section may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. An action under this section does not create an independent basis for removal of an action to a United States district court.

''(k) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) LENDER.—The term 'lender' has the same meaning as in section 3500.2 of title 24, Code of Federal Regulations, as in effect on the date of enactment of this section.

''(2) LOAN SERVICER.—The term 'loan servicer' has the same meaning as the term 'servicer' in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).''.

SEC. 502. REAL ESTATE SETTLEMENT PROCEDURES.

Section 6(b)(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(b)(3)) is amended by adding at the end the following new subparagraph:

''(H) A statement explaining—

''(i) whether the account of the borrower is current, or if the account is not current, an explanation of the reason and date the account went into default;

''(ii) the current balance due on the loan, including the principal due, an explanation of the escrow balance, and whether there are any escrow deficiencies or shortages; and

''(iii) a full payment history of the borrower which shows in a clear and easily understandable manner, all of the activity on the home mortgage loan since the origination of the loan or the prior transfer of servicing, including the escrow account, and the application of payments.''.

SEC. 503. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective 90 days after the date of enactment of this Act, and shall apply to loan servicers and loan servicing activities on and after that effective date.

TITLE VI—FORECLOSURE PREVENTION COUNSELING

SEC. 601. FORECLOSURE PREVENTION COUNSELING.

Section 106(d)(6) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)(6)) is amended to read as follows:

''(6) FORECLOSURE PREVENTION COUNSELING.—

''(A) NOTIFICATION AT TIME OF SETTLEMENT OF AVAILABILITY OF COUNSELING UPON DELINQUENCY.—

''(i) IN GENERAL.—At the time of settlement of any real estate transaction involving a qualified mortgage, and together with the final signed loan documents, a lender or loan servicer shall provide to each eligible homeowner a plain language statement in conspicuous 16-point type or larger which shall include the following:

''(I) COUNSELING STATEMENT.—A counseling statement that reads as follows:

'If you are more than 30 days late on your mortgage payments, your lender or loan servicer shall notify you of housing counseling agencies approved by the Secretary of Housing and Urban Development that may be able to assist you. Before you miss another mortgage payment, you are strongly encouraged to contact your lender or loan servicer or 1 of these agencies for assistance. If you are more than 60 days late on your mortgage payments, your lender or loan servicer shall send you a second notification containing this information. In addition, if you are more than 60 days late on your mortgage payment, your lender or loan servicer shall notify an approved housing counseling agency so that such agency can contact you regarding any assistance it may be able to provide.

'You can also choose a housing counseling agency from the list provided with this statement to assist you. By calling 1 of these approved housing counseling agencies and signing an authorization form, your agency of choice will notify your lender or loan servicer of your decision.'.

''(II) COUNSELING AGENCY LISTING.—A listing of at least 5 national, State and local housing counseling agencies approved by the Secretary. It is the responsibility of the lender or loan servicer to ensure that—

''(aa) if fewer than 5 approved housing counseling agencies serve the area where the eligible homeowner is located, all available housing counseling agencies in that area shall be listed; and

''(bb) the list shall include options of housing counseling agencies that provide in-person counseling, as well as telephone counseling.

''(ii) NOTICE.—Any notice required to be sent pursuant to this subparagraph shall be sent by first class mail to the last known address of the eligible homeowner and if different, to the residence which is the subject of the mortgage. The notice shall also be sent by registered or certified mail.

''(B) NOTIFICATION OF AVAILABILITY OF COUNSELING UPON DELINQUENCY AFTER 60 DAYS.—

''(i) IN GENERAL.—Before a lender or loan servicer accelerates the maturity of a mortgage obligation, commences legal action, including mortgage foreclosure to recover under the obligation, or takes possession of a security of the mortgage debtor for the mortgage obligation, the lender or loan servicer is required to give notice to an eligible homeowner in conspicuous 16-point type or larger which shall include the following:

''(I) HOUSING COUNSELING INFORMATION IN NOTICE FORECLOSURE STATEMENT.—A foreclosure notice that includes the following statement (blank lines to be filled in by the lender or loan servicer, as appropriate):

'This is an official notice that the mortgage on your home is in default, and the lender intends to foreclose in _____ days. The name, address, and phone number of housing counseling agencies approved by the Secretary of Housing and Urban Development serving your county are listed at the end of this notice.

'In addition, your lender or loan servicer shall notify such an approved housing counseling agency of your default so that such agency can contact you regarding any assistance it may be able to provide. You have the right to request that your lender or loan servicer not share your information with a housing counseling agency.

'You can also choose an approved housing counseling agency from the list provided with this notice to assist you. By calling one of these approved housing counseling agencies and signing an authorization form, your agency of choice will notify your lender or loan servicer of your decision.'.

''(II) COUNSELING AGENCY LISTING.—A listing of at least 5 State and local housing counseling agencies approved by the Secretary. It is the responsibility of the lender or loan servicer to ensure that—

''(aa) if fewer than 5 approved housing counseling agencies serve the area where the eligible homeowner is located, all available housing counseling agencies in that area shall be listed; and

''(bb) the list shall include options of housing counseling agencies that provide in-person counseling, as well as telephone counseling.

''(ii) NOTICE.—Any notice required to be sent pursuant to this subparagraph shall be sent by first class mail to the last known address of the eligible homeowner and if different, to the residence which is the subject of the mortgage. The notice shall also be sent by registered or certified mail

''(iii) TIMING.—Any notice required to be sent pursuant to this subparagraph shall be sent at such time as the eligible homeowner is at least 60 days contractually delinquent in his or her mortgage payments or is in violation of other provisions of the mortgage.

''(iv) INCLUSION IN ALL FORECLOSURE MAILINGS.—The foreclosure notice and counseling agency listing required under subclauses (I) and (II) of clause (i) shall be included with all foreclosure mailings sent to an eligible homeowner.

''(C) NO FORECLOSURE IF APPLICATION FOR FORECLOSURE PREVENTION SERVICES.—A lender or loan servicer shall not initiate or continue a foreclosure—

''(i) upon receipt of a written confirmation that an eligible homeowner has engaged a housing counseling agency approved by the Secretary for the purposes of receiving foreclosure prevention services and assistance; and

''(ii) for the 45-day period beginning on the date of receipt of such written confirmation.

''(D) DUTIES.—

''(i) DUTY OF LENDER OR SERVICER TO FORWARD INFORMATION.—

''(I) IN GENERAL.—Each lender or loan servicer shall forward the contact information of each eligible homeowner who has borrowed amounts from such lender or loan servicer for a qualified mortgage to a housing counseling agency approved by the Secretary in the event the mortgage payment of that homeowner is or becomes more than 60 days late so that the housing counseling agency can attempt to reach the homeowner.

''(II) PRE-EXISTING RELATIONSHIP.—In the case that an eligible homeowner has a preexisting relationship with a housing counseling agency approved by the Secretary, or a preference for one agency over another, the homeowner may indicate as such—

''(aa) at the time of settlement of the real estate transaction involving a qualified mortgage issued to that homeowner;

''(bb) by providing written correspondence to the lender or loan servicer for such qualified mortgage stating which housing counseling agency the homeowner would like to work with in case the homeowner should become delinquent in his or her mortgage payments; or

''(cc) by signing an authorization form at the office of such housing counseling agency of choice, which form shall then be sent to the lender or loan servicer.

''(III) RULES OF CONSTRUCTION.—In order to carry out the provisions of this paragraph, lenders and loan servicers may form relationships with housing counseling agencies approved by the Secretary to provide services to eligible homeowners. Notwithstanding the previous sentence, exclusive relationships between any such parties are strictly prohibited.

''(ii) AGENCY REPRESENTATION OF HOMEOWNER.—When a housing counseling agency provides a lender or loan servicer with a signed authorization form to represent an eligible homeowner, the lender or servicer shall respond to requests from that agency for information within 3 days, and to any workout proposals of that agency within 7 days. A lender or loan servicer may not refuse to work with a housing counselor from a housing counseling agency approved by the Secretary, if a signed authorization form an eligible homeowner has been received by that lender or loan servicer (faxed, scanned, and other electronically reproduced authorizations of such authorization form shall also be acceptable).

''(iii) REQUIRED DISCLOSURES TO HOMEOWNER.—Each eligible homeowner shall be informed at the time of settlement of the real estate transaction involving a qualified mortgage issued to that homeowner that under this paragraph a housing counseling agency may provide easier access to assistance in case the homeowner becomes delinquent on his or her mortgage payments and that no information that would make it possible to identify the homeowner will be given to any other entity for any reason without the prior approval of the homeowner.

''(iv) REQUIRED RESOLUTIONS.—A lender or loan servicer shall be required to consider all loss mitigation resolutions for each case of foreclosure initiated by the lender or loan servicer, including the modification of a qualified mortgage to a more permanent, affordable interest rate.

''(v) REQUIRED DISCLOSURES TO HOUSING COUNSELING AGENCIES.—A lender or loan servicer shall disclose to any housing counseling agency approved by the Secretary and authorized to represent an eligible homeowner the name of the originator of the loans as stated in the Pooling and Servicing

Agreement, and the name of the pool Trustee.

''(E) REIMBURSEMENTS FOR HOUSING COUNSELING SERVICES.—

''(i) IN GENERAL.—A lender or loan servicer of a qualified mortgage made to an eligible homeowner shall reimburse the housing counseling agency that is authorized to represent the homeowner upon the rendering of services by such agency to the homeowner under this paragraph.

''(ii) REIMBURSEMENT.—A lender or loan servicer shall seek reimbursement for the payment of housing counseling services as described under clause (i) from the Trust, if any, designated in the lender or servicer's Pooling and Servicing Agreement.

''(F) AVAILABILITY OF WAIVER.—

''(i) IN GENERAL.—An eligible homeowner may choose not to receive information regarding State and local housing counseling agencies approved by the Secretary, or to have their information shared with State and local housing counseling agencies, or both, at any time after default. An eligible homeowner may also submit a signed letter to their lender or loan servicer at any time after default to waive their right to receive information regarding State and local housing counseling agencies.

''(ii) LIMITATION ON WAIVER.—The waiver described under clause (i) shall only apply to the receipt of information regarding housing counseling agencies located in the area where the homeowner is located or the sharing of the homeowner's personal information with such agencies. The waiver described under clause (i) shall not apply to the right of the homeowner to seek foreclosure prevention counseling, nor does it relieve the lender or loan servicer of the requirement to notify the homeowner of the availability of counseling as described in this section.

''(G) DEFINITIONS.—In this paragraph, the following definitions shall apply:

''(i) LENDER.—The term 'lender' has the same meaning as in section 3500.2 of title 24, Code of Federal Regulations.

''(ii) LOAN SERVICER.—The term 'loan servicer' has the same meaning as the term 'servicer' as that term is defined in section 6(i)(2) of the Real Estate Settlement Procedures Act (12 U.S.C. 2605(i)(2)).''.

TITLE VII—REMEDIES AND ENFORCEMENT

SEC. 701. MATERIAL DISCLOSURES AND VIOLATIONS.

(a) MATERIAL DISCLOSURES.—Section 103(u) of the Truth in Lending Act (15 U.S.C. 1602(u)) is amended by—

(1) striking ''material disclosures'' and inserting ''material disclosures or violations''; and

(2) striking ''and the disclosures required by section 129(a)'' and inserting ''and the provisions of sections 129, 129A, and 129B.''.

(b) CONSEQUENCES OF FAILURE TO COMPLY.—Section 129(j) of the Truth in Lending Act (15 U.S.C. 1639(j)) is amended by striking ''contains a provision prohibited by'' and inserting ''violates a provision of''.

SEC. 702. RIGHT OF RESCISSION.

(a) TIME LIMIT FOR EXERCISE OF RIGHT.—Section 125(f) of the Truth in Lending Act (15 U.S.C. 1635(f)) is amended by striking ''An obligor's right of rescission shall expire three years after the date of consummation'' and inserting ''An obligor's right of rescission shall extend to 6 years from the date of consummation''.

(b) ASSERTION OF RIGHT.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by inserting after the second sentence the following new sentence: ''This subsection shall not bar a person from asserting a right to rescission under section 125 in an action to collect the debt or as a defense to a judicial foreclosure or to stop a nonjudicial foreclosure after the expiration of the time period set forth in section 125(f), but not exceed 10 years from the date of the consummation of the transaction.''.

SEC. 703. CIVIL LIABILITY.

(a) IN GENERAL.—Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by—

(1) striking ''creditor'' and inserting ''creditor or mortgage broker'' in each place that term appears;

(2) striking ''CREDITOR'' and inserting ''CREDITOR OR MORTGAGE BROKER'' in each place that term appears; and

(3) striking ''creditor's'' and inserting ''creditor's or mortgage broker's'' in each place that term appears.

(b) STATUTE OF LIMITATIONS EXTENDED FOR SECTION 129, 129A, OR 129B VIOLATIONS.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)), as amended by section 702(b), is further amended—

(1) in the first sentence, by striking ''Any action'' and inserting ''Except as otherwise provided in this subsection, any action'';

(2) by inserting after the first sentence the following new sentence: ''Any action under this section with respect to any violation of section 129, 129A, or 129B may be brought in any United States district court, or in any other court of competent jurisdiction, within 3 years from the date of the occurrence of the violation.''; and

(3) in the fifth sentence (as so redesignated) by striking ''violation of section 129'' and inserting ''violation of section 129, 129A, or 129B''.

(c) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—An action to enforce a violation of section 129, 129A, or 129B of the Truth in Lending Act, as amended and added by this Act, may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. An action under this subsection does not create an independent basis for removal of an action to a United States district court.

(d) OTHER CHANGES TO CIVIL LIABILITY.—

(1) AMOUNT OF AWARD.—Section 130(a)(2) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is amended—

(A) in subparagraph (A)(iii), by—

(i) striking ''$200'' and inserting ''$500'';

(ii) striking ''$2,000'' and inserting ''$5,000''; and

(iii) adding before the semicolon at the end the following: '', such amount to adjusted annually based on the consumer price index, to maintain current value.''; and

(B) in subparagraph (B), by striking ''500,000'' and inserting ''$5,000,000''.

(2) FAILURE TO COMPLY WITH SECTION 129A.—Section 130(a)(4) of the Truth in Lending Act (15 U.S.C. 1640(a)(4)) is amended by inserting ''or 129A'' after ''129''.

SEC. 704. LIABILITY FOR MONETARY DAMAGES.

Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) LIABILITY OF ASSIGNEES FOR MONETARY DAMAGES FOR VIOLATIONS OF SECTIONS 129A AND 129B.—

''(1) SUBPRIME OR NONTRADITIONAL LOANS.—

''(A) INDIVIDUAL ACTIONS.—Notwithstanding subsections (a) and (e), any person who purchases, holds, or is otherwise assigned a mortgage or similar security interest in connection with a subprime or nontraditional home mortgage loan, other than a loan described under section 103(aa), shall be liable in an individual action for remedies available under section 130 for violations of sections 129A and 129B that the consumer could assert against the creditor or mortgage originator originating that mortgage.

''(B) CLASS ACTIONS.—Notwithstanding subsections (a) and (e), any person who purchases, holds, or is otherwise assigned a mortgage or similar security interest in connection with a subprime or nontraditional home mortgage loan, other than a loan described under section 103(aa), shall be liable in a class action for remedies available under section 130 for violations of section 129A that the consumer could assert against the creditor or mortgage originator originating that mortgage, unless such person demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary and independent due diligence could not determine that the home mortgage loan was not in compliance with the requirements of section 129A.

''(2) OTHER LOANS.—Notwithstanding subsections (a) and (e), any person who purchases, holds, or is otherwise assigned a mortgage or similar security interest in connection with home mortgage loan other than a loan described under section 103(aa), a subprime, or a nontraditional loan, shall be liable only in an individual action for remedies available under section 130 for violations of section 129B that the consumer could assert against the creditor or mortgage originator originating that mortgage, provided that such liability is limited to the amount of all remaining indebtedness and the total amount paid in connection with the transaction plus amounts required to recover costs, including reasonable attorneys' fees.''.

SEC. 705. REMEDY IN LIEU OF RESCISSION FOR CERTAIN VIOLATIONS.

Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is further amended by adding at the end the following new subsection:

''(h) REMEDY IN LIEU OF RESCISSION FOR CERTAIN VIOLATIONS.—At the election of a consumer entitled to rescind for violations of sections 129, 129A, or 129B, any person (including a creditor) who holds, purchases, or is otherwise assigned a mortgage or similar security interest in connection with home mortgage loan—

''(1) may be required to make such adjustments to the balance of the obligation as are required under section 125; and

''(2) shall modify or refinance the loan, at no cost to the consumer, the resulting balance of which shall provide terms that would have satisfied the requirements of sections 129, 129A, or 129B at the origination of the loan and to pay costs and reasonable attorneys fees.''.

SEC. 706. PROHIBITION ON MANDATORY ARBITRATION.

Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is further amended by adding at the end the following new subsection:

''(i) RULE OF CONSTRUCTION.—No provision in a home mortgage loan shall be construed to bar a consumer from access to any judicial procedure, forum, or remedy through any court of competent jurisdiction under any provision of Federal or State law.''.

SEC. 707. LENDER LIABILITY.

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end the following new subsection:

''(i) LENDER LIABILITY.—

''(1) TRANSITIVE LIABILITY FOR SUBPRIME LOAN.—In any case in which a mortgage broker sells or delivers a high-cost mortgage, a subprime mortgage, or a nontraditional mortgage, a creditor shall be liable for the acts, omissions, and representations made by the mortgage broker in connection with such home mortgage loan.

''(2) TRANSITIVE LIABILITY FOR OTHER LOANS.—In the case of any other home mortgage loan not described under paragraph (1) in which a mortgage broker has received a yield spread premium or other compensation from a creditor, the creditor shall be liable for the acts, omissions, and representations made by the mortgage broker in connection with such home mortgage loan.''.

TITLE VIII—OTHER BANKING AGENCY AUTHORITY

SEC. 801. INCLUSION OF ALL BANKING AGENCIES IN THE REGULATORY AUTHORITY UNDER THE FEDERAL TRADE COMMISSION ACT WITH RESPECT TO DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking ''banks or savings and loan institutions described in paragraph (3), each agency specified in paragraph (2) or (3) of this subsection shall establish'' and inserting ''depository institutions and Federal credit unions, the Federal banking agencies and the National Credit Union Administration Board shall each establish''; and

(ii) by striking ''banks or savings and loan institutions described in paragraph (3), subject to its jurisdiction'' and inserting ''depository institutions or Federal credit unions subject to the jurisdiction of such agency or Board'';

(B) in the second sentence, by striking ''The Board of Governors of the Federal Reserve System (with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (3))'' and inserting ''Each Federal banking agency (with respect to the depository institutions each such agency supervises)'';

(C) in the third sentence—

(i) by striking ''each such Board'' and inserting ''each such banking agency and the National Credit Union Administration Board'';

(ii) by striking ''banks or savings and loan institutions described in paragraph (3)'' each place such term appears and inserting ''depository institutions subject to the jurisdiction of such agency'';

(iii) by striking ''(A) any such Board'' and inserting ''(A) any such Federal banking agency or the National Credit Union Administration Board''; and

(iv) by striking ''with respect to banks, savings and loan institutions'' and inserting ''with respect to depository institutions''; and

(D) by adding at the end the following: ''For purposes of this subsection, the terms 'Federal banking agency' and 'depository institution' have the same meaning as in section 3 of the Federal Deposit Insurance Act.'';

(2) in paragraph (3), by inserting ''by the Director of the Office of Thrift Supervision'' before the period at the end;

(3) in paragraph (4), by inserting ''by the National Credit Union Administration'' before the period at the end; and

(4) by amending paragraph (5) to read as follows:

''(5) For the purpose of the exercise by the Federal banking agencies described in paragraphs (2) and (3) and the National Credit Union Administration Board described in paragraph (4) of its powers under any Act referred to in those paragraphs, a violation of any regulation prescribed under this subsection shall be considered a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraphs (2) through (4), each of the agencies or the Board referred to in those paragraphs may exercise, for the purpose of enforcing compliance with any regulation prescribed under this subsection, any other authority conferred on it by law.''.

(b) PREEMPTION.—Such section 18(f) is further amended by striking paragraph (6) and inserting the following:

''(6) Notwithstanding anything in this subsection or any other provision of law, including the National Bank Act (12 U.S.C. 38 et seq.) and the Home Owners' Loan Act (12 U.S.C. 1461 et seq.), regulations promulgated under this subsection shall be considered supplemental to State laws governing unfair and deceptive acts and practices and may not be construed to preempt any provision of State law that provides equal or greater protections.''.

(c) TECHNICAL AMENDMENT.—Such section 18(f) is further amended in paragraph (2)(C), by inserting ''than'' after ''(other''.

TITLE IX—MISCELLANEOUS

SEC. 901. AUTHORIZATIONS.

For fiscal years 2008, 2009, 2010, 2011, and 2012, there are authorized to be appropriated to the Attorney General of the United States, a total of—

(1) $31,250,000 to support the employment of 30 additional agents of the Federal Bureau of Investigation and 2 additional dedicated prosecutors at the Department of Justice to coordinate prosecution of mortgage fraud efforts with the offices of the United States Attorneys; and

(2) $750,000 to support the operations of interagency task forces of the Federal Bureau of Investigation in the areas with the 15 highest concentrations of mortgage fraud.

''HOMEOWNERSHIP PRESERVATION AND PROTECTION ACT OF 2007''—KEY PROVISIONS

TITLE I: HIGH COST MORTGAGES

Definition of ''High Cost'' Mortgage. The legislation tightens the definition of a ''high cost mortgage'' for which certain consumer protections are triggered. The new definition, which amends the ''Home Ownership Equity Protection Act,'' (HOEPA) is as follows: first mortgages with APRs that exceed Treasury securities by eight (8) percentage points (with a range from 6 to 10 percent); second mortgages with APRs that exceed Treasury securities by ten (10) percentage points (with a range of 8 to 12 percent); or mortgages where total points and fees payable by the borrower are five percent (5 percent) of the total loan amount, or, for smaller loans of less than $20,000, the lesser of eight (8) percentage or $1,000. The bill revises the definition of points and fees to include yield spread premiums and other charges. It allows for up to two bona fide discount points outside of the 5 percent trigger.

The following key protections are triggered for high cost mortgages

No financing of points and fees. The bill prohibits a creditor from directly or indirectly financing any portion of the points, fees or prepayment penalties. These limitations and prohibitions are designed to discourage lenders from ''flipping'' the mortgage in order to extract additional excessive fees.

Prohibition on prepayment penalties. The bill prohibits the lender from imposing prepayment penalties for high cost loans.

Prohibition of Yield Spread Premiums (YSPs). The bill prohibits YSPs for placing a borrower in a high cost loan that is more costly than that for which the borrower qualifies. Mortgage brokers, who have originated about 70 percent of subprime mortgages, receive higher compensation through YSPs for steering borrowers to these higher cost loans. This bill will eliminate the incentive to ''upsell'' these borrowers.

Net Tangible Benefit. The originator must determine that a high-cost refinance loan provides a net tangible benefit to the borrower.

Prohibition on balloon payments. The bill prohibits the use of balloon payments.

Limitation on single premium credit insurance. The bill would prohibit the upfront payment or financing of credit life, credit disability or credit unemployment insurance on a single premium basis. However, borrowers are free to purchase such insurance with the regular mortgage payment on a periodic basis, provided that it is a separate transaction that can be canceled at any time.

TITLE II—SUBPRIME AND NON-TRADITIONAL MORTGAGES

Definition of ''Subprime Mortgage'' and ''Nontraditional Mortgage'': The legislation creates a new designation in the law for subprime and nontraditional mortgages.

Subprime mortgages. Mortgages that have interest rates that are 3 percentage points higher than Treasury securities of comparable maturities for first mortgages and 5 percentage points for second mortgages. This definition tracks the Federal Reserve Board's definition of subprime lending for the purposes of the Home Mortgage Disclosure Act (HMDA) reporting. In addition, the legislation includes an alternative measure that is designed to prevent capturing too many mortgages when the yield curve is unusually flat.

Nontraditional mortgages. These are mortgages that allow deferral of the payment of interest or principal. Interest-only and payment-option ARMs are the current examples of nontraditional mortgages we see most often.

Requirements for making subprime or nontraditional mortgages

Ability to repay. A mortgage originator must establish that a borrower has the ability to repay the loan based on the fully-indexed rate, assuming full amortization. In making this determination, the originator must consider the borrower's income, credit history, debt-to-income (DTI) ratio, employment status, residual income, and other financial resources.

Require Escrows for Taxes and Insurance. While nearly all prime mortgages include escrows for taxes and insurance, very few subprime loans include such escrows. The legislation would require these escrows for all subprime and nontraditional loans.

Nearly all prime loans include escrows for taxes and insurance. Yet, few subprime mortgages include these escrows. Currently, unscrupulous mortgage originators entice unsophisticated borrowers into taking out abusive loans with promises of lower monthly payments, in part by comparing their current payments, which often include escrows, with proposed loans that do not include escrows in the monthly payments and, therefore, appear lower. Then, when insurance or tax payments are due, the borrowers, who often do not have the resources to pay the taxes, are forced to seek new loans to cover the required payments, generating a whole new set of fees. Lack of escrows, in other words, becomes a tool for ''flipping'' borrowers into yet another, high-cost loan.

Debt-to-Income Ratio. If a borrower's DTI ratio is greater than 45 percent, a mortgage is assumed to be unaffordable unless the originator can show, at a minimum, sufficient residual income to afford the loan.

The ability to repay standard is largely based on guidance published by the federal regulators in late 2006 and early 2007 and applied to the sub prime and nontraditional mortgage markets.

The following protections apply to borrowers who take out subprime or nontraditional mortgages

No Prepayment Penalties. The legislation will prohibit all prepayment penalties for subprime and nontraditional loans.

Prepayment penalties unfairly trap subprime borrowers in expensive subprime mortgages. These penalties make it cost-prohibitive to refinance into better loans, or strip out equity when the penalty is paid. Studies done by the Center for Responsible Lending (CRL) show that interest rates on subprime loans are no lower for loans with prepayment penalties—the ostensible rationale for these fees—than for loans without these penalties, even after holding credit scores, LTVs, and other factors constant. Moreover, the CRL study shows that the odds of having a loan with a prepayment penalty increases significantly for borrowers who live in minority neighborhoods.

No Yield-Spread Premiums (YSPs). The legislation will prohibit YSPs for subprime and nontraditional loans.

YSPs are payments made by lenders to mortgage brokers, usually without the borrower's knowledge. In exchange for the YSP, the lender charges the borrower a higher interest rate than that for which he could have qualified. The industry justifies YSPs as a way for the borrower to pay the broker's fee and other closing costs without paying cash at the closing table. However, numerous studies have shown that YSPs result in higher costs for consumers. For example, a study done by HUD (while Senator Martinez was Secretary) concluded that half ($7.5 billion) of the $15 billion paid in YSPs at the time of this study ''is not passed through . . . to reduce closing costs.''. More recent research by HUD indicates that fees tend to rise even as interest rates do—exactly the opposite of what the industry says should happen—and that this effect is more pronounced for minority borrowers. Research sponsored by Freddie Mac also came to the conclusion that borrowers who pay YSPs along with direct fees pay more for loans, all other things being equal.

Net Tangible Benefit. The originator must determine that a high-cost refinance loan provides a net tangible benefit to the borrower.

Remedies

Individual borrowers who get loans in violation of these provisions will be able to rescind (i.e. ''unwind'') the loans. Alternatively, at the choice of the borrower, the creditor or holder of the loan may cure the loan by making the borrower whole.

Actual damages.

Statutory damages up to $5,000 per loan, regardless of the number of violations per loan (up from $2,000 per loan in current law), plus the sum of finance charges and fees.

Makes mortgage brokers liable for violations of TILA

No class actions for assignees who perform due diligence to ensure they are not buying loans in violation of the law.

As in current law, creditors are subject to class actions for making loans in violation of the law with damages capped at the lesser of 1 percent of net worth or $5 million (current law caps class damages at the lesser of 1 percent of net worth or $500,000).

A key goal of the legislation is to realign the interests of the mortgage production system with the interest of the borrower. In recent years, as many observers have noted, the incentives in the system have worked against the interests of borrowers and resulted in larger loans, at higher rates, with weaker underwriting, and without regard to the ability of the borrower to repay the loans. As The Economist put it:

Mortgages were written for a fee, sold to investment banks for a fee, then packaged and floated for another fee. At each link in the chain, the fees mattered more than the quality of the loans . . .

To insure that the quality of the loans does matter, a reasonable amount of responsibility for making good loans must travel with the mortgage. The legislation allows for individual actions by borrowers who have been given illegal loans to make themselves whole. There will be no class liability for assignees who exercise due diligence to avoid funding and buying these loans.

Moreover, it is crucial that the burden of curing an illegal loan rest not with the victims, such as Dorothy King, the elderly woman who testified before the Senate Committee on Banking, Housing, and Urban Affairs in February, 2007. The subprime borrower is often more vulnerable, less sophisticated, lower income, and less likely to have access to better lenders. For the subprime borrower, or most any borrower, their home is their chief asset. If the borrower faces the loss of her only real asset through a foreclosure, for instance, as a result of a violation of the law, it is simply not fair to put the burden on her to find a party that can make her whole, spending months in the courts while she faces the loss of her home. The sensible and fair thing to do is to allow her to go to the only party that can give her relief—the note holder. The note holder, which is typically a large institutional entity such as a pension fund, insurance company, hedge fund or the like, is in a far better position to recover from another party who may have caused the problem. In the long run, this process will bring more discipline to the mortgage marketplace, the very kind of discipline that has been missing over the past several years.

TITLE III—ALL MORTGAGES

All home loan borrowers get the following rights and protections:

All mortgage originators—lenders and brokers—owe a duty of good faith and fair dealing to borrowers. The duty of good faith and fair dealing is widespread in state law with regard to the execution of contracts. It would apply that duty to the making of a mortgage contract, which is a new, but reasonable application.

All mortgage originators have to make reasonable efforts to make an advantageous loan to the borrower, considering that borrower's circumstances. For example, this requirement would prohibit a broker or lender from giving an adjustable rate mortgage with a high likelihood of escalating costs to an elderly person on a fixed income.

Mortgage brokers owe a fiduciary duty to their customers. The bill designates mortgage brokers as fiduciaries of borrowers. This means that brokers represent the borrower in the transaction.

Today, brokers typically sell their services by telling borrowers that they will do the shopping for the borrowers. Indeed, the National Association of Mortgage Brokers (NAMB) made the claim on their web site (until they were questioned about it at a Senate Banking Committee hearing) that brokers serve as ''mentors'' to borrowers to help them through the complex process of getting a loan. An industry publication, *Inside B & C Lending*, described mortgage brokers as being particularly adept at convincing borrowers that they were ''trusted advisors'' to the borrowers. The bill would simply make the brokers live up to the role they often claim for themselves—that of a fiduciary.

Prohibit steering. Mortgage originators are prohibited from steering borrowers to more costly loans than that for which the borrower qualifies. This provision is designed to counteract the widespread problem of prime quality borrowers being steered into subprime loans. This provision would require originators to notify borrowers that they qualify for higher quality loans, even if the originator does not offer those prime loans.

Over the past several years, there have been estimates that from 20 to 50 percent of subprime borrowers could have qualified for prime loans. The Wall Street Journal (''Subprime Debacle Traps Even Very Credit-Worthy,'' December 3, 2007) reported on a study it commissioned that found in 2006 that 61 percent of subprime loans went to ''people with credit scores high enough to often qualify for conventional loans with far better terms.'' HMDA data repeatedly shows that minorities are given higher cost loans in disproportionate numbers.

Limitations on Yield-Spread Premiums. Allows YSPs only in the case of no-cost loans. (YSPs for high-cost, subprime, and nontraditional mortgages would be prohibited). Where YSPs are paid, brokers may not receive any other compensation from any other source and prepayment penalties are prohibited.

As discussed above, mortgage brokers argue that YSPs are a way for cash-constrained borrowers to cover closing costs, including the broker fee. However, independent research has consistently shown that mortgage brokers keep at least half or more of the YSPs for themselves. For example, HUD research showed that no more than half of all YSPs went to offset closing costs. Other research commissioned by Freddie Mac, showed that borrowers who paid a combination of direct fees and YSPs paid significantly more in fees than borrowers who got no-cost loans where a broker's compensation came completely from the YSP. Research also indicates that there is a significant racial component to YSPs. Racial minorities pay even more in fees than similarly situated white borrowers.

Limit Low- and No-Documentation Loans. The legislation requires adequate documentation for mortgage loans. However, it gives the Federal Reserve the authority to make exceptions as deemed appropriate, presumably for prime loans.

Remedies

Individual borrowers who get loans in violation of these provisions will be able to rescind (i.e. ''unwind'') the loans. Alternatively, at the choice of the borrower, the creditor or holder of the loan may cure the loan by making the borrower whole.

Actual damages.

Statutory damages up to $5,000 per loan, regardless of the number of violations per loan (up from $2,000 per loan in current law).

Makes mortgage brokers liable under TILA for violations of TILA.

No class liability for assignees.

TITLE IV—GOOD FAITH AND FAIR DEALING IN APPRAISALS

Requirements for Appraisers

Appraisers owe a duty of good faith and fair dealing to borrowers.

No lender may encourage or influence an appraiser to ''hit'' a certain value in connection with making a home loan. In addition, a lender may not seek to influence an appraiser's work, nor select an appraiser on the basis of an expectation that he or she will appraise a property at a high enough value to facilitate a home loan.

A crucial cause of the current mortgage meltdown has been inflated appraisals. Many ethical appraisers complain that lenders will only use appraisers who consistently value properties at the levels necessary to allow the loan to close. Appraisers who do not cooperate simply do not get hired. This is particularly detrimental to the homeowner because it leads the homeowner to believe he

or she has equity where little or none may exist.

Appraisers must obtain bonds equal to one percent of the value of the homes appraised.

Remedies available to borrowers

Lenders must adjust outstanding mortgages where appraisals exceeded true market value by 10 percent or more.

When an appraisal exceeds market value by 10 percent (plus or minus 2 percent) or more, a borrower has a cause of action against the lender. A consumer who is awarded remedies under this section shall collect from the appraiser's bond.

Actual and statutory damages up to $5,000.

TITLE V—GOOD FAITH AND FAIR DEALING IN HOME LOAN SERVICING

Requirements for mortgage servicers

Mortgage Servicers owe a duty of good faith and fair dealing to borrowers. James Montgomery, former Chairman of Great Western Financial Corporation, and a former director of Freddie Mac, said recently, ''Servicers make money on foreclosure,'' (American Banker, December 4, 2007). This standard would prevent servicers from unfairly profiting from their servicing responsibilities.

Prompt crediting of payments. Servicers must credit all payments on the day received. Payments must first be credited to principal and interest due on the note.

Servicers can employ a scheme called ''pyramiding,'' by which they hold a payment until it is late, use a portion of the payment to cover the late fee, thereby causing the remaining payment to be insufficient. When the next month's payment is made, it is insufficient to cover the previous shortfall and the new payment, generating another penalty fee. The legislation will require both prompt posting of payments and crediting of payments to principal and interest before being charged to late fees or other charges.

All fees must be reasonable and for services actually provided, and only if allowed by the mortgage contract. In addition, an adequate notice and statement is required.

No force-placing of insurance without clear notice to the borrower.

Currently, some servicers claim that the borrower does not have insurance on the property and ''force-places'' such insurance on the loan. Sometimes, that insurance is purchased from an affiliate; oftentimes the servicer is given a significant commission for doing so. Many times, as was the case with the Fairbanks Capital case settled by the FTC in 2003, the borrowers already had insurance, but were charged for the additional insurance in any case. As with the pyramiding problems, these extra charges could often result in the borrower being put into default.

Prior to initiating foreclosure. a servicer must attempt to implement loss mitigation.

Even in the dire circumstances existing in the mortgage market today, and despite the nearly universal calls for action from regulators, government officials, and consumer advocates, mortgage servicers have been extremely slow to offer meaningful alternatives to foreclosure for most borrowers. In fact, according to Moody's, only 1 percent of subprime ARM borrowers have received any loan modifications during the current crisis. Furthermore, a new study shows how servicers use the foreclosure process to make additional fees from the troubled borrowers, even borrowers in bankruptcy. These conclusions are consistent with practices uncovered by the FTC in its 2003 investigation of mortgage servicing practices of Fairbanks Capital, one of the largest subprime mortgage servicers at the time. This provision will insure that adequate loss mitigation is offered to the borrower prior to foreclosure.

Require servicers to report their loss mitigation activities.

In order to see which servicers are meeting their requirements under this provision, the legislation will require public reporting of loss mitigation activities. The lack of responsiveness in the current crisis indicates how important public accountability is to maximize the number of homes saved.

Remedies

Actual and statutory damages (up to $5,000).

TITLE VI—FORECLOSURE PREVENTION COUNSELING

Require that borrowers be notified of availability of foreclosure prevention counseling both at closing and upon default.

Require servicers, with the consent of the borrower, to forward the borrower's name to a HUD-authorized foreclosure counselor upon default.

It is widely agreed that reluctance by delinquent borrowers to respond to communications from the lender or servicer reduces the effectiveness of loss mitigation. The legislation will help expedite contact with the borrower by having it come from a 3rd party counselor.

The servicer must reimburse the counselor for its work.

Once a borrower is working with an approved housing counselor, the servicer may not initiate foreclosure for 45 days to give the parties an opportunity to work out a mutually agreeable solution.

TITLE VI—REMEDIES

Description of remedies are listed in each relevant title.

TITLE VIII—GIVE THE FDIC AND OCC UDAP RULEMAKING AUTHORITY.

Currently, only the Federal Reserve may issue a regulation establishing standards for determining unfair or deceptive acts or practices (UDAP) for banks. The Office of Thrift Supervision has the authority to do this for thrifts, and has indicated its intention of issuing such a rule. This provision would give other banking regulators the same authority. These regulators have requested this authority, and have indicated that they are willing to act.

OTHER PROVISIONS

The Federal Reserve Board will be responsible for writing regulations to implement this Act.

The Act takes effect 6 months after date of enactment.

The legislation provides protections for renters in foreclosed homes.

The legislation authorizes additional appropriations to the FBI to fight mortgage fraud.

By Mr. COLEMAN (for himself and Mr. LEAHY):

S. 2455. A bill to provide $1,000,000,000 in emergency Community Development Block Grant funding for necessary expenses related to the impact of foreclosures on communities; to the Committee on Banking, Housing, and Urban Affairs.

Mr. COLEMAN. 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. 2455

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 ''Community Foreclosure Assistance Act of 2007''.

SEC. 2. ADDITIONAL EMERGENCY CDBG FUNDING.

(a) APPROPRIATION.—There are authorized to be appropriated, and shall be appropriated, $1,000,000,000, to remain available until expended, for assistance to States, metropolitan cities, and urban counties (as those terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) in carrying out the community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.)—

(1) for necessary expenses related to the impact of housing foreclosures, and other related economic and community development activities; and

(2) to provide foreclosure-based rental assistance for individual renters in the form of relocation assistance.

(b) LIMITATION.—

(1) IN GENERAL.—Except for counseling services none of the amounts appropriated under subsection (a) may be provided, directly or indirectly, to an individual homeowner for foreclosure prevention purposes, including for refinancing assistance, loans, or any other form of financial assistance. Such funds may be provided directly to a certified housing counseling service, which shall be considered as a subrecipient of such grant amounts.

(2) DEFINITION.—For purposes of paragraph (1), the term ''certified housing counseling service'' means a housing counseling agency approved by the Secretary of Housing and Urban Development pursuant to section 106(d) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)).

SEC. 3. INCREASED PUBLIC SERVICES REQUIREMENT CAP.

For purposes of this Act, paragraph (8) of section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) shall apply to the use of all funds appropriated or otherwise made available under this Act by substituting—

(1) ''25 per centum'' for ''15 per centum'' each place that term appears; and

(2) ''25 percent'' for ''15 percent'' each place that term appears.

SEC. 4. LOW AND MODERATE INCOME REQUIREMENT.

At least 50 percent of the funds appropriated or otherwise made available under this Act shall benefit primarily persons of low- and moderate-income.

SEC. 5. PLANS AND REPORTS.

(a) COMPREHENSIVE PLAN.—None of the funds appropriated or otherwise made available under this Act shall be used by any State, metropolitan city, or urban county until such time as that State, metropolitan city, or urban county submits to the Secretary of Housing and Urban Development, for approval by the Secretary, a comprehensive plan detailing the proposed use of all such funds.

(b) REPORT ON USE OF FUNDS.—During the period of time that funds are being expended under this Act, each State, metropolitan city, or urban county receiving funds under this Act shall submit, on a quarterly basis, a report to the Secretary of Housing and Urban Development describing and accounting for the use of all such funds expended during the applicable period.

SEC. 6. WAIVERS.

(a) GENERAL WAIVER.—In administering funds appropriated or otherwise made available under this Act, the Secretary of Housing and Urban Development shall waive, or specify alternative requirements for, any provision of any statute or regulation that

the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of such funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State, metropolitan city, or urban county that such waiver is required to facilitate the use of such funds, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute.

(b) LOW AND MODERATE INCOME REQUIREMENT WAIVER.—The Secretary of Housing and Urban Development may waive, upon the request of a State, metropolitan city, or urban county, the 50 percent requirement described under section 4. Such waiver shall, in the discretion of the Secretary, only be granted if a compelling need is demonstrated.

(c) PUBLIC SERVICES CAP.—The Secretary of Housing and Urban Development may waive, upon the request of a State, metropolitan city, or urban county, the public service requirement cap described under section 3. Such waiver shall, in the discretion of the Secretary, only be granted if a compelling need is demonstrated.

(d) OTHER WAIVER PROVISIONS.—

(1) PUBLICATION IN THE FEDERAL REGISTER.—The Secretary of Housing and Urban Development shall publish in the Federal Register any waiver of any statute or regulation authorized under this section not later than 5 days before the effective date of such waiver.

(2) REVIEW OF WAIVER.—Each waiver granted under this section by the Secretary of Housing and Urban Development shall be reconsidered, and if still necessary reauthorized by the Secretary, not later than 2-years after the date on which such waiver was first published in the Federal Register pursuant to paragraph (1).

(3) NOTIFICATION OF COMMITTEES.—The Secretary of Housing and Urban Development shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any waiver granted or denied under this section not later than 5 days before such waiver is granted or denied.

SEC. 7. NONCOMPLIANCE WITH COMMUNITY DEVELOPMENT REQUIREMENTS.

For purposes of this Act, the provisions of section 111 of the Housing and Community Development Act of 1974 (42 U.S.C. 5311)(relating to noncompliance) shall apply to the use of all funds appropriated or otherwise made available under this Act.

SEC. 8. GAO AUDIT.

The Comptroller General of the United States shall—

(1) conduct an audit of the expenditure of all funds appropriated under this Act in accordance with generally accepted government auditing standards; and

(2) submit a report detailing such audit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 9. REPORTS.

The Secretary of Housing and Urban Development shall report, on a quarterly basis, to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives on—

(1) the use of funds appropriated or otherwise made available under this Act, including—

(A) the number of households receiving counseling and rental assistance;

(B) the outcomes of such assistance activities;

(C) the names of those certified housing counseling service providing counseling assistance pursuant to this Act; and

(D) such other information as the Secretary may deem appropriate; and

(2) all steps taken by the Secretary to prevent fraud and abuse of such funds.

By Mr. REID (for Mrs. CLINTON (for herself and Mr. ROBERTS)):

S. 2456. A bill to amend the Public Health Service Act to improve and secure an adequate supply of influenza vaccine; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today I join my colleague, Senator PAT ROBERTS, in introducing the Influenza Vaccine Security Act. Senator ROBERTS and I first introduced this legislation during the 109th Congress, in response to seasonal flu vaccine shortages, as well as the growing awareness of the need for pandemic flu preparedness. Some of these provisions were incorporated into law, but the overall need to address problems in education, tracking, and distribution related to seasonal influenza vaccine have not changed.

About 36,000 Americans die from the flu every year, and 200,000 more are hospitalized due to complications from the flu. These complications and deaths are largely preventable with a simple flu shot. Yet the process of getting a flu shot is not always simple. Since 2000, our Nation has experienced multiple shortages of flu vaccine prior to Thanksgiving, when demand is highest. What we have also experienced—and what received less attention—is the fact that at the end of the flu season, we often have surpluses. The millions of doses that were in such high demand earlier in the season go unused. We need to bring some stability into the vaccine market, to ensure that we have vaccine at periods of high demand, and also sustain demand beyond the limited early-season period.

The Influenza Vaccine Security Act will help create a stable flu vaccine market for manufacturers by increasing coordination between the public and private sectors so that we can set targets and procedures for dealing with both shortages and surpluses before they hit. It will also create a buyback provision so that we can direct late-season surplus vaccine to public health and bioterrorism prevention efforts, instead of having it go to waste. The legislation will increase demand for vaccine by improving education and outreach to populations with historically low rates of influenza vaccination.

Of course, vaccines do us no good if they can't get to the people who need them, and in past shortages, we had problems matching existing stocks of vaccine to the high priority populations, like senior citizens, who needed vaccines right away. The Influenza Vaccine Security Act also sets up a tracking system so the CDC and state and local health departments can share the information they need to ensure that high priority populations will have access to vaccines. This tracking system is critical and will provide fundamental infrastructure necessary not only to deal with our annual flu season, but avian or other pandemic outbreaks.

This legislation is supported by Trust for America's Health, the American Lung Association, the American Public Health Association, the National Association of County and City Health Officials, the American Academy of Pediatrics, the American Academy of Physician Assistants, the American College of Occupational and Environmental Medicine, the Association of American Medical Colleges, the Association for Professionals in Infection Control and Epidemiology, the Allergy & Asthma Network, Mothers of Asthmatics, the Asthma and Allergy Foundation of America, the Center for Biosecurity at the University of Pittsburgh Medical Center, the Center for Infectious Disease Research & Policy, the Immunization Coalition of Washington, DC, and the Service Employees International Union.

Mr. President, I ask unanimous consent to have letters of support printed in the RECORD.

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

DECEMBER 11, 2007.

Hon. HILLARY CLINTON,
U.S. Senate,
Washington, DC.
Hon. PAT ROBERTS,
U.S. Senate,
Washington, DC.

DEAR SENATORS CLINTON AND ROBERTS: The undersigned organizations join in thanking you for your leadership in protecting our nation's health. By introducing the Influenza Vaccine Security Act of 2007, you address one of the most critical issues confronting the public's health in the United States—the challenge of ensuring an adequate and timely influenza vaccine supply. According to the Centers for Disease Control and Prevention (CDC), the seasonal flu claims as many as 36,000 lives each year and results in more than 200,000 hospitalizations. These numbers could skyrocket in the case of an influenza pandemic.

The introduction of the Influenza Vaccine Security Act is an important step toward improving the U.S. response to outbreaks of seasonal flu. Among its provisions, the legislation provides incentives to manufacturers to enter the U.S. flu vaccine market and expand production capacity, increases funding for vaccine research and development, and increases flu surveillance and outreach, coordination, and education. Also, public health officials must have the flexibility to provide the medication where outbreaks are most severe. Your bill provides the Secretary of Health and Human Services with the ability to prioritize vaccine distribution to high-risk populations and to ensure geographic equity.

In addition to preparation for seasonal flu, the legislation takes important steps to prevent and respond to a severe flu pandemic. We applaud the emphasis on outreach, as the efficient, widespread distribution of seasonal flu vaccines would allow healthcare providers to conduct exercises to prepare for the event of a severe flu pandemic. In addition, the provision allowing unused vaccines to be redeployed to state and local health departments for mass vaccination exercises will also be useful in preparation for an influenza pandemic. Finally, allowing the Secretary to purchase antiviral medications and N–95 respirator masks and encouraging stockpiling

of pediatric countermeasures will be critical to treating and minimizing the effects of a pandemic influenza outbreak.

Prevention is the key to protecting and saving American lives from seasonal flu outbreaks. Again, we want to commend your leadership and thank you for introducing this very important public health bill.

Sincerely,

American Academy of Pediatrics; American Academy of Physician Assistants; American College of Occupational and Environmental Medicine; Association of American Medical Colleges; Association for Professionals in Infection Control and Epidemiology; Allergy & Asthma Network Mothers of Asthmatics; Asthma and Allergy Foundation of America; Center for Biosecurity, University of Pittsburgh Medical Center; Center for Infectious Disease Research & Policy; Immunization Coalition of Washington, DC; Service Employees International Union; Trust for America's Health.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, December 3, 2007.

Hon. HILLARY CLINTON,
U.S. Senate,
Washington, DC.

Hon. PAT ROBERTS,
U.S. Senate,
Washington, DC.

DEAR SENATORS CLINTON AND ROBERTS: On behalf of the American Public Health Association (APHA), the oldest and most diverse organization of public health professionals in the world, dedicated to protecting all Americans, their families and communities from preventable, serious health threats and assuring community-based health promotion and disease prevention activities and prevention health services are universally accessible in the United States, I write to thank you for your attention to and leadership on the important public health issue of influenza. The Influenza Vaccine Security Act is an important step to ensuring that the country has an adequate supply of vaccine for seasonal flu and addresses important issues related to pandemic influenza.

We are pleased your legislation contains provisions to increase the production of seasonal influenza vaccine that will improve public health, as well as a provision expanding the current influenza surveillance system. Improved surveillance is not only important for seasonal influenza, but is vital to an early, rapid response to an influenza pandemic. APHA applauds the inclusion of a provision directing the Secretary of Health and Human Services to increase the supply of antiviral medications and N–95 respirator masks to ensure sufficient supply for responders and children. In addition, we support the creation of a tracking system for vaccine distribution, with a focus on ensuring that vaccine is distributed to high priority populations. Finally, your legislation would increase outreach and education and improve its coordination, especially the focus on increasing vaccination rates among providers and medically underserved communities. We believe this is a critical step in eliminating disparities in this area.

Thank you again for your leadership on this important public health issue. We look forward to working with you as the Influenza Vaccine Security Act moves through the legislative process. If you have any questions or need additional information, please contact me or have your staff contact Don Hoppert or Michealle Carpenter.

Sincerely,

GEORGES C. BENJAMIN,
Executive Director.

AMERICAN LUNG ASSOCIATION,
New York, NY, December 4, 2007.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: The American Lung Association strongly supports your Influenza Vaccine Security Act of 2007. Thank you for recognizing the importance of prevention in saving lives from annual flu outbreaks. Once enacted into law, this legislation will confront a pressing public health issue in the United States—establishing a continuous and adequate supply of influenza vaccine. It will also allow the United States to take initiative in improving its response to outbreaks, such as accelerating participation in the global influenza pandemic prevention effort.

According to the Centers for Disease Control and Prevention (CDC), the seasonal flu takes the lives of 36,000 people every year. Such alarming numbers can have an effect on the public health of the United States, as well as impact health care costs. The American Lung Association is confronting this issue through our national Faces of Influenza public awareness campaign, which urges Americans to get their annual influenza vaccination. The Lung Association also provides a free, online Flu Clinic Locator, making it easier for the American public to find flu shot clinics in their local area.

The Influenza Vaccine Security Act of 2007 addresses many issues associated with influenza prevention and treatment. This legislation offers vaccine manufacturers important incentives to enter the U.S. flu vaccine market, expand their production capacity, increase surveillance and outreach efforts and coordination, and boost funding for ongoing research and development of vaccines. This legislation also provides the U.S. Secretary of Health and Human Services the authority to prioritize the distribution of vaccines, particularly among at-risk groups.

Your legislation also recognizes the importance of ensuring that unused vaccines be redeployed to state and local health departments. These provisions will be critical in responding to domestic outbreaks and preparing for an influenza pandemic.

The American Lung Association commends your efforts regarding this high-priority concern and looks forward to working with you to see the Influenza Vaccine Security Act of 2007 enacted into law.

Sincerely,

BERNADETTE A. TOOMEY,
President and CEO.

NATIONAL ASSOCIATION OF COUNTY & CITY HEALTH OFFICIALS,
Washington, DC, December 11, 2007.

Hon. HILLARY RODHAM CLINTON,
Senate Office Building,
Washington, DC.

Hon. PAT ROBERTS,
Senate Office Building,
Washington, DC.

DEAR SENATORS CLINTON AND ROBERTS: I am writing today on behalf of the National Association of County and City Health Officials (NACCHO) to endorse the Influenza Vaccine Security Act of 2007.

This bill would begin to address uncertainty in influenza vaccine supply. NACCHO believes that federal vaccine policy must explicitly recognize, support, and strengthen the unique roles of governmental public health agencies in monitoring vaccine availability at the local level, assuring that immunizations are received by the most vulnerable and high-risk populations, and intervening to correct maldistribution, particularly during shortages and supply disruptions. Tracking influenza vaccine supplies would assist local health departments to learn which end-users may have excess vaccine that they are willing to donate or sell so that it can be reallocated voluntarily to nursing homes, health departments, visiting nurses, or any other entity that serves a high-risk population. During the 2004–2005 flu season, NACCHO and local health departments learned many lessons about what information is needed when vaccine shortages occur. We appreciate the inclusion of a tracking system in your bill that has potential to collect data at the local level and provide estimates of supply on a county by county basis. The funding authorized in your bill will provide a good start on a national system of tracking influenza vaccine supply, which will help prevent illness and death when supply shortages or disruptions occur.

We also appreciate the inclusion in your bill of demonstration grants to enhance the infrastructure of public health departments and health care providers in order to improve their ability to report and track influenza vaccine supply. The ability of local health departments to serve their communities will also be strengthened by the influenza vaccine education and outreach grants included in the Influenza Vaccine Security Act of 2007.

The shortages and maldistribution of influenza vaccine is a critical issue that our nation will undoubtedly face again in the future. This legislation would provide important tools to help ensure that individuals that need influenza vaccine are protected in the future. Thank you for your past support of local public health. The nation's local health departments look forward to continuing to work with you to safeguard the public's health.

Sincerely,

PATRICK M. LIBBEY,
Executive Director.

By Mr. BINGAMAN (for himself, Mrs. DOLE, Mr. DURBIN, Mrs. FEINSTEIN, Ms. STABENOW, Mr. SALAZAR, Mr. KERRY, Mr. BROWN, Mrs. MCCASKILL, Mr. SCHUMER, Mrs. BOXER, Mr. LEVIN, Mr. BAYH, Mr. BURR, Mr. MARTINEZ, Mrs. CLINTON, Mr. PRYOR, Mr. LEAHY, Mrs. LINCOLN, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. ROCKEFELLER, Mr. ISAKSON, and Mr. BOND):

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; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with my colleagues Senators DOLE, DURBIN, FEINSTEIN, STABENOW, SALAZAR, KERRY, BROWN, MCCASKILL, SCHUMER, BOXER, LEVIN, BAYH, BURR, MARTINEZ, CLINTON, PRYOR, LEAHY, LINCOLN, HUTCHISON, CHAMBLISS, ROCKEFELLER, and ISAKSON to introduce legislation vitally important to the ability of our States to continue to fund their Medicaid programs and ensure access to health care services for low-income constituents. The legislation would extend the existing 1 year moratorium for an additional year on a

CMS rule limiting Medicaid payments to public and teaching hospitals as well as the ability of States to fund critical healthcare programs for rural residents such as through Sole Community Hospital programs.

On January 18, 2007, the Centers for Medicare and Medicaid Services, CMS, published a proposed rule entitled ''Medicaid Program; Cost Limit for Providers Operated by Units of Government and Provisions to Ensure the Integrity of Federal- State-Financial Partnership'' that would make sweeping changes to public and other safety net provider payment and financing arrangements with State Medicaid programs. The proposed rule would: impose a cost limit on Medicaid payments to public and other safety net providers; impose a new Federal definition of public provider status; and, greatly restrict the sources of non-Federal share funding through intergovernmental transfers, IGTs, and certified public expenditures, CPEs.

National advocates report that over 400 comment letters were submitted to CMS on the proposed rule, none of which expressed support for the rule and the overall majority of which called for its withdrawal. In addition, a budget neutral reserve fund to block this regulation was introduced by me and approved by the Senate this year.

CMS subsequently issued an additional regulation that would force billions of dollars in additional Medicaid payment reductions to teaching hospitals, many of whom are public hospitals, hampering the ability of those providers to provide essential services including the education of the next generation of medical professionals despite a shortage of medical professionals. The proposed regulations would cut at least $5 billion in Medicaid funding for safety net hospitals nationwide over 5 years—weakening their effectiveness for all of us and jeopardizing the health of millions of vulnerable children and families.

In response to these rules, 66 Senators and 283 Members of the House have gone on record in opposition to the rules since they were released earlier this year. This includes a majority of the Finance Committee including Senators: ROBERTS, SNOWE, SMITH, ROCKEFELLER, KERRY, BINGAMAN, SALAZAR, STABENOW, WYDEN, LINCOLN, SCHUMER, and CANTWELL.

Furthermore, Congress showed its strong opposition to the rules by including a one-year moratorium in the recent supplemental appropriations bill, P.L. 110–28. The moratorium prohibits implementation of the rules for one year from the date of enactment of the supplemental. The supplemental was negotiated extensively by Congress and the White House and a deal was reached on May 23. On May 25—the day the President signed the supplemental, and the moratorium, into law—the administration put the final rule on display and published it in the Federal Register on May 29. The most damaging components of the proposed rule remain in the final rule, including Medicaid cuts limiting public and other safety net providers to cost.

Since then, CMS has issued a third rule of major concern to public and teaching hospitals. On September 28, 2007, CMS released a new proposed rule governing the calculation of the Medicaid outpatient upper payment limit, UPL. Many believe this action was in violation of the current moratorium enacted by Congress. For example, the outpatient regulation would exclude GME costs from the calculation of the Medicaid Outpatient UPL for all hospitals and would also eliminate many ancillary services from the UPL calculation for all-inclusive rate providers.

Major Medicaid reforms require a congressional role. By rushing to publish a final regulation, CMS has disregarded congressional opposition and attempted to usurp Congress's role. In addition, the status quo is now the administration's new policy, not what existed when Congress was in the process of enacting the moratorium. CMS's action requires states to prepare for implementation of the regulation and expend administrative resources to do so—all of this before Congress has the opportunity to address the key policy issues contained in the regulation.

I urge my colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 2460

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

SECTION 1. EXTENSION OF MORATORIUM ON IMPLEMENTATION OF RULE RELATING TO THE FEDERAL-STATE FINANCIAL PARTNERSHIP UNDER MEDICAID AND SCHIP AND ON FINALIZATION OF A RULE RELATING TO THE TREATMENT OF GRADUATE MEDICAL EDUCATION UNDER MEDICAID; MORATORIUM ON THE FINALIZATION OF THE OUTPATIENT MEDICAID RULE MAKING SIMILAR CHANGE.

(a) FINDINGS.—Congress makes the following findings:

(1) A proposed rule was published on January 18, 2007, on pages 2236 through 2248 of volume 72, Federal Register, and a rule purporting to finalize that rule was published on May 29, 2007, on pages 29748 through 29836 of volume 72, Federal Register (relating to parts 433, 447, and 457 of title 42, Code of Federal Regulations). This rule would significantly change the Federal-State financial partnership under the Medicaid and the State Children's Health Insurance Programs by—

(A) imposing a cost limit on payments made under such programs to governmentally operated providers;

(B) limiting the permissible sources of the non-Federal shares required under such programs and the types of entities permitted to contribute to such shares; and

(C) imposing new requirements on participating providers and States under such programs.

(2) A proposed rule was published on May 23, 2007, on pages 28930 through 28936 of volume 72, Federal Register (relating to parts 438 and 447 of title 42, Code of Federal Regulations) that would significantly change the scope of permissible payments under Medicaid by removing the ability for States to make payments related to graduate medical education.

(3) Permitting these rules to take effect would drastically alter the Federal-State financial partnership in Medicaid and the State Children's Health Insurance Programs, undermine the discretion traditionally accorded States, and have a negative impact on States, providers, and beneficiaries in the following manner:

(A) Implementation of the rule regarding the Federal-State financial partnership would force billions of dollars of payment reductions, thus hampering the ability of impacted providers to provide essential services including allowing those providers to be ready and available for emergency situations and to provide care to the increasing numbers of uninsured.

(B) Implementation of the rule regarding graduate medical education would force billions of dollars in payment reductions to teaching hospitals, thus hampering the ability of those providers to provide essential services including the education of the next generation of medical professionals despite a shortage of medical professionals.

(4) By including a one-year moratorium in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, Congress intended to forestall administrative action to allow itself time to assess the proposals and consider alternatives that would not negatively impact States, providers, and beneficiaries.

(5) After Congressional approval of the moratorium contained in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, the Centers for Medicare & Medicaid Services on May 25, 2007, submitted for publication its final rule, which was not significantly different from the January proposed regulation.

(6) The publication of a final rule in May regarding the Federal-State financial partnership was not anticipated by Congress and accelerates the negative impact on States, providers, and beneficiaries, thus undermining the intent of the moratorium passed by Congress.

(7) The publication of a proposed rule in May regarding graduate medical education was not anticipated by Congress and undermines the intent of the moratorium passed by Congress.

(8) A proposed rule was published on September 28, 2007, on pages 55158 through 55166 of volume 72, Federal Register (relating to parts 440 and 447 of title 42, Code of Federal Regulations) that would significantly change the scope of permissible payments under Medicaid by redefining outpatient hospital services and dictating methodologies for calculation of the outpatient services upper payment limit.

(9) Congress did not anticipate continued changes after the moratorium to reduce state flexibility to make adequate Medicaid payments.

(10) Expansion and extension of the moratorium is necessary to effectuate Congressional intent.

(b) EXTENSION OF PROHIBITION.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Public Law 110–28) is amended—

(1) by striking ''1 year'' and inserting ''2 years'',

(2) by inserting ''or (D)'' after ''described in subparagraph (A)'' in subparagraph (B);

(3) by striking ''or'' at the end of subparagraph (B);

(4) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

(5) by inserting at the end the following:

''(D) finalize or otherwise implement provisions contained in the proposed rule published on September 28, 2007, on pages 55158 through 55166 of volume 72, Federal Register (relating to parts 440 and 447 of title 42, Code of Federal Regulations).''.

U.S. SENATE,
Washington, DC, March 16, 2007.

Hon. MICHAEL O. LEAVITT,
Secretary, U.S. Department of Health and Human Services, Washington, DC.

DEAR SECRETARY LEAVITT: We are writing to express our strong opposition to the Medicaid changes contained in the Proposed Rule CMS–2258–P, which was issued on January 18, 2007, As you know, bipartisan objections to the changes called for in this proposed rule have been raised by Congress and our nation's Governors since 2005. We urge you to withdraw this rule immediately.

The Medicaid program is the foundation of our health care safety net. As our nation's largest insurer, it provides access to meaningful and affordable health care for more than 50 million people. It also keeps hospitals, doctors, nursing homes, and clinics operating in our communities. Without this critical source of funding, many providers would not be able to afford to offer high-quality health care, especially in rural areas.

Since its enactment in 1965, Medicaid has been a federal-state partnership. The federal government has worked together with the states to ensure health care coverage and access for the most vulnerable Americans—children, pregnant women, the elderly and the disabled. This shared responsibility has been paramount, with states implementing the program within broad federal guidelines.

The new proposed rule would usurp state flexibility and fundamentally alter the nature of state funding for the Medicaid program. We are particularly concerned with three aspects of the proposed rule: (1) the new definition of a ''unit of government;'' (2) the restrictions placed on states' ability to fund their share of Medicaid expenditures; and (3) the ''cost'' limit imposed on Medicaid provider payments. We are also alarmed by CMS' refusal to provide any state-specific data on the impact of this proposed rule, which we believe could be much greater than a $5 billion reduction in federal Medicaid spending.

The new definition of a ''unit of government'' contained in the proposed rule is at odds with the definition adopted by Congress in Title XIX (Section 1903(w)(7)(G)), as described in House Report 102–310. The proposed rule adopts a federal definition in which only those governmental entities with taxing authority would be deemed governmental enough to contribute to the non-federal share of Medicaid expenditures. This is not what Congress intended. The statutory definition of a ''unit of government'' respects the fundamental right of states to establish subdivisions to suit their needs and best carry out governmental functions. In the case of Medicaid, federal law grants states the authority and flexibility to provide health care through the most efficient and effective methods possible. In most states, this means that state university hospitals, public nursing homes, school-based health centers, and other providers become an essential part of the governmental health care infrastructure. We believe the narrow definition of ''unit of government'' proposed by this new rule would lead to substantial cuts for public providers and limit access to the vital health care services that millions of Americans depend upon.

Similarly, CMS is also singling out public providers by restricting the type of public funds that can be used to finance the state share of Medicaid expenditures. Under the proposed rule, only funding derived from state and local taxes would be allowed to fund the state share. By your agency's own admission, inappropriate federal matching arrangements have been largely eliminated over the last three years through CMS' oversight activities. Given these activities, it is unclear why the new restriction on public funds is necessary or how it will further the overall efforts of CMS to reduce Medicaid fraud and abuse.

Furthermore, this aspect of the proposed rule also seems to contradict federal law. Section 1902(a)(2) of the Social Security Act allows states to rely on ''local sources'' for up to 60 percent of the non-federal share of program expenditures. Current law does not limit the types of local sources that may be used to only those sources derived from tax revenue. Such a policy shift would hamper states abilities to fund their Medicaid programs, and we question CMS' authority to pursue such a far-reaching policy change.

Finally, we are concerned about the cost limit imposed on public providers by this proposed rule. Under current regulations, states are permitted to provide Medicaid reimbursement to hospitals and other providers up to the amount that would be payable using Medicare payment policies. The proposed rule would reduce that limit to Medicaid costs for governmental providers only, with no concurrent change for private providers. Public providers, who disproportionately serve the uninsured, should not be subject to a more restrictive cost limit than private providers. Such a reimbursement policy would have an adverse impact on system-wide health care needs, such as trauma care, school-based health care and medical education.

We understand and respect the efforts of CMS to ensure that the Medicaid program is operating on a fiscally sound and responsible basis; however, we believe the proposed rule has gone far beyond what is necessary to secure fiscal integrity. Instead, the proposed rule would undermine both the federal-state partnership and the shared goal of ensuring health care coverage and access, which are the hallmarks of the Medicaid program.

While we are willing to work with you and CMS to strengthen Medicaid, fundamental changes in Medicaid's financing and payment mechanisms as envisioned in this rule can only be adopted by Congress. For this reason, we request that you withdraw the regulation.

We thank you for your prompt consideration of and attention to this request. We also ask that our comments be placed in the public record of the rulemaking.

Sincerely,

Senators John D. Rockefeller, IV, Gordon H. Smith, Jeff Bingaman, Richard Durbin, John Kerry, Barack Obama, Hillary Rodham Clinton, Barbara Boxer, Edward M. Kennedy, Susan Collins, Johnny Isakson, Elizabeth Dole, Kay Bailey Hutchison, Thad Cochran, Pete Domenici, Richard Shelby.

Senators Ken Salazar, Dianne Feinstein, Bill Nelson, Jim Webb, Debbie Stabenow, Robert Menendez, Evan Bayh, Olympia Snowe, Saxby Chambliss, Richard Burr, Wayne Allard, Christopher Bond, Pat Roberts, John Warner.

Senators Ron Wyden, Carl Levin, Joseph Lieberman, Sherrod Brown, Charles Schumer, Harry Reid, Joseph Biden, Bernard Sanders, Blanche Lincoln, Mark Pryor, Frank Lautenberg, Russell Feingold, Maria Cantwell, Tom Harkin.

Senators Daniel Akaka, Barbara Mikulski, Christopher Dodd, Patrick Leahy, Patty Murray, Arlen Specter, Daniel Inouye, Amy Klobuchar, Benjamin Cardin, Claire McCaskill, Jon Tester, Herb Kohl, Robert Casey, Jr., Mary Landrieu, Norm Coleman, Sheldon Whitehouse.

By Mr. AKAKA (for himself, Mr. DODD, and Mr. OBAMA):

S. 2462. A bill to provide that before the Secretary of Defense may furlough any employee of the Department of Defense on the basis of a lack of funds, the Secretary shall suspend any non-essential service contract entered into by the Department of Defense, and for other purposes; to the Committee on Armed Services.

Mr. AKAKA. Mr. President, for the last few weeks, the administration has increased its rhetoric about a looming budget shortfall at the Department of Defense unless Congress passes an emergency spending bill. Most recently, the President threatened to lay off hundreds of thousands of Federal workers at DoD to make up for any shortfalls. This is simply unacceptable.

The Pentagon said as late as last week that the Department has sufficient funds in order to keep our fighting men and women in Iraq and Afghanistan supplied through late February to mid-March of next year. Nonetheless, the administration continues to threaten to layoff workers to make up for a non-existent gap in funding. The Department of Defense should not use Federal employees as pawns because the White House is playing politics with the budget.

As Chairman of the Governmental Affairs Oversight of Government Management and Federal Workforce Subcommittee and the Armed Services Readiness Subcommittee, I have made oversight Government contracting a priority. In several hearings, I have heard officials and whistleblowers testify about the systemic waste, fraud and abuse, in many contracts. If the administration wants to save money, it should start increasing oversight over contracts and drop those that are not performing.

Rather than increasing their efforts to eliminate waste, fraud, and abuse in contracting that costs us billions every year, this administration would rather lay off patriotic civilian Federal employees who have dedicated their careers to the Federal Government. The Federal Government is already facing looming crisis in retirements and is working hard to recruit new workers to fill vacancies. Using Federal workers to make a political statement is wrong. It sends a negative message to prospective employees and hurts recruitment efforts in the long run.

Instead of looking to cut the Federal workforce to save money, the President should be holding contractors accountable to reduce costs and ensure

that our fighting men and women in Iraq and Afghanistan have the supplies they need.

Today, I am introducing a bill that would send a clear message to the administration that Federal workers are not bargaining chips.

The idea behind this legislation is simple, rather than laying off Federal workers to close a budget shortfall, the Pentagon should suspend contracts for non-essential services. Many service contractors work side-by-side with Federal workers. There is no reason that Federal workers should get a pink slip for Christmas while the Pentagon continues to spend millions on contractors.

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. 2462

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

SECTION 1. LIMITATION ON FURLOUGHS OF EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) DEFINITIONS.—In this Act:

(1) EMPLOYEE.—The term ''employee''—

(A) has the meaning given under section 7511(a)(1) of title 5, United States Code; and

(B) includes a member of the Senior Executive Service.

(2) FURLOUGH.—The term ''furlough''—

(A) has the meaning given under section 7511(a)(5) of title 5, United States Code; and

(B) with respect to a member of the Senior Executive Service, has the meaning given under section 3595a(a) of title 5, United States Code.

(b) LIMITATION ON FURLOUGHS.—Before the Secretary of Defense may furlough employees of the Department of Defense on the basis of a lack of funds, the Secretary shall suspend all nonessential service contracts entered into by the Department of Defense as are necessary to make up for the lack of funds.

(c) TRANSFER OF FUNDS.—The Secretary of Defense shall transfer an amount equal to payments not required to be made by the United States by reason of the suspension of contracts under subsection (b) from the applicable appropriations accounts used for making such payments into the applicable appropriations accounts for the salaries and expenses of employees.

(d) USE OF TRANSFERRED FUNDS.—Amounts transferred into appropriations accounts under subsection (c) may be used for authorized purposes of those accounts to prevent the furlough of employees on the basis of a lack of funds.

(e) EFFECTIVE DATE.—This Act shall apply with respect to fiscal year 2008.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 402—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. KYL, Mr. SESSIONS, and Mrs. SMITH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 402

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.

Mr. GRASSLEY. Mr. President, today, I am introducing a Senate resolution to honor the life and work of Congressman Henry John Hyde of Illinois. I authored this resolution because I knew Henry Hyde for over 20 years. In fact, he and I were 2 of 16 Republicans who were first elected to the House of Representatives in 1974.

Congressman Hyde was a true leader in the House of Representatives. He proved his leadership by authoring the ''Hyde Amendment'' to help protect the lives of unborn children. Because of this long-standing policy, innocent lives have been saved and taxpayers have not been forced to fund abortions.

Henry Hyde was intelligent, as was proved during his tenure as chairman of two different committees—the House Committee on the Judiciary and the House Committee on International Relations. In his 32 years in the House of Representatives, he was dedicated to the rule of law as well as the expansion of freedom around the world.

He was a great Representative for the people of his district, and he leaves an important legacy for our Nation. It is with great respect that I introduce this resolution in his honor.

SENATE RESOLUTION 403—A RESOLUTION CONGRATULATING BOYS TOWN ON ITS 90TH ANNIVERSARY CELEBRATION

Mr. HAGEL (for himself and Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agreed to:

S. RES. 403

Whereas on Wednesday, December 12, 2007, Boys Town celebrates the 90th anniversary of the date Father Flanagan founded Boys Town to serve hurting children and their families;

Whereas Father Flanagan's legacy, Boys Town, is a beacon of hope to thousands of young people across the Nation;

Whereas in 2006 nearly 450,000 children and families found help through the Boys Town National Hotline, including 34,000 calls from youth where hotline staff intervened to save a life or provide therapeutic counseling, and nearly 1,000,000 more children were assisted through outreach and training programs;

Whereas Boys Town continues to find new ways to bring healing and hope to more children and families;

Whereas new programs at Boys Town seek to increase the number of children assisted and bring resources and expertise to bear on the problems facing our Nation's children; and

Whereas Boys Town's mission is to change the way America cares for children and families by providing and promoting a continuum of care that strengthens them in mind, body, and spirit: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its heartfelt congratulations to the Boys Town family on the historic occasion of its 90th anniversary; and

(2) extends its thanks to the extraordinary Boys Town community for its important work with our Nation's children and families.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3832. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 543, to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program; which was referred to the Committee on Finance.

SA 3833. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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 3834. Mrs. DOLE (for herself, Mr. GRASSLEY, and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 3630 submitted by Mrs. DOLE and intended to be proposed to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3835. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3836. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3837. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3838. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3839. Mr. ENZI (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3840. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3841. 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 from price gouging, to increase the energy 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 3842. Mr. REID proposed an amendment to amendment SA 3841 proposed by Mr. REID to the bill H.R. 6, supra.

SA 3843. Mr. FEINGOLD (for himself and Mr. MENENDEZ) 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 3844. Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) proposed an amendment to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra.

SA 3845. Mr. HARKIN (for Mr. KENNEDY (for himself and Mr. DURBIN)) proposed an amendment to amendment SA 3539 proposed by Mr. DURBIN to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra.

SA 3846. Mr. HARKIN (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment to the bill S. 2271, to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

SA 3847. Mr. HARKIN (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 3997, to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes.

SA 3848. Mr. HARKIN (for Mr. BAUCUS) proposed an amendment to the bill H.R. 3997, supra.

TEXT OF AMENDMENTS

SA 3832. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 543, to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program; which was referred to the Committee on Finance; as follows:

On page 1, strike lines 3 through 5 and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tim Johnson Inpatient Rehabilitation Preservation Act of 2007''.

SA 3833. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

Beginning on page 10 of the amendment, strike line 3 and all that follows through line 19 on page 11, and insert the following:

''(6) Forbidding any public safety employer from negotiating a contract or memorandum of understanding that requires the payment of any fees to any labor organization as a condition of employment.

''(c) FAILURE TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section _____5.

''(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this subtitle.

''SEC. _____5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this subtitle, the Authority shall issue regulations in accordance with the rights and responsibilities described in section _____4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section _____4(a), do not substantially provide for such rights and responsibilities.

''(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this subtitle and in accordance with regulations prescribed by the Authority, shall—

''(1) determine the appropriateness of units for labor organization representation;

''(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

''(3) resolve issues relating to the duty to bargain in good faith;

''(4) conduct hearings and resolve complaints of unfair labor practices;

''(5) resolve exceptions to the awards of arbitrators;

''(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, and the right of each employee to refrain from payment of any fees to any labor organization, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and''.

SA 3834. Mrs. DOLE (for herself, Mr. GRASSLEY, and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 3630 submitted by Mrs. DOLE and intended to be proposed 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:

In lieu of the matter proposed to be inserted, insert the following:

SEC. _____. 2-YEAR EXTENSION AND EXPANSION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Section 170(e)(3)(C) (relating to special rule for certain contributions of inventory and other property) is amended—

(1) by striking ''December 31, 2007'' in clause (iv) and inserting ''December 31, 2009'', and

(2) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively, and by inserting after clause (ii) the following new clause:

''(iii) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2007.

SEC. _____. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate in effect under section 162(a) at the time of such use, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this title with respect to the expenses excludable from gross income under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 139A and inserting the following new item:

''Sec. 139B. Reimbursement for use of passenger automobile for charity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. _____. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) TECHNICAL AMENDMENT RELATED TO SECTION 1203 OF THE PENSION PROTECTION ACT OF 2006.—Subsection (d) of section 1366 is amended by adding at the end the following new paragraph:

''(4) APPLICATION OF LIMITATION ON CHARITABLE CONTRIBUTIONS.—In the case of any charitable contribution of property to which the second sentence of section 1367(a)(2) applies, paragraph (1) shall not apply to the extent of the excess (if any) of—

''(A) the shareholder's pro rata share of such contribution, over

''(B) the shareholder's pro rata share of the adjusted basis of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provision of the Pension Protection Act of 2006 to which it relates.

SA 3835. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

At the end of section ____2 of the amendment, add the following:

(5) Public safety officers frequently endanger their own lives to protect the rights of individuals in their communities. In return, each officer deserves the optimal protection of his or her own rights under the law.

(6) The health and safety of the Nation and the best interests of public security are furthered when employees are assured that their collective bargaining representatives have been selected in a free, fair and democratic manner.

(7) An employee whose wages are subject to compulsory assessment for any purpose not supported or authorized by such employee is susceptible to job dissatisfaction. Job dissatisfaction negatively affects job performance, and, in the case of public safety officers, the welfare of the general public.

SEC. ____2A. PUBLIC SAFETY OFFICER BILL OF RIGHTS.

(a) IN GENERAL.—A State law described in section ____4(a) of this subtitle shall—

(1) provide for the selection of an exclusive bargaining representative by public safety officer employees only through the use of a democratic, government-supervised, secret ballot election upon the request of the employer or any affected employee;

(2) ensure that public safety employers recognize the employees' labor organization, freely chosen by a majority of the employees pursuant to a law that provides the democratic safeguards set forth in paragraph (1), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding; and

(3) provide that—

(A) no public safety officer shall, as a condition of employment, be required to pay any amount in dues or fees to any labor organization for any purpose other than the direct and demonstrable costs associated with collective bargaining; and

(B) a labor organization shall not collect from any public safety officer any additional amount without full disclosure of the intended and actual use of such funds, and without the public safety officer's written consent.

(b) APPLICABILITY OF DISCLOSURE REQUIREMENTS.—Notwithstanding any other provision of law, any labor organization that represents or seeks to represent public safety officers under State law or this subtitle, or in accordance with regulations promulgated by the Federal Labor Relations Authority, shall be subject to the requirements of title II of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 432 et seq.) as if such public safety labor organization was a labor organization defined in section 3(i) of such Act (29 U.S.C. 402(i)).

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

SA 3836. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

At the end of section ____2 of the amendment, add the following:

(5) Because of the critical role of public safety officers in law enforcement, and the high public regard for such employees, such employees should only be represented by organizations that demonstrate a similar regard for the law and inspire the same level of public trust and confidence.

SEC. ____2A. PUBLIC SAFETY PROTECTIONS.

(a) IN GENERAL.—A State law described in section ____4(a) of this subtitle shall—

(1) provide that no labor organization may serve, or continue to serve, as the representative of any unit of public safety officers if—

(A) any of the labor organization's officers or agents are convicted of—

(i) a felony; or

(ii) a misdemeanor related to the organization's representational responsibilities; or

(B) the organization, or the organization's officers, agents, or employees, encourage, participate, or fail to take all steps necessary to prevent any unlawful work stoppage or disruption by any public safety officers represented by such labor organization; and

(2)(A) provide any political subdivision or individual with the right to bring a civil action in Federal court against any public safety officer that engages in a strike, slowdown, or other employment action that is unlawful under Federal or State law or contrary to the provisions of a collective bargaining agreement or a contract or memorandum of understanding described in section ____4(b)(2) of this subtitle; and

(B) provide that, in any civil action described in subparagraph (A), a public safety

employer may receive damages relating to the strike, slowdown, or other employment action described in subparagraph (A), and that joint and several liability shall apply.

(b) INTERACTION WITH OTHER LAWS.—Notwithstanding the Act entitled ''An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes'', approved March 23, 1932 (commonly known as the ''Norris-LaGuardia Act''), or any other provision of law, no Federal law that restricts the issuance of injunctions or restraining orders in labor disputes shall apply to labor disputes involving public safety officers covered under this subtitle.

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

SA 3837. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

After section ___8 of the amendment, insert the following:

SEC. ___8A. GUARANTEEING PUBLIC SAFETY AND LOCAL CONTROL OF TAXES AND SPENDING.

Notwithstanding any State law or regulation issued under section ___5 of this subtitle, no collective-bargaining obligation may be imposed on any political subdivision or any public safety employer, and no contractual provision may be imposed on any political subdivision or public safety employer, if either the principal administrative officer of such public safety employer, or the chief elected official of such political subdivision certifies that the obligation, or any provision would be contrary to the best interests of public safety; or would result in any increase in local taxes, or would result in any decrease in the level of public safety or other municipal services.

SA 3838. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

In section ___8(b) of the amendment, insert before paragraph (1) the following and redesignate accordingly:

(1) HARMONIZING WITH FEDERAL LAW.—

(A) EXEMPTION.—Notwithstanding any other provision of this subtitle, a governor or the legislative body of a State, or a mayor or other chief executive officer or authority or the legislative body of a political subdivision, may exempt from the requirements established under this subtitle or otherwise any group of public safety officers whose job function is similar to the job function performed by any group of Federal employees that is excluded from collective bargaining under Federal law or an Executive order.

(B) TREATMENT OF CERTAIN EMPLOYEES.—Notwithstanding any provision of State law, supervisory, managerial, and confidential employees employed by public safety employers shall be treated in the same manner for purposes of collective-bargaining as individuals employed in the same capacity by any employer covered under the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

(C) RULE OF CONSTRUCTION.—Notwithstanding any provision of this subtitle, nothing in this subtitle shall be construed to require mandatory bargaining except to the extent, and with regard to the subjects, that mandatory bargaining is required between the Federal Government and any of its public safety employees.

SA 3839. Mr. ENZI (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

Strike section ___6 of the amendment and insert the following:

SEC. ___6. STRIKES AND LOCKOUTS PROHIBITED.

Notwithstanding any rights or responsibilities provided under State law or pursuant to any regulations issued under section ___5 of this subtitle, a labor organization may not call, encourage, condone, or fail to take all actions necessary to prevent or end, and a public safety employee may not engage in or otherwise support, any strike (including sympathy strikes), work slowdown, sick out, or any other job action or concerted, full or partial refusal to work against any public sector employer. A public safety employer may not engage in a lockout of public safety officers.

SA 3840. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the 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:

After section ___8 of the amendment, insert the following:

SEC. ___8A. NONAPPLICATION OF PROVISIONS.

Notwithstanding any State law or regulation issued under section ___5 of this subtitle, the rights and responsibilities set forth in section ___4(b) of this subtitle shall not apply to any political subdivision of any State having a population of less than 75,000, or that employs fewer than 150 uniformed public safety officers.

SA 3841. 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 from price gouging, to increase the energy 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:

Strike all after the enacting clause and 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. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Relationship to other law.

TITLE I—ENERGY SECURITY THROUGH IMPROVED VEHICLE FUEL ECONOMY

Subtitle A—Increased Corporate Average Fuel Economy Standards

Sec. 101. Short title.
Sec. 102. Average fuel economy standards for automobiles and certain other vehicles.
Sec. 103. Definitions.
Sec. 104. Credit trading program.
Sec. 105. Consumer information.
Sec. 106. Continued applicability of existing standards.
Sec. 107. National Academy of Sciences studies.
Sec. 108. National Academy of Sciences study of medium-duty and heavy-duty truck fuel economy.
Sec. 109. Extension of flexible fuel vehicle credit program.
Sec. 110. Periodic review of accuracy of fuel economy labeling procedures.
Sec. 111. Consumer tire information.
Sec. 112. Use of civil penalties for research and development.
Sec. 113. Exemption from separate calculation requirement.

Subtitle B—Improved Vehicle Technology

Sec. 131. Transportation electrification.
Sec. 132. Domestic manufacturing conversion grant program.
Sec. 133. Inclusion of electric drive in Energy Policy Act of 1992.
Sec. 134. Loan guarantees for fuel-efficient automobile parts manufacturers.
Sec. 135. Advanced battery loan guarantee program.
Sec. 136. Advanced technology vehicles manufacturing incentive program.

Subtitle C—Federal Vehicle Fleets

Sec. 141. Federal vehicle fleets.
Sec. 142. Federal fleet conservation requirements.

TITLE II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS

Subtitle A—Renewable Fuel Standard

Sec. 201. Definitions.
Sec. 202. Renewable fuel standard.
Sec. 203. Study of impact of Renewable Fuel Standard.
Sec. 204. Environmental and resource conservation impacts.
Sec. 205. Biomass based diesel and biodiesel labeling.
Sec. 206. Study of credits for use of renewable electricity in electric vehicles.
Sec. 207. Grants for production of advanced biofuels.
Sec. 208. Integrated consideration of water quality in determinations on fuels and fuel additives.
Sec. 209. Anti-backsliding.
Sec. 210. Effective date, savings provision, and transition rules.

Subtitle B—Biofuels Research and Development

Sec. 221. Biodiesel.

Sec. 222. Biogas.
Sec. 223. Grants for biofuel production research and development in certain States.
Sec. 224. Biorefinery energy efficiency.
Sec. 225. Study of optimization of flexible fueled vehicles to use E–85 fuel.
Sec. 226. Study of engine durability and performance associated with the use of biodiesel.
Sec. 227. Study of optimization of biogas used in natural gas vehicles.
Sec. 228. Algal biomass.
Sec. 229. Biofuels and biorefinery information center.
Sec. 230. Cellulosic ethanol and biofuels research.
Sec. 231. Bioenergy research and development, authorization of appropriation.
Sec. 232. Environmental research and development.
Sec. 233. Bioenergy research centers.
Sec. 234. University based research and development grant program.

Subtitle C—Biofuels Infrastructure

Sec. 241. Prohibition on franchise agreement restrictions related to renewable fuel infrastructure.
Sec. 242. Renewable fuel dispenser requirements.
Sec. 243. Ethanol pipeline feasibility study.
Sec. 244. Renewable fuel infrastructure grants.
Sec. 245. Study of the adequacy of transportation of domestically-produced renewable fuel by railroads and other modes of transportation.
Sec. 246. Federal fleet fueling centers.
Sec. 247. Standard specifications for biodiesel.
Sec. 248. Biofuels distribution and advanced biofuels infrastructure.

Subtitle D—Environmental Safeguards

Sec. 251. Waiver for fuel or fuel additives.

TITLE III—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCE AND LIGHTING

Subtitle A—Appliance Energy Efficiency

Sec. 301. External power supply efficiency standards.
Sec. 302. Updating appliance test procedures.
Sec. 303. Residential boilers.
Sec. 304. Furnace fan standard process.
Sec. 305. Improving schedule for standards updating and clarifying State authority.
Sec. 306. Regional standards for furnaces, central air conditioners, and heat pumps.
Sec. 307. Procedure for prescribing new or amended standards.
Sec. 308. Expedited rulemakings.
Sec. 309. Battery chargers.
Sec. 310. Standby mode.
Sec. 311. Energy standards for home appliances.
Sec. 312. Walk-in coolers and walk-in freezers.
Sec. 313. Electric motor efficiency standards.
Sec. 314. Standards for single package vertical air conditioners and heat pumps.
Sec. 315. Improved energy efficiency for appliances and buildings in cold climates.
Sec. 316. Technical corrections.

Subtitle B—Lighting Energy Efficiency

Sec. 321. Efficient light bulbs.
Sec. 322. Incandescent reflector lamp efficiency standards.
Sec. 323. Public building energy efficient and renewable energy systems.
Sec. 324. Metal halide lamp fixtures.
Sec. 325. Energy efficiency labeling for consumer electronic products.

TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

Sec. 401. Definitions.

Subtitle A—Residential Building Efficiency

Sec. 411. Reauthorization of weatherization assistance program.
Sec. 412. Study of renewable energy rebate programs.
Sec. 413. Energy code improvements applicable to manufactured housing.

Subtitle B—High-Performance Commercial Buildings

Sec. 421. Commercial high-performance green buildings.
Sec. 422. Zero Net Energy Commercial Buildings Initiative.
Sec. 423. Public outreach.

Subtitle C—High-Performance Federal Buildings

Sec. 431. Energy reduction goals for Federal buildings.
Sec. 432. Management of energy and water efficiency in Federal buildings.
Sec. 433. Federal building energy efficiency performance standards.
Sec. 434. Management of Federal building efficiency.
Sec. 435. Leasing.
Sec. 436. High-performance green Federal buildings.
Sec. 437. Federal green building performance.
Sec. 438. Storm water runoff requirements for Federal development projects.
Sec. 439. Cost-effective technology acceleration program.
Sec. 440. Authorization of appropriations.
Sec. 441. Public building life-cycle costs.

Subtitle D—Industrial Energy Efficiency

Sec. 451. Industrial energy efficiency.
Sec. 452. Energy-intensive industries program.
Sec. 453. Energy efficiency for data center buildings.

Subtitle E—Healthy High-Performance Schools

Sec. 461. Healthy high-performance schools.
Sec. 462. Study on indoor environmental quality in schools.

Subtitle F—Institutional Entities

Sec. 471. Energy sustainability and efficiency grants and loans for institutions.

Subtitle G—Public and Assisted Housing

Sec. 481. Application of International Energy Conservation Code to public and assisted housing.

Subtitle H—General Provisions

Sec. 491. Demonstration project.
Sec. 492. Research and development.
Sec. 493. Environmental Protection Agency demonstration grant program for local governments.
Sec. 494. Green Building Advisory Committee.
Sec. 495. Advisory Committee on Energy Efficiency Finance.

TITLE V—ENERGY SAVINGS IN GOVERNMENT AND PUBLIC INSTITUTIONS

Subtitle A—United States Capitol Complex

Sec. 501. Capitol complex photovoltaic roof feasibility studies.
Sec. 502. Capitol complex E–85 refueling station.
Sec. 503. Energy and environmental measures in Capitol complex master plan.
Sec. 504. Promoting maximum efficiency in operation of Capitol power plant.
Sec. 505. Capitol power plant carbon dioxide emissions feasibility study and demonstration projects.

Subtitle B—Energy Savings Performance Contracting

Sec. 511. Authority to enter into contracts; reports.
Sec. 512. Financing flexibility.
Sec. 513. Promoting long-term energy savings performance contracts and verifying savings.
Sec. 514. Permanent reauthorization.
Sec. 515. Definition of energy savings.
Sec. 516. Retention of savings.
Sec. 517. Training Federal contracting officers to negotiate energy efficiency contracts.
Sec. 518. Study of energy and cost savings in nonbuilding applications.

Subtitle C—Energy Efficiency in Federal Agencies

Sec. 521. Installation of photovoltaic system at Department of Energy headquarters building.
Sec. 522. Prohibition on incandescent lamps by Coast Guard.
Sec. 523. Standard relating to solar hot water heaters.
Sec. 524. Federally-procured appliances with standby power.
Sec. 525. Federal procurement of energy efficient products.
Sec. 526. Procurement and acquisition of alternative fuels.
Sec. 527. Government efficiency status reports.
Sec. 528. OMB government efficiency reports and scorecards.
Sec. 529. Electricity sector demand response.

Subtitle D—Energy Efficiency of Public Institutions

Sec. 531. Reauthorization of State energy programs.
Sec. 532. Utility energy efficiency programs.

Subtitle E—Energy Efficiency and Conservation Block Grants

Sec. 541. Definitions.
Sec. 542. Energy Efficiency and Conservation Block Grant Program.
Sec. 543. Allocation of funds.
Sec. 544. Use of funds.
Sec. 545. Requirements for eligible entities.
Sec. 546. Competitive grants.
Sec. 547. Review and evaluation.
Sec. 548. Funding.

TITLE VI—ACCELERATED RESEARCH AND DEVELOPMENT

Subtitle A—Solar Energy

Sec. 601. Short title.
Sec. 602. Thermal energy storage research and development program.
Sec. 603. Concentrating solar power commercial application studies.
Sec. 604. Solar energy curriculum development and certification grants.
Sec. 605. Daylighting systems and direct solar light pipe technology.
Sec. 606. Solar Air Conditioning Research and Development Program.
Sec. 607. Photovoltaic demonstration program.

Subtitle B—Geothermal Energy

Sec. 611. Short title.
Sec. 612. Definitions.
Sec. 613. Hydrothermal research and development.
Sec. 614. General geothermal systems research and development.
Sec. 615. Enhanced geothermal systems research and development.
Sec. 616. Geothermal energy production from oil and gas fields and recovery and production of geopressured gas resources.

Sec. 617. Cost sharing and proposal evaluation.
Sec. 618. Center for geothermal technology transfer.
Sec. 619. GeoPowering America.
Sec. 620. Educational pilot program.
Sec. 621. Reports.
Sec. 622. Applicability of other laws.
Sec. 623. Authorization of appropriations.
Sec. 624. International geothermal energy development.
Sec. 625. High cost region geothermal energy grant program.

Subtitle C—Marine and Hydrokinetic Renewable Energy Technologies

Sec. 631. Short title.
Sec. 632. Definition.
Sec. 633. Marine and hydrokinetic renewable energy research and development.
Sec. 634. National Marine Renewable Energy Research, Development, and Demonstration Centers.
Sec. 635. Applicability of other laws.
Sec. 636. Authorization of appropriations.

Subtitle D—Energy Storage for Transportation and Electric Power

Sec. 641. Energy storage competitiveness.

Subtitle E—Miscellaneous Provisions

Sec. 651. Lightweight materials research and development.
Sec. 652. Commercial insulation demonstration program.
Sec. 653. Technical criteria for clean coal power Initiative.
Sec. 654. H-Prize.
Sec. 655. Bright Tomorrow Lighting Prizes.
Sec. 656. Renewable Energy innovation manufacturing partnership.

TITLE VII—CARBON CAPTURE AND SEQUESTRATION

Subtitle A—Carbon Capture and Sequestration Research, Development, and Demonstration

Sec. 701. Short title.
Sec. 702. Carbon capture and sequestration research, development, and demonstration program.
Sec. 703. Carbon capture.
Sec. 704. Review of large-scale programs.
Sec. 705. Geologic sequestration training and research.
Sec. 706. Relation to Safe Drinking Water Act.
Sec. 707. Safety research.
Sec. 708. University based research and development grant program.

Subtitle B—Carbon Capture and Sequestration Assessment and Framework

Sec. 711. Carbon dioxide sequestration capacity assessment.
Sec. 712. Assessment of carbon sequestration and methane and nitrous oxide emissions from ecosystems.
Sec. 713. Carbon dioxide sequestration inventory.
Sec. 714. Framework for geological carbon sequestration on public land.

TITLE VIII—IMPROVED MANAGEMENT OF ENERGY POLICY

Subtitle A—Management Improvements

Sec. 801. National media campaign.
Sec. 802. Alaska Natural Gas Pipeline administration.
Sec. 803. Renewable energy deployment.
Sec. 804. Coordination of planned refinery outages.
Sec. 805. Assessment of resources.
Sec. 806. Sense of Congress relating to the use of renewable resources to generate energy.
Sec. 807. Geothermal assessment, exploration information, and priority activities.

Subtitle B—Prohibitions on Market Manipulation and False Information

Sec. 811. Prohibition on market manipulation.
Sec. 812. Prohibition on false information.
Sec. 813. Enforcement by the Federal Trade Commission.
Sec. 814. Penalties.
Sec. 815. Effect on other laws.

TITLE IX—INTERNATIONAL ENERGY PROGRAMS

Sec. 901. Definitions.

Subtitle A—Assistance to Promote Clean and Efficient Energy Technologies in Foreign Countries

Sec. 911. United States assistance for developing countries.
Sec. 912. United States exports and outreach programs for India, China, and other countries.
Sec. 913. United States trade missions to encourage private sector trade and investment.
Sec. 914. Actions by Overseas Private Investment Corporation.
Sec. 915. Actions by United States Trade and Development Agency.
Sec. 916. Deployment of international clean and efficient energy technologies and investment in global energy markets.
Sec. 917. United States-Israel energy cooperation.

Subtitle B—International Clean Energy Foundation

Sec. 921. Definitions.
Sec. 922. Establishment and management of Foundation.
Sec. 923. Duties of Foundation.
Sec. 924. Annual report.
Sec. 925. Powers of the Foundation; related provisions.
Sec. 926. General personnel authorities.
Sec. 927. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

Sec. 931. Energy diplomacy and security within the Department of State.
Sec. 932. National Security Council reorganization.
Sec. 933. Annual national energy security strategy report.
Sec. 934. Convention on Supplementary Compensation for Nuclear Damage contingent cost allocation.
Sec. 935. Transparency in extractive industries resource payments.

TITLE X—GREEN JOBS

Sec. 1001. Short title.
Sec. 1002. Energy efficiency and renewable energy worker training program.

TITLE XI—ENERGY TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Department of Transportation

Sec. 1101. Office of Climate Change and Environment.

Subtitle B—Railroads

Sec. 1111. Advanced technology locomotive grant pilot program.
Sec. 1112. Capital grants for class II and class III railroads.

Subtitle C—Marine Transportation

Sec. 1121. Short sea transportation initiative.
Sec. 1122. Short sea shipping eligibility for capital construction fund.
Sec. 1123. Short sea transportation report.

Subtitle D—Highways

Sec. 1131. Increased Federal share for CMAQ projects.
Sec. 1132. Distribution of rescissions.
Sec. 1133. Sense of Congress regarding use of complete streets design techniques.

TITLE XII—SMALL BUSINESS ENERGY PROGRAMS

Sec. 1201. Express loans for renewable energy and energy efficiency.
Sec. 1202. Pilot program for reduced 7(a) fees for purchase of energy efficient technologies.
Sec. 1203. Small business energy efficiency.
Sec. 1204. Larger 504 loan limits to help business develop energy efficient technologies and purchases.
Sec. 1205. Energy saving debentures.
Sec. 1206. Investments in energy saving small businesses.
Sec. 1207. Renewable fuel capital investment company.
Sec. 1208. Study and report.

TITLE XIII—SMART GRID

Sec. 1301. Statement of policy on modernization of electricity grid.
Sec. 1302. Smart grid system report.
Sec. 1303. Smart grid advisory committee and smart grid task force.
Sec. 1304. Smart grid technology research, development, and demonstration.
Sec. 1305. Smart grid interoperability framework.
Sec. 1306. Federal matching fund for smart grid investment costs.
Sec. 1307. State consideration of smart grid.
Sec. 1308. Study of the effect of private wire laws on the development of combined heat and power facilities.
Sec. 1309. DOE study of security attributes of smart grid systems.

TITLE XIV—POOL AND SPA SAFETY

Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Definitions.
Sec. 1404. Federal swimming pool and spa drain cover standard.
Sec. 1405. State swimming pool safety grant program.
Sec. 1406. Minimum State law requirements.
Sec. 1407. Education program.
Sec. 1408. CPSC report.

TITLE XV—CLEAN RENEWABLE ENERGY AND CONSERVATION TAX ACT OF 2007

Sec. 1500. Short title; amendment of 1986 Code.

Subtitle A—Clean Renewable Energy Production Incentives

PART I—PROVISIONS RELATING TO RENEWABLE ENERGY

Sec. 1501. Extension and modification of renewable electricity and refined coal production credit.
Sec. 1502. Extension and modification of energy credit.
Sec. 1503. Extension and modification of credit for residential energy efficient property.
Sec. 1504. Extension and modification of special rule to implement FERC and State electric restructuring policy.
Sec. 1505. New clean renewable energy bonds.

PART II—PROVISIONS RELATING TO CARBON MITIGATION AND COAL

Sec. 1506. Expansion and modification of advanced coal project investment credit.
Sec. 1507. Expansion and modification of coal gasification investment credit.
Sec. 1508. Seven-year applicable recovery period for depreciation of qualified carbon dioxide pipeline property.
Sec. 1509. Special rules for refund of the coal excise tax to certain coal producers and exporters.

Sec. 1510. Extension of temporary increase in coal excise tax.
Sec. 1511. Carbon audit of the tax code.
Subtitle B—Transportation and Domestic Fuel Security
PART I—BIOFUELS
Sec. 1521. Credit for production of cellulosic biomass alcohol.
Sec. 1522. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
Sec. 1523. Modification of alcohol credit.
Sec. 1524. Extension and modification of credits for biodiesel and renewable diesel.
Sec. 1525. Clarification of eligibility for renewable diesel credit.
Sec. 1526. Provisions clarifying treatment of fuels with no nexus to the United States.
Sec. 1527. Comprehensive study of biofuels.
PART II—ADVANCED TECHNOLOGY MOTOR VEHICLES
Sec. 1528. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 1529. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
PART III—OTHER TRANSPORTATION PROVISIONS
Sec. 1530. Restructuring of New York Liberty Zone tax credits.
Sec. 1531. Extension of transportation fringe benefit to bicycle commuters.
Sec. 1532. Extension and modification of election to expense certain refineries.
Subtitle C—Energy Conservation and Efficiency
PART I—CONSERVATION TAX CREDIT BONDS
Sec. 1541. Qualified energy conservation bonds.
Sec. 1542. Qualified forestry conservation bonds.
PART II—EFFICIENCY
Sec. 1543. Extension and modification of energy efficient existing homes credit.
Sec. 1544. Extension and modification of energy efficient commercial buildings deduction.
Sec. 1545. Modifications of energy efficient appliance credit for appliances produced after 2007.
Sec. 1546. Seven-year applicable recovery period for depreciation of qualified energy management devices.
Subtitle D—Other Provisions
PART I—FORESTRY PROVISIONS
Sec. 1551. Deduction for qualified timber gain.
Sec. 1552. Excise tax not applicable to section 1203 deduction of real estate investment trusts.
Sec. 1553. Timber REIT modernization.
Sec. 1554. Mineral royalty income qualifying income for timber REITs.
Sec. 1555. Modification of taxable REIT subsidiary asset test for timber REITs.
Sec. 1556. Safe harbor for timber property.
PART II—EXXON VALDEZ
Sec. 1557. Income averaging for amounts received in connection with the Exxon Valdez litigation.
PART III—ELECTRIC TRANSMISSION FACILITIES
Sec. 1558. Tax-exempt financing of certain electric transmission facilities.
Subtitle E—Revenue Provisions
Sec. 1561. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, gas, or primary products thereof.
Sec. 1562. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
Sec. 1563. Seven-year amortization of geological and geophysical expenditures for certain major integrated oil companies.
Sec. 1564. Broker reporting of customer's basis in securities transactions.
Sec. 1565. Extension of additional 0.2 percent FUTA surtax.
Sec. 1566. Repeal of suspension of certain penalties and interest.
Sec. 1567. Time for payment of corporate estimated taxes.
Sec. 1568. Modification of penalty for failure to file partnership returns.
Sec. 1569. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.
Subtitle F—Secure Rural Schools
Sec. 1571. Secure rural schools and community self-determination program.
TITLE XVI—EFFECTIVE DATE
Sec. 1601. Effective date.

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;

''(C) work trucks in accordance with subsection (k); and

''(D) commercial medium-duty or heavy-duty on-highway vehicles in accordance with subsection (l).

''(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 WORK TRUCKS.—Section 32902 of title 49, United States Code, is amended by adding at the end the following:

''(k) WORK TRUCKS.—

''(1) STUDY.—Not later than 1 year after the date of the enactment 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 work trucks and determine—

''(A) the appropriate test procedures and methodologies for measuring the fuel efficiency of work trucks;

''(B) the appropriate metric for measuring and expressing work truck fuel efficiency performance, taking into consideration,

among other things, the work performed by 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 work truck fuel efficiency; and

''(D) such other factors and conditions that could have an impact on a program to improve 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 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 work trucks. Any fuel economy standard prescribed under this section shall be prescribed at least 18 months before the model year to which it applies. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.''.

(c) FUEL ECONOMY STANDARD FOR COMMERCIAL MEDIUM-DUTY AND HEAVY-DUTY ON-HIGHWAY VEHICLES.—Section 32902 of title 49, United States Code, as amended by subsection (b), is further amended by adding at the end the following:

''(l) COMMERCIAL MEDIUM- AND HEAVY-DUTY ON-HIGHWAY VEHICLES.—

''(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 determine—

''(A) the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles;

''(B) the appropriate metric for measuring and expressing commercial medium- and heavy-duty on-highway vehicle fuel efficiency performance, taking into consideration, among other things, the work performed by such on-highway vehicles 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 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 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 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. Any fuel economy standard prescribed under this section shall be prescribed at least 18 months before the model year to which it applies. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.

''(3) LEAD-TIME; REGULATORY STABILITY.—The first commercial medium- and heavy-duty on-highway vehicle fuel efficiency regulatory program 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(1) 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 off-board 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 co-processing 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
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
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 and C79.1–2002with a diameter of 5 inches or more.

''(XXI) A T shape lamp (as defined in ANSI C78.20–2003 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, SHATTER-PROOF LAMP, OR SHATTER-PROTECTED LAMP.—The terms 'shatter-resistant lamp', 'shatter-proof 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, shatter-proof, 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 50° C, 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

''Sec.

''22301. 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

''Sec. 55601. Short sea transportation program.
''Sec. 55602. Cargo and shippers.
''Sec. 55603. Interagency coordination.
''Sec. 55604. Research on short sea transportation.
''Sec. 55605. Short sea transportation defined.

"§ 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.

(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—CLEAN RENEWABLE ENERGY AND CONSERVATION TAX ACT OF 2007

SEC. 1500. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Clean Renewable Energy and Conservation Tax Act of 2007''.

(b) 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.

Subtitle A—Clean Renewable Energy Production Incentives

PART I—PROVISIONS RELATING TO RENEWABLE ENERGY

SEC. 1501. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY AND REFINED COAL PRODUCTION CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' each place it appears in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9) and inserting ''January 1, 2011''.

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

(b) MODIFICATION OF REFINED COAL AS A QUALIFIED ENERGY RESOURCE.—

(1) ELIMINATION OF INCREASED MARKET VALUE TEST.—Section 45(c)(7)(A) (defining refined coal) is amended—

(A) by striking clause (iv),

(B) by adding ''and'' at the end of clause (ii), and

(C) by striking '', and'' at the end of clause (iii) and inserting a period.

(2) INCREASE IN REQUIRED EMISSION REDUCTION.—Section 45(c)(7)(B) (defining qualified emission reduction) is amended by inserting ''at least 40 percent of the emissions of'' after ''nitrogen oxide and''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to coal produced and sold after December 31, 2007.

(c) CREDIT ALLOWED FOR ON-SITE USE OF ELECTRICITY PRODUCED FROM BIOMASS.—

(1) ON-SITE USE.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(12) CREDIT ALLOWED FOR ON-SITE USE OF ELECTRICITY PRODUCED FROM BIOMASS.—In the case of electricity produced after December 31, 2007, at any facility described in paragraph (2) or (3) which is equipped with net metering to determine electricity consumption or sale (such consumption or sale to be verified by a third party as determined by the Secretary), subsection (a)(2) shall be applied without regard to subparagraph (B) thereof.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(d) EXPANSION OF RESOURCES TO WAVE, CURRENT, TIDAL, AND OCEAN THERMAL ENERGY.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) wave, current, tidal, and ocean thermal energy.''.

(2) DEFINITION OF RESOURCES.—Section 45(c) is amended by adding at the end the following new paragraph:

''(10) WAVE, CURRENT, TIDAL, AND OCEAN THERMAL ENERGY.—The term 'wave, current, tidal, and ocean thermal energy' means electricity produced from any of the following:

''(A) Free flowing ocean water derived from tidal currents, ocean currents, waves, or estuary currents.

''(B) Ocean thermal energy.''.

(3) FACILITIES.—Section 45(d) is amended by adding at the end the following new paragraph:

''(11) WAVE, CURRENT, TIDAL, AND OCEAN THERMAL FACILITY.—In the case of a facility using resources described in subparagraph (A), (B), or (C) of subsection (c)(10) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before January 1, 2011, but such term shall not include a facility which includes impoundment structures or a small irrigation power facility.''.

(4) CREDIT RATE.—Section 45(b)(4)(A) (relating to credit rate) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

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

(e) TRASH FACILITY CLARIFICATION.—

(1) IN GENERAL.—Paragraph (7) of section 45(d) is amended—

(A) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(B) by striking ''COMBUSTION''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 1502. EXTENSION AND MODIFICATION OF ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (iii), by inserting ''or'' at the end of clause (iv), and by adding at the end the following new clause:

''(v) combined heat and power system property,''.

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit; reforestation credit) is amended by adding at the end the following new subsection:

''(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(v)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(C) the energy efficiency percentage of which exceeds 60 percent, and

''(D) which is placed in service before January 1, 2017.

''(2) LIMITATION.—

''(A) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

''(B) APPLICABLE CAPACITY.—For purposes of subparagraph (A), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(C) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(3) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(B) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(4) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

''(A) paragraph (1)(C) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(e) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) CLERICAL AMENDMENTS.—Paragraphs (1)(B) and (2)(B) of section 48(c) are each amended by striking ''paragraph (1)'' and inserting ''subsection (a)''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the

enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after June 20, 2007, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1503. EXTENSION AND MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) (relating to maximum credit) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,334''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) (relating to allowance of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) (relating to maximum credit) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) (relating to wind facility) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating to maximum expenditures) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to expenditures after December 31, 2007.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(A) IN GENERAL.—The amendments made by subsection (d) shall apply to taxable years beginning after the date of the enactment of this Act.

(B) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (d)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 1504. EXTENSION AND MODIFICATION OF SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) (relating to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22)).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 1505. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart I—Qualified Tax Credit Bonds

''Sec. 54A. Credit to holders of qualified tax credit bonds.

''Sec. 54B. New clean renewable energy bonds.

''SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.

''(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is 70 percent of the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

''(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a new clean renewable energy bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

''(2) SPECIAL RULES RELATING TO EXPENDITURES.—

''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

''(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

''(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

''(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

''(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

''(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(a)(1).

''(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

''(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

''(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

''(4) SPECIAL RULES RELATING TO ARBITRAGE.—

''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

''(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

''(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

''(i) such fund is funded at a rate not more rapid than equal annual installments,

''(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

''(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

''(5) MATURITY LIMITATION.—

''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

''(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

''(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

''(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

''(e) OTHER DEFINITIONS.—For purposes of this subchapter—

''(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

''(A) the excess of—

''(i) the proceeds from the sale of an issue, over

''(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

''(B) the proceeds from any investment of the excess described in subparagraph (A).

''(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

''(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

''(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

''(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by public power providers, governmental bodies, or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer

shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 33 ⅓ percent thereof may be allocated to qualified projects of public power providers,

''(B) not more than 33 ⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

''(C) not more than 33 ⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a governmental body, a cooperative electric company, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking ''subpart C'' and inserting ''subparts C and I''.

(2) Section 1397E(c)(2) is amended by striking ''subpart H'' and inserting ''subparts H and I''.

(3) Section 6401(b)(1) is amended by striking ''and H'' and inserting ''H, and I''.

(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking ''**Certain Bonds**'' and inserting ''**Clean Renewable Energy Bonds**''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

''SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

''SUBPART I. QUALIFIED TAX CREDIT BONDS.''.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—PROVISIONS RELATING TO CARBON MITIGATION AND COAL

SEC. 1506. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) (relating to qualifying advanced coal project credit) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following the paragraph:

''(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clauses (iii) or (iv) of subsection (d)(3)(B).''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) (relating to aggregate credits) is amended by striking ''$1,300,000,000'' and inserting ''$2,800,000,000''.

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) (relating to aggregate credits) is amended to read as follows:

''(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

''(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

''(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i),

''(iii) $1,000,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(ii), and

''(iv) $500,000,000 for other advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).''.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) (relating to certification) is amended to read as follows:

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

''(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(A) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

''(ii) for an allocation from the dollar amount specified in clause (iii) or (iv) of paragraph (3)(A) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.''.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) (relating to requirements) is amended by striking ''and'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.''.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking ''and'' at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(3) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.''.

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A (relating to qualifying advanced coal project credit) is amended by adding at the end the following new subsection:

''(h) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).''.

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

''(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and''.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking ''INTEGRATED GASIFICATION COMBINED CYCLE'' in the heading and inserting ''CERTAIN''.

(d) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—Section 48A (relating to qualifying advanced coal project credit), as amended by subsection (c)(3), is amended by adding at the end the following new subsection:

''(i) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—In implementing this section or section 48B, the Secretary is

directed to modify the terms of any competitive certification award and any associated closing agreement where such modification—

''(1) is consistent with the objectives of such section,

''(2) is requested by the recipient of the competitive certification award, and

''(3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base,

unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary shall consult with other relevant Federal agencies, including the Department of Energy.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—The amendment made by subsection (d) shall take effect on the date of the enactment of this Act and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 1507. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

(a) CREDIT RATE.—Section 48B(a) (relating to qualifying gasification project credit) is amended by inserting ''(30 percent in the case of credits allocated under subsection (d)(1)(B))'' after ''20 percent''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) (relating to qualifying gasification project program) is amended by striking ''shall not exceed $350,000,000'' and all that follows and inserting ''shall not exceed—

''(A) $350,000,000, plus

''(B) $500,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such a project's total carbon dioxide emissions,

under rules similar to the rules of section 48A(d)(4).''.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B (relating to qualifying gasification project credit) is amended by adding at the end the following new subsection:

''(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).''.

(d) SELECTION PRIORITIES.—Section 48B(d) (relating to qualifying gasification project program) is amended by adding at the end the following new paragraph:

''(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

''(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

''(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

SEC. 1508. SEVEN-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED CARBON DIOXIDE PIPELINE PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property) is amended by striking ''and'' at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

''(v) any qualified carbon dioxide pipeline property—

''(I) the original use of which commences with the taxpayer after the date of the enactment of this clause,

''(II) the original purpose of which is to transport carbon dioxide, and

''(III) which is placed in service before January 1, 2011, and''.

(b) DEFINITION OF QUALIFIED CARBON DIOXIDE PIPELINE PROPERTY.—Section 168(e) (relating to classification of property) is amended by inserting at the end the following new paragraph:

''(8) QUALIFIED CARBON DIOXIDE PIPELINE PROPERTY.—

''(A) IN GENERAL.—The term 'qualified carbon dioxide pipeline property' means property which is used in the United States solely to transmit qualified carbon dioxide from the point of capture to a secure geological storage or the point at which such qualified carbon dioxide is used as a tertiary injectant.

''(B) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED CARBON DIOXIDE.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

''(I) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and

''(II) is measured at the source of capture and verified at the point of disposal or injection.

''(ii) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Secretary of the Interior, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subparagraph (A) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under such regulations.

''(iii) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1509. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii) and has provided evidence as provided under clause (iv), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(iv) ESTABLISHMENT OF EXPORT.—For purposes of this section, the Secretary shall accept as proof of export or shipment from a coal producer, at the discretion of the coal producer, either—

(I) a copy or the original of a judgment described in clause (iii) regardless of whether it is subsequently overturned, which shall be deemed to establish the export of coal covered by the judgment, or

(II) a copy or the original of any one of 1 the following: a bill of lading, a commercial invoice, or a shipper's export declaration evidencing that such coal was exported or shipped, or caused to be exported or shipped.

(v) RECAPTURE.—In the case any judgment described in clause (iii) is overturned, the coal producer shall pay to the Secretary the amount of any payment received under subparagraph (A) unless the coal producer establishes the export of the coal to a foreign country or shipment of coal to a possession of the United States.

(2) EXPORTERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(i) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(ii) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(B) ESTABLISHMENT OF EXPORT.—For purposes of this section, the Secretary shall accept as proof of export or shipment from a coal exporter a copy or the original of any 1 of the following: a copy or the original of any one of 1 the following: a bill of lading, a commercial invoice, or a shipper's export declaration evidencing that such coal was exported or shipped, or caused to be exported or shipped.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ''settlement with the Federal Government'' shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

(d) DEFINITIONS.—For purposes of this section—

(1) COAL PRODUCER.—The term ''coal producer'' means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term ''exporter'' means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term ''a party related to such coal producer'' means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of such Code) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of such Code.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

SEC. 1510. EXTENSION OF TEMPORARY INCREASE IN COAL EXCISE TAX.

Paragraph (2) of section 4121(e) (relating to temporary increase termination date) is amended—

(1) by striking ''January 1, 2014'' in clause (i) and inserting ''December 31, 2017'', and

(2) by striking ''January 1 after 1981'' in clause (ii) and inserting ''December 31 after 2007''.

SEC. 1511. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2008 and 2009.

Subtitle B—Transportation and Domestic Fuel Security

PART I—BIOFUELS

SEC. 1521. CREDIT FOR PRODUCTION OF CELLULOSIC BIOMASS ALCOHOL.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking ''plus'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', plus'', and by adding at the end the following new paragraph:

''(4) the cellulosic alcohol producer credit.''.

(b) CELLULOSIC ALCOHOL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) CELLULOSIC ALCOHOL PRODUCER CREDIT.—

''(A) IN GENERAL.—The cellulosic alcohol producer credit for the taxable year is an amount equal to the applicable amount for each gallon of qualified cellulosic alcohol production.

''(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means the excess of—

''(i) $1.01, over

''(ii) the amount of the credit in effect for alcohol which is ethanol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic alcohol production.

''(C) LIMITATION.—

''(i) IN GENERAL.—No credit shall be allowed to any taxpayer under subparagraph (A) with respect to any qualified cellulosic alcohol production during the taxable year in excess of 60,000,000 gallons.

''(ii) AGGREGATION RULE.—For purposes of clause (i), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(iii) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitation contained in clause (i) shall be applied at the entity level and at the partner or similar level.

''(D) QUALIFIED CELLULOSIC ALCOHOL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic alcohol production' means any cellulosic biomass alcohol which is produced by the taxpayer and which during the taxable year—

''(i) is sold by the taxpayer to another person—

''(I) for use by such other person in the production of a qualified alcohol mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such cellulosic biomass alcohol at retail to another person and places such cellulosic biomass alcohol in the fuel tank of such other person, or

''(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified cellulosic alcohol production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

''(E) CELLULOSIC BIOMASS ALCOHOL.—

''(i) IN GENERAL.—The term 'cellulosic biomass alcohol' has the meaning given such term under section 168(l)(3), but does not include any alcohol with a proof of less than 150.

''(ii) DETERMINATION OF PROOF.—The determination of the proof of any alcohol shall be made without regard to any added denaturants.

''(F) COORDINATION WITH SMALL ETHANOL PRODUCER CREDIT.—No small ethanol producer credit shall be allowed with respect to any qualified cellulosic alcohol production if credit is determined with respect to such production under this paragraph.

''(G) ALLOCATION OF CELLULOSIC PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph.

''(H) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic alcohol production after December 31, 2007, and before January 1, 2014.''.

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting ''or subsection (b)(5)(H)'' after ''by reason of paragraph (1)'' in paragraph (2), and

(B) by adding at the end the following new paragraph:

''(3) EXCEPTION FOR CELLULOSIC ALCOHOL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).''.

(c) ALCOHOL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) CELLULOSIC ALCOHOL PRODUCER CREDIT.—If—

''(i) any credit is determined under subsection (a)(4), and

''(ii) any person does not use such fuel for a purpose described in subsection (b)(5)(D),

then there is hereby imposed on such person a tax equal to the applicable amount for each gallon of such cellulosic biomass alcohol.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 40(d)(3) is amended by striking ''PRODUCER'' in the heading and inserting ''SMALL ETHANOL PRODUCER''.

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking ''or (C)'' and inserting ''(C), or (D)''.

(d) LIMITATION TO CELLULOSIC ALCOHOL WITH CONNECTION TO THE UNITED STATES.—Subsection (d) of section 40, as amended by this Act, is amended by adding at the end the following new paragraph:

''(7) LIMITATION TO CELLULOSIC ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No cellulosic alcohol producer credit shall be determined under subsection (a) with respect to any alcohol unless such alcohol is produced in the United States.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2007.

SEC. 1522. EXPANSION OF SPECIAL ALLOWANCE TO CELLULOSIC BIOMASS ALCOHOL FUEL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) (relating to special allowance for cellulosic biomass ethanol plant property) is amended to read as follows:

''(3) CELLULOSIC BIOMASS ALCOHOL.—For purposes of this subsection, the term 'cellulosic biomass alcohol' means any alcohol produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (l) of section 168 is amended by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biomass alcohol''.

(2) The heading of section 168(l) is amended by striking ''CELLULOSIC BIOMASS ETHANOL'' and inserting ''CELLULOSIC BIOMASS ALCOHOL''.

(3) The heading of paragraph (2) of section 168(l) is amended by striking ''CELLULOSIC BIOMASS ETHANOL'' and inserting ''CELLULOSIC BIOMASS ALCOHOL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1523. MODIFICATION OF ALCOHOL CREDIT.

(a) INCOME TAX CREDIT.—Subsection (h) of section 40 (relating to reduced credit for ethanol blenders) is amended by adding at the end the following new paragraph:

''(3) REDUCED AMOUNT AFTER SALE OF 7,500,000,000 GALLONS.—

''(A) IN GENERAL.—In the case of any calendar year beginning after the calendar year described in subparagraph (B), the last row in the table in paragraph (2) shall be applied by substituting '46 cents' for '51 cents'.

''(B) CALENDAR YEAR DESCRIBED.—The calendar year described in this subparagraph is the first calendar year beginning after 2007 during which 7,500,000,000 gallons of ethanol (including cellulosic ethanol) have been produced in or imported into the United States, as certified by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.''.

(b) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 6426(b) (relating to alcohol fuel mixture credit) is amended by adding at the end the following new subparagraph:

''(C) REDUCED AMOUNT AFTER SALE OF 7,500,000,000 GALLONS.—In the case of any alcohol fuel mixture produced in a calendar year beginning after the calendar year described in section 40(h)(3)(B), subparagraph (A) shall be applied by substituting '46 cents' for '51 cents'.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6426(b)(2) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

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

SEC. 1524. EXTENSION AND MODIFICATION OF CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''using a thermal depolymerization process'', and

(2) by striking ''or D396'' in subparagraph (B) and inserting ''or other equivalent standard approved by the Secretary for fuels to be used in diesel-powered highway vehicles''.

(c) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following new flush sentence: ''The term 'renewable diesel' also means fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

(2) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—The amendments made by subsection (b) shall apply to fuel produced, and sold or used, after the date which is 30 days after the date of the enactment of this Act.

SEC. 1525. CLARIFICATION OF ELIGIBILITY FOR RENEWABLE DIESEL CREDIT.

(a) COPRODUCTION WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel), as amended by this Act, is amended by adding at the end the following sentence: ''Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).''

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking ''(as defined in section 45K(c)(3))''.

(b) CLARIFICATION OF ELIGIBILITY FOR ALTERNATIVE FUEL CREDIT.—

(1) IN GENERAL.—Subparagraph (F) of section 6426(d)(2) is amended by striking ''hydrocarbons'' and inserting ''fuel''.

(2) CONFORMING AMENDMENT.—Section 6426 is amended by adding at the end the following new subsection:

''(h) DENIAL OF DOUBLE BENEFIT.—No credit shall be determined under subsection (d) or (e) with respect to any fuel with respect to which credit may be determined under subsection (b) or (c) or under section 40 or 40A.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2007.

(2) CLARIFICATION OF ELIGIBILITY FOR ALTERNATIVE FUEL CREDIT.—The amendment made by subsection (b) shall take effect as if included in section 11113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

SEC. 1526. PROVISIONS CLARIFYING TREATMENT OF FUELS WITH NO NEXUS TO THE UNITED STATES.

(a) ALCOHOL FUELS CREDIT.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:

''(6) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(c) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426, as amended by this Act, is amended by adding at the end the following new subsection:

''(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if

credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

SEC. 1527. COMPREHENSIVE STUDY OF BIOFUELS.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable on United States farmland,

(3) the domestic effects of a dramatic increase in biofuels production on, for example—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops,

(G) exports and imports of grains,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation, and

(6) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The National Academy of Sciences shall submit an initial report of the findings of the report required under subsection (a) to the Congress not later than 3 months after the date of the enactment of this Act, and a final report not later than 6 months after such date of enactment.

PART II—ADVANCED TECHNOLOGY MOTOR VEHICLES

SEC. 1528. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (31) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(32) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by this Act, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) is amended by striking ''30B(g)(2),''.

(f) CONVERSION KITS.—

(1) IN GENERAL.—Section 30B (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) PLUG-IN CONVERSION CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is an amount equal to 20 percent of the cost of the plug-in traction battery module installed in such vehicle as part of such conversion.

''(2) LIMITATIONS.—The amount of the credit allowed under this subsection shall not exceed $2,500 with respect to the conversion of any motor vehicle.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—The term 'qualified plug-in electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D(d)(1), determined without regard to subparagraphs (A) and (C) thereof).

''(B) PLUG-IN TRACTION BATTERY MODULE.—The term 'plug-in traction battery module' means an electro-chemical energy storage device which—

''(i) has a traction battery capacity of not less than 2.5 kilowatt hours,

''(ii) is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of electric power,

''(iii) consists of a standardized configuration and is mass produced,

''(iv) has been tested and approved by the National Highway Transportation Safety Administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the battery manufacturer as part of a nationwide distribution program, and

''(v) is certified by a battery manufacturer as meeting the requirements of clauses (i) through (iv).

''(C) CREDIT ALLOWED TO LESSOR OF BATTERY MODULE.—In the case of a plug-in traction battery module which is leased to the taxpayer, the credit allowed under this subsection shall be allowed to the lessor of the plug-in traction battery module.

''(D) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

''(4) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2010.''.

(2) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the plug-in conversion credit determined under subsection (i).''.

(3) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) is amended by adding at the end the following: '', except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.''

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2006.

(3) CONVERSION KITS.—The amendments made by subsection (f) shall apply to property placed in service after December 31, 2007, in taxable years beginning after such date.

(h) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 1529. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraphs:

''(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

''(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using either—

''(i) an all electric unit, such as a battery powered unit or from grid-supplied electricity, or

''(ii) a dual fuel unit powered by diesel or other fuels, and capable of providing such services from grid-supplied electricity or on-truck batteries alone, and

''(B) is certified by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, to reduce long-duration idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

For purposes of subparagraph (B), the term 'long-duration idling' means the operation of a main drive engine, for a period greater than 15 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stoppages associated with traffic movement or congestion.

''(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after December 31, 2007.

PART III—OTHER TRANSPORTATION PROVISIONS

SEC. 1530. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as section 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $115,000,000 ($425,000,000 in the case of the last 2 years in the credit period), plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2008.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical therein and inserting ''(in the case of nonresidential real property and residential rental property, the date of the enactment of the Clean Renewable Energy and Conservation Tax Act of 2007 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''section 1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

''Sec. 1400L. New York Liberty Zone tax credits.''.

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

SEC. 1531. EXTENSION OF TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) of the Internal Revenue Code of 1986 (relating to general rule for qualified transportation fringe) is amended by adding at the end the following:

''(D) Any qualified bicycle commuting reimbursement.''.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) of such Code is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.''.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) of such Code (relating to definitions) is amended by adding at the end the following:

''(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

''(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

''(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

''(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

''(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

''(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).''.

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting ''(other than a qualified bicycle commuting reimbursement)'' after ''qualified transportation fringe''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 1532. EXTENSION AND MODIFICATION OF ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) EXTENSION.—Paragraph (1) of section 179C(c) (relating to qualified refinery property) is amended—

(1) by striking ''January 1, 2012'' in subparagraph (B) and inserting ''January 1, 2014'', and

(2) by striking ''January 1, 2008'' each place it appears in subparagraph (F) and inserting ''January 1, 2010''.

(b) INCLUSION OF FUEL DERIVED FROM SHALE AND TAR SANDS.—

(1) IN GENERAL.—Subsection (d) of section 179C is amended by inserting '', or directly from shale or tar sands'' after ''(as defined in section 45K(c))''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 179C(e) is amended by inserting ''shale, tar sands, or'' before ''qualified fuels''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle C—Energy Conservation and Efficiency

PART I—CONSERVATION TAX CREDIT BONDS

SEC. 1541. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as added by this title, is amended by adding at the end the following new section:

''SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,000,000,000.

''(d) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (c) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation

which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(e) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs, or

''(iii) rural development involving the production of electricity from renewable energy resources.

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(f) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(g) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (d) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as added by this title, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a new clean renewable energy bond, or

''(B) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as added by this title, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a new clean renewable energy bond, a purpose specified in section 54B(a)(1), and

''(ii) in the case of a qualified energy conservation bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by this title, is amended by adding at the end the following new item:

''Sec. 54C. Qualified energy conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1542. QUALIFIED FORESTRY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as added by this title, is amended by adding at the end the following new section:

''SEC. 54D. QUALIFIED FORESTRY CONSERVATION BONDS.

''(a) QUALIFIED FORESTRY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified forestry conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available proceeds of such issue are to be used for one or more qualified forestry conservation projects,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified forestry conservation bond limitation of $500,000,000.

''(d) ALLOCATIONS.—

''(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation projects in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

''(2) SOLICITATION OF APPLICATIONS.—The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) not later than 90 days after the date of the enactment of this section.

''(e) QUALIFIED FORESTRY CONSERVATION PROJECT.—For purposes of this section, the term 'qualified forestry conservation project' means the acquisition by a State or 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

''(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

''(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be donated to a State.

''(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

''(4) The amount of acreage acquired must be at least 40,000 acres.

''(f) QUALIFIED ISSUER.—For purposes of this section, the term 'qualified issuer' means a State or 501(c)(3) organization (as defined in section 150(a)(4)).

''(g) SPECIAL ARBITRAGE RULE.—In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as added by this title, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a new clean renewable energy bond,

''(B) a qualified energy conservation bond, or

''(C) a qualified forestry conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as added by this title, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a new clean renewable energy bond, a purpose specified in section 54B(a)(1),

''(ii) in the case of a qualified energy conservation bond, a purpose specified in section 54C(a)(1), and

''(iii) in the case of a qualified forestry conservation bond, a purpose specified in section 54D(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by this title, is amended by adding at the end the following new item:

''Sec. 54C. Qualified forestry conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—EFFICIENCY

SEC. 1543. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT EXISTING HOMES CREDIT.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 1544. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 1545. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009 or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(7), as redesignated by paragraph (3), is amended to read as follows:

''(7) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions) is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 1546. SEVEN-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(C) (relating to 7-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (v), by redesignating clause (vi) as clause (vii), and by inserting after clause (v) the following new clause:

''(vi) any qualified energy management device, and''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED ENERGY MANAGEMENT DEVICE.—

''(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is installed on real property of a customer of the taxpayer and is placed in service by a taxpayer who—

''(i) is a supplier of electric energy or a provider of electric energy services, and

''(ii) provides all commercial and residential customers of such supplier or provider with net metering upon the request of such customer.

''(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the

customer's energy management device in support of time-based rates or other forms of demand response, and

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically.

''(C) NET METERING.—For purposes of subparagraph (A), the term 'net metering' means allowing customers a credit for providing electricity to the supplier or provider.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007.

Subtitle D—Other Provisions

PART I—FORESTRY PROVISIONS

SEC. 1551. DEDUCTION FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

''SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.

''(a) IN GENERAL.—In the case of a taxpayer which elects the application of this section for a taxable year, there shall be allowed a deduction against gross income in an amount equal to 60 percent of the lesser of—

''(1) the taxpayer's qualified timber gain for such year, or

''(2) the taxpayer's net capital gain for such year.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

''(1) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

''(2) the sum of the taxpayer's losses described in such subsections for such year.

''(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—

''(1) In the case of any qualified timber gain of a pass-thru entity (as defined in section 1(h)(10)) other than a real estate investment trust, the election under this section shall be made separately by each taxpayer subject to tax on such gain.

''(2) In the case of any qualified timber gain of a real estate investment trust, the election under this section shall be made by the real estate investment trust.

''(d) ELECTION.—An election under this section may be made only with respect to the first taxable year beginning after the date of the enactment of this section.''.

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATES.—

(1) TAXPAYERS OTHER THAN CORPORATIONS.—Paragraph (2) of section 1(h) is amended to read as follows:

''(2) REDUCTION OF NET CAPITAL GAIN.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the sum of—

''(A) the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii), and

''(B) in the case of a taxable year with respect to which an election is in effect under section 1203, the taxpayer's qualified timber gain (as defined in section 1203(b)).''.

(2) CORPORATIONS.—Section 1201 is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

''(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO ACCOUNT.—For purposes of this section, in the case of a corporation with respect to which an election is in effect under section 1203, the net capital gain for any taxable year shall be reduced (but not below zero) by the corporation's qualified timber gain (as defined in section 1203(b)).''.

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting before the last sentence the following new paragraph:

''(22) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.''.

(d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED CURRENT EARNINGS.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) DEDUCTION FOR QUALIFIED TIMBER GAIN.—Clause (i) shall not apply to any deduction allowed under section 1203.''.

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) is amended by inserting after clause (iv) the following new clause:

''(v) The deduction allowed under section 1203.''.

(f) TREATMENT OF QUALIFIED TIMBER GAIN OF REAL ESTATE INVESTMENT TRUSTS.—Paragraph (3) of section 857(b) is amended by inserting after subparagraph (F) the following new subparagraph:

''(G) TREATMENT OF QUALIFIED TIMBER GAIN.—For purposes of this part, in the case of a real estate investment trust with respect to which an election is in effect under section 1203—

''(i) REDUCTION OF NET CAPITAL GAIN.—The net capital gain of the real estate investment trust for any taxable year shall be reduced (but not below zero) by the real estate investment trust's qualified timber gain (as defined in section 1203(b)).

''(ii) ADJUSTMENT TO SHAREHOLDER'S BASIS ATTRIBUTABLE TO DEDUCTION FOR QUALIFIED TIMBER GAINS.—

''(I) IN GENERAL.—The adjusted basis of shares in the hands of the shareholder shall be increased by the amount of the deduction allowable under section 1203(a) as provided in subclauses (II) and (III).

''(II) ALLOCATION OF BASIS INCREASE FOR DISTRIBUTIONS MADE DURING TAXABLE YEAR.—For any taxable year of a real estate investment trust for which an election is in effect under section 1203, in the case of a distribution made with respect to shares during such taxable year of amounts attributable to the deduction allowable under section 1203(a), the adjusted basis of such shares shall be increased by the amount of such distributions.

''(III) ALLOCATION OF EXCESS.—If the deduction allowable under section 1203(a) for a taxable year exceeds the amount of distributions described in subclause (II), the excess shall be allocated to every shareholder of the real estate investment trust at the close of the trust's taxable year in the same manner as if a distribution of such excess were made with respect to such shares.

''(IV) DESIGNATIONS.—To the extent provided in regulations, a real estate investment trust shall designate the amounts described in subclauses (II) and (III) in a manner similar to the designations provided with respect to capital gains described in subparagraphs (C) and (D).

''(V) DEFINITIONS.—As used in this subparagraph, the terms 'share' and 'shareholder' shall include beneficial interests and holders of beneficial interests, respectively.

''(iii) EARNINGS AND PROFITS DEDUCTION FOR QUALIFIED TIMBER GAINS.—The deduction allowable under section 1203(a) for a taxable year shall be allowed as a deduction in computing the earnings and profits of the real estate investment trust for such taxable year. The earnings and profits of any such shareholder which is a corporation shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.''.

(g) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT FOR DEDUCTION FOR QUALIFIED TIMBER GAIN OF REAL ESTATE INVESTMENT TRUSTS.—

(1) Section 857(b)(8) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT FOR DEDUCTION FOR QUALIFIED TIMBER GAIN.—If—

''(i) a shareholder of a real estate investment trust receives a basis adjustment provided under subsection (b)(3)(G)(ii), and

''(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be disallowed.''.

(2) Subparagraph (D) of section 857(b)(8), as redesignated by paragraph (1), is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) and (B)''.

(h) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the exclusion under section 1202, and the deduction under section 1203, shall not be allowed.''.

(2) Paragraph (4) of section 642(c) is amended by striking the first sentence and inserting ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 and for any deduction allowable to the estate or trust under section 1203.''

(3) Paragraph (3) of section 643(a) is amended by striking the last sentence and inserting ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''.

(4) Subparagraph (C) of section 643(a)(6) is amended to read as follows:

''(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust—

''(i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and

''(ii) the deduction under section 1203 shall not be taken into account.''.

(5) Paragraph (4) of section 691(c) is amended by inserting ''1203,'' after ''1202,''.

(6) Paragraph (2) of section 871(a) is amended by inserting ''or 1203,'' after ''1202,''.

(7) The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Deduction for qualified timber gain.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1552. EXCISE TAX NOT APPLICABLE TO SECTION 1203 DEDUCTION OF REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—

(1) ORDINARY INCOME.—Subparagraph (B) of section 4981(e)(1) is amended to read as follows:

''(B) by not taking into account—

''(i) any gain or loss from the sale or exchange of capital assets (determined without regard to any reduction that would be applied for purposes of section 857(b)(3)(G)(i)), and

''(ii) any deduction allowable under section 1203, and''.

(2) CAPITAL GAIN NET INCOME.—Section 4981(e)(2) is amended by adding at the end the following new subparagraph:

''(D) QUALIFIED TIMBER GAIN.—The amount determined under subparagraph (A) shall be determined without regard to any reduction that would be applied for purposes of section

857(b)(3)(G)(i) but shall be reduced for any deduction allowable under section 1203 for such calendar year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1553. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:

''(H) TREATMENT OF TIMBER GAINS.—

''(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—

''(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;

''(II) recognized under section 631(b); or

''(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.

''(ii) SPECIAL RULES.—

''(I) For purposes of this subtitle, cut timber, the gain of which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.

''(II) For purposes of this subtitle, income described in this subparagraph shall not be treated as gain from the sale of property described in section 1221(a)(1).

''(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.''.

(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

''(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means the last day of the first taxable year beginning after the date of the enactment of this paragraph.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SEC. 1554. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(2) is amended by striking ''and'' at the end of subparagraph (G), by inserting ''and'' at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:

''(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;''.

(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:

''(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.''.

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1555. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting ''(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)'' after ''not more than 20 percent of the value of its total assets is represented by securities of one or more taxable REIT subsidiaries''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1556. SAFE HARBOR FOR TIMBER PROPERTY.

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—

''(i) IN GENERAL.—In the case of sale of a real estate asset (as defined in section 856(c)(5)(B)) to a qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—

''(I) by substituting '2 years' for '4 years' in clause (i), and

''(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).

''(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.''.

(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ''or, in the case of a sale on or before the termination date, a taxable REIT subsidiary'' after ''independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income''.

(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.''.

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

''(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' means the last day of the first taxable year beginning after the date of the enactment of this subparagraph.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

PART II—EXXON VALDEZ

SEC. 1557. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

(A) $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior taxable years pursuant to this subsection), or

(B) the amount of qualified settlement income received by the individual during the taxable year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution,

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term ''eligible retirement plan'' has the meaning given such

term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

(1) SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(2) FICA.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as wages.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term ''qualified taxpayer'' means—

(1) any individual who is a plaintiff in the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any individual who is a beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term ''qualified settlement income'' means any interest and punitive damage awards which are—

(1) otherwise includible in taxable income, and

(2) received (whether as lump sums or periodic payments) in connection with the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska) (whether pre- or post-judgment and whether related to a settlement or judgment).

PART III—ELECTRIC TRANSMISSION FACILITIES

SEC. 1558. TAX-EXEMPT FINANCING OF CERTAIN ELECTRIC TRANSMISSION FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting '', or'', and

(3) by inserting at the end the following new paragraph:

''(16) qualified electric transmission facilities.''.

(b) DEFINITION.—Section 142 is amended by inserting at the end the following new subsection:

''(n) QUALIFIED ELECTRIC TRANSMISSION FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(16), the term 'qualified electric transmission facility' means any electric transmission facility which is owned by—

''(A) a State or political subdivision of a State, or any agency, authority, or instrumentality of any of the foregoing, providing electric service, directly or indirectly to the public, or

''(B) a State or political subdivision of a State expressly authorized under State law to finance and own electric transmission facilities.

''(2) TERMINATION.—Subsection (a)(16) shall not apply with respect to any bond issued after December 31, 2012.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2009.

Subtitle E—Revenue Provisions

SEC. 1561. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 1562. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

''(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

''(1) the amount of the combined foreign oil and gas income for the taxable year,

''(2) multiplied by—

''(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

''(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

''(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

''(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

''(A) foreign oil and gas extraction income, and

''(B) foreign oil related income.

''(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

''(A) oil and gas extraction taxes, and

''(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.''.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

''(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

''(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

''(i) first by the amount determined under subparagraph (B), and

''(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

''(B) REDUCTION FOR PRE-2008 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Clean Renewable Energy and Conservation Tax Act of 2007) for preceding taxable years beginning after December 31, 1982.

''(C) REDUCTION FOR POST-2007 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2007, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2007.

''(D) FOREIGN OIL AND GAS LOSS DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

''(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

''(II) the sum of the deductions properly apportioned or allocated thereto.

''(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

''(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

''(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

''(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

''(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Clean Renewable Energy and Conservation Tax Act of 2007.''.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking ''oil and gas extraction taxes'' each place it appears and inserting ''foreign oil and gas taxes'', and

(2) by adding at the end the following new paragraph:

''(4) TRANSITION RULES FOR PRE-2008 AND 2008 DISALLOWED CREDITS.—

''(A) PRE-2008 CREDITS.—In the case of any unused credit year beginning before January 1, 2008, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2007—

''(i) by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and

''(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in subsection (a).

''(B) 2008 CREDITS.—In the case of any unused credit year beginning in 2008, the amendments made to this subsection by the Clean Renewable Energy and Conservation Tax Act of 2007 shall be treated as being in effect for any preceding year beginning before January 1, 2008, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.''.

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking ''oil and gas extraction taxes'' and inserting ''foreign oil and gas taxes''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 1563. SEVEN-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.

SEC. 1564. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

''(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS.—

''(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

''(2) ADDITIONAL INFORMATION REQUIRED.—

''(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

''(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The customer's adjusted basis shall be determined—

''(I) in the case of any stock (other than any stock in an open-end fund), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred,

''(II) in the case of any stock in an open-end fund acquired before January 1, 2011, in accordance with any acceptable method under section 1012 with respect to the account in which such interest is held,

''(III) in the case of any stock in an open-end fund acquired after December 31, 2010, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such interest is held, and

''(IV) in any other case, under the method for making such determination under section 1012.

''(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

''(3) COVERED SECURITY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'covered security' means any specified security acquired on or after the applicable date if such security—

''(i) was acquired through a transaction in the account in which such security is held, or

''(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

''(B) SPECIFIED SECURITY.—The term 'specified security' means—

''(i) any share of stock in a corporation,

''(ii) any note, bond, debenture, or other evidence of indebtedness,

''(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

''(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

''(C) APPLICABLE DATE.—The term 'applicable date' means—

''(i) January 1, 2009, in the case of any specified security which is stock in a corporation, and

''(ii) January 1, 2011, or such later date determined by the Secretary in the case of any other specified security.

''(4) OPEN-END FUND.—For purposes of this subsection, the term 'open-end fund' means a regulated investment company (as defined in section 851) which is offering for sale or has outstanding any redeemable security of which it is the issuer and the shares of which are not traded on an established securities exchange.

''(5) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2010, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

''(6) SPECIAL RULES FOR SHORT SALES.—

''(A) IN GENERAL.—Notwithstanding subsection (a), in the case of a short sale under section 1233, reporting under this section shall be made for the year in which such sale is closed.

''(B) EXCEPTION FOR CONSTRUCTIVE SALES.—Subparagraph (A) shall not apply to any short sale which results in a constructive sale under section 1259 with respect to property held in the account in which the short sale is entered into.''.

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(h) APPLICATION TO OPTIONS ON SECURITIES.—

''(1) EXERCISE OF OPTION.—For purposes of this section, in the case of any exercise of an option on a covered security where the option was granted or acquired in the same account as the covered security, the amount received or paid with respect to such exercise shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

''(2) LAPSE OR CLOSING TRANSACTION.—For purposes of this section, in the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security where the taxpayer is the grantor of the option, this section shall apply as if the premium received for such option were gross proceeds received on the date of the lapse or closing transaction, and the cost (if any) of the closing transaction shall be taken into account as adjusted basis. In the case of an option on a specified security where the taxpayer is the grantee of such option, this section shall apply as if the grantee received gross proceeds of zero on the date of the lapse.

''(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2011.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'covered security' and 'specified security' shall have the meanings given such terms in subsection (g)(3).''.

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking ''January 31'' and inserting ''February 15 (January 31 in the case of returns for calendar years before 2010)''.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking ''at such time and'', and

(ii) by inserting after ''other item.'' the following new sentence: ''In the case of a payment made during any calendar year after 2009, the written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.''.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: ''In the case of a consolidated reporting statement (as defined in regulations) with respect to any account which includes the statement required by this subsection, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year after 2010 under section 6042(c), 6049(c)(2)(A), or 6050N(b) with respect to any item in such account shall instead be required to be furnished on or before February 15 of such calendar year if furnished as part of such consolidated reporting statement.''.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT METHOD.—Section 1012 (relating to basis of property–cost) is amended—

(1) by striking ''The basis of property'' and inserting the following:

''(a) IN GENERAL.—The basis of property'',

(2) by striking ''The cost of real property'' and inserting the following:

''(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property'', and

(3) by adding at the end the following new subsection:

''(c) DETERMINATIONS BY ACCOUNT.—

''(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified

security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

''(2) APPLICATION TO OPEN-END FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any stock in an open-end fund acquired before January 1, 2009, shall be treated as a separate account from any such stock acquired on or after such date.

''(B) ELECTION BY OPEN-END FUND FOR TREATMENT AS SINGLE ACCOUNT.—If an open-end fund elects (at such time and in such form and manner as the Secretary may prescribe) to have this subparagraph apply with respect to one or more of its stockholders—

''(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

''(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding stock in an open-end fund as a nominee.

''(3) DEFINITIONS.—For purposes of this section, the terms 'specified security', 'applicable date', and 'open-end fund' shall have the meaning given such terms in section 6045(g).''.

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

''SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.

''(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

''(b) APPLICABLE PERSON.—For purposes of subsection (a), the term 'applicable person' means—

''(1) any broker (as defined in section 6045(c)(1)), and

''(2) any other person as provided by the Secretary in regulations.

''(c) TIME FOR FURNISHING STATEMENT.—Any statement required by subsection (a) shall be furnished not later than the earlier of—

''(1) 45 days after the date of the transfer described in subsection (a), or

''(2) January 15 of the year following the calendar year during which such transfer occurred.''.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by redesignating subparagraphs (I) through (CC) as subparagraphs (J) through (DD), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045 the following new item:

''Sec. 6045A. Information required in connection with transfers of covered securities to brokers.''.

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

''SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.

''(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

''(1) a description of any organizational action which affects the basis of such specified security of such issuer,

''(2) the quantitative effect on the basis of such specified security resulting from such action, and

''(3) such other information as the Secretary may prescribe.

''(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

''(1) 45 days after the date of the action described in subsection (a), or

''(2) January 15 of the year following the calendar year during which such action occurred.

''(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such security, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

''(d) SPECIFIED SECURITY.—For purposes of this section, the term 'specified security' has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

''(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

''(1) the name, address, phone number, and email address of the information contact of such person, and

''(2) the information described in paragraphs (1), (2), and (3) of subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (defining information return) is amended by redesignating clauses (iv) through (xix) as clauses (v) through (xx), respectively, and by inserting after clause (iii) the following new clause:

''(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),''.

(B) Paragraph (2) of section 6724(d) of such Code (defining payee statement), as amended by subsection (c)(2), is amended by redesignating subparagraphs (J) through (DD) as subparagraphs (K) through (EE), respectively, and by inserting after subparagraph (I) the following new subparagraph:

''(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

''Sec. 6045B. Returns relating to actions affecting basis of specified securities.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009.

(f) STUDY REGARDING INFORMATION RETURNS.—

(1) IN GENERAL.—The Secretary of the Treasury shall study the effect and feasibility of delaying the date for furnishing statements under sections 6042(c), 6045, 6049(c)(2)(A), and 6050N(b) of the Internal Revenue Code of 1986 until February 15 following the year to which such statements relate.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on the results of the study conducted under paragraph (1). Such report shall include the Secretary's findings regarding—

(A) the effect on tax administration of such delay, and

(B) other administrative or legislative options to improve compliance and ease burdens on taxpayers and brokers with respect to such statements.

SEC. 1565. 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. 1566. REPEAL OF SUSPENSION OF CERTAIN PENALTIES AND INTEREST.

(a) IN GENERAL.—Section 6404 is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices provided by the Secretary of the Treasury, or his delegate, after December 20, 2007.

SEC. 1567. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 6.25 percentage points.

SEC. 1568. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS.

(a) EXTENSION OF TIME LIMITATION.—Section 6698(a) (relating to failure to file partnership returns) is amended by striking ''5 months'' and inserting ''12 months''.

(b) INCREASE IN PENALTY AMOUNT.—Paragraph (1) of section 6698(b) is amended by striking ''$50'' and inserting ''$100''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after the date of the enactment of this Act.

SEC. 1569. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended

by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Subtitle F—Secure Rural Schools

SEC. 1571. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

''(2) to make additional investments in, and create additional employment opportunities through, projects that—

''(A)(i) improve the maintenance of existing infrastructure;

''(ii) implement stewardship objectives that enhance forest ecosystems; and

''(iii) restore and improve land health and water quality;

''(B) enjoy broad-based support; and

''(C) have objectives that may include—

''(i) road, trail, and infrastructure maintenance or obliteration;

''(ii) soil productivity improvement;

''(iii) improvements in forest ecosystem health;

''(iv) watershed restoration and maintenance;

''(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

''(vi) the control of noxious and exotic weeds; and

''(vii) the reestablishment of native species; and

''(3) to improve cooperative relationships among—

''(A) the people that use and care for Federal land; and

''(B) the agencies that manage the Federal land.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

''(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

''(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

''(A) contains Federal land (as defined in paragraph (7)); and

''(B) elects to receive a share of the State payment or the county payment under section 102(b).

''(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

''(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

''(7) FEDERAL LAND.—The term 'Federal land' means—

''(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

''(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the 50-percent base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

''(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

''(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

''(A) $500,000,000 for fiscal year 2008; and

''(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 85 percent of the full funding amount for the preceding fiscal year.

''(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

''(A) the per capita personal income for each eligible county; by

''(B) the median per capita personal income of all eligible counties.

''(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

''(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

''(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

''(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

''(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

''(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading of 'FOREST SERVICE' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

''SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

''(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

''(1) the adjusted share for each eligible county within the eligible State; by

''(2) the full funding amount for the fiscal year.

''(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

''(1) the 50-percent adjusted share for the eligible county; by

''(2) the full funding amount for the fiscal year.

"SEC. 102. PAYMENTS TO STATES AND COUNTIES.

''(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

''(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

''(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

''(B) the share of the State payment of the eligible county; and

''(2) a county an amount equal to the amount elected under subsection (b) by each county for—

''(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

''(B) the county payment for the eligible county.

''(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

''(1) ELECTION; SUBMISSION OF RESULTS.—

''(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008, and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

''(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

''(2) DURATION OF ELECTION.—

''(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

''(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

''(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

''(A) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

''(B) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

''(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

''(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

''(A) the Act of May 23, 1908 (16 U.S.C. 500); and

''(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

''(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

''(1) ALLOCATIONS.—

''(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

''(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

''(i) Reserve any portion of the balance for projects in accordance with title II.

''(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

''(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

''(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

''(i) reserve any portion of the balance for—

''(I) carrying out projects under title II;

''(II) carrying out projects under title III; or

''(III) a combination of the purposes described in subclauses (I) and (II); or

''(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

''(2) DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

''(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

''(i) be available for expenditure by the Secretary concerned, without further appropriation; and

''(ii) remain available until expended in accordance with title II.

''(3) ELECTION.—

''(A) NOTIFICATION.—

''(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30 of each fiscal year.

''(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

''(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

''(II) return the balance to the Treasury of the United States.

''(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

''(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

"SEC. 103. TRANSITION PAYMENTS TO THE STATES OF CALIFORNIA, OREGON, AND WASHINGTON.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

''(A) for fiscal year 2008, 90 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

''(B) for fiscal year 2009, 76 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and

''(C) for fiscal year 2010, 65 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

''(2) COVERED STATE.—The term 'covered State' means each of the States of California, Oregon, and Washington.

''(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

''(c) DISTRIBUTION OF ADJUSTED AMOUNT IN OREGON AND WASHINGTON.—It is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the States of Oregon and Washington for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

''(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

''(1) Payments to the State of California under subsection (b).

''(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

''(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

"TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

"SEC. 201. DEFINITIONS.

''In this title:

''(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

''(A) an advisory committee established by the Secretary concerned under section 205; or

''(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

''(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

''(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

''(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 19741 (16 U.S.C. 1604).

"SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

''(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

''(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

"SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

''(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

''(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008, and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

''(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

''(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

''(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

''(1) The purpose of the project and a description of how the project will meet the purposes of this title.

''(2) The anticipated duration of the project.

''(3) The anticipated cost of the project.

''(4) The proposed source of funding for the project, whether project funds or other funds.

''(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

''(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

''(6) A detailed monitoring plan, including funding needs and sources, that—

''(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

''(B) includes an assessment of the following:

''(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

''(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

''(7) An assessment that the project is to be in the public interest.

''(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

"SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

''(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

''(1) The project complies with all applicable Federal laws (including regulations).

''(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

''(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

''(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

''(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

''(b) ENVIRONMENTAL REVIEWS.—

''(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

''(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

''(3) EFFECT OF REFUSAL TO PAY.—

''(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

''(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

''(c) DECISIONS OF SECRETARY CONCERNED.—

''(1) REJECTION OF PROJECTS.—

''(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

''(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

''(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

''(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

''(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

''(e) IMPLEMENTATION OF APPROVED PROJECTS.—

''(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

''(2) BEST VALUE CONTRACTING.—

''(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

''(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

''(i) the technical demands and complexity of the work to be done;

''(ii)(I) the ecological objectives of the project; and

''(II) the sensitivity of the resources being treated;

''(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

''(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

''(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

''(i) the harvesting or collection of merchantable timber; and

''(ii) the sale of the timber.

''(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less

than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

''(i) For fiscal year 2008, 35 percent.

''(ii) For fiscal year 2009, 45 percent.

''(iii) For each of fiscal years 2010 and 2011, 50 percent.

''(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

''(D) ASSISTANCE.—

''(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

''(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

''(E) REVIEW AND REPORT.—

''(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

''(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

''(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

''(1) to road maintenance, decommissioning, or obliteration; or

''(2) to restoration of streams and watersheds.

''SEC. 205. RESOURCE ADVISORY COMMITTEES.

''(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

''(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

''(2) PURPOSE.—The purpose of a resource advisory committee shall be—

''(A) to improve collaborative relationships; and

''(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

''(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

''(4) EXISTING ADVISORY COMMITTEES.—

''(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

''(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

''(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

''(b) DUTIES.—A resource advisory committee shall—

''(1) review projects proposed under this title by participating counties and other persons;

''(2) propose projects and funding to the Secretary concerned under section 203;

''(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

''(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

''(5)(A) monitor projects that have been approved under section 204; and

''(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

''(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

''(c) APPOINTMENT BY THE SECRETARY.—

''(1) APPOINTMENT AND TERM.—

''(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

''(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

''(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

''(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

''(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

''(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

''(d) COMPOSITION OF ADVISORY COMMITTEE.—

''(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

''(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

''(A) 5 persons that—

''(i) represent organized labor or non-timber forest product harvester groups;

''(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

''(iii) represent—

''(I) energy and mineral development interests; or

''(II) commercial or recreational fishing interests;

''(iv) represent the commercial timber industry; or

''(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

''(B) 5 persons that represent—

''(i) nationally recognized environmental organizations;

''(ii) regionally or locally recognized environmental organizations;

''(iii) dispersed recreational activities;

''(iv) archaeological and historical interests; or

''(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

''(C) 5 persons that—

''(i) hold State elected office (or a designee);

''(ii) hold county or local elected office;

''(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

''(iv) are school officials or teachers; or

''(v) represent the affected public at large.

''(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

''(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

''(e) APPROVAL PROCEDURES.—

''(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

''(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

''(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

''(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

''(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

''(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

''(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

''SEC. 206. USE OF PROJECT FUNDS.

''(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

''(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

''(A) The schedule for completing the project.

''(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

''(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

''(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

''(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

''(b) TRANSFER OF PROJECT FUNDS.—

''(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

''(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

''(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

''(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

''(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—

''(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

''(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

''SEC. 207. AVAILABILITY OF PROJECT FUNDS.

''(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30 of each fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

''(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

''(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

''(d) EFFECT OF COURT ORDERS.—

''(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

''(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

''SEC. 208. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

''(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

''TITLE III—COUNTY FUNDS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''SEC. 302. USE.

''(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

''(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

''(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

''(A) performed on Federal land after the date on which the use was approved under subsection (b);

''(B) paid for by the participating county; and

''(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

''(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

''(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

''(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

''SEC. 303. CERTIFICATION.

''(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

''(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

''SEC. 304. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

''(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

''TITLE IV—MISCELLANEOUS PROVISIONS

''SEC. 401. REGULATIONS.

''The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

''SEC. 403. TREATMENT OF FUNDS AND REVENUES.

''(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

''(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.''.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading ''FOREST SERVICE'' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

''§ 6906. Funding

''For fiscal year 2009—

''(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

''(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

''6906. Funding.''.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the amendment made by paragraph (1) shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907) (as in effect before September 30, 2002), by the Chairpersons of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, as appropriate, for purposes of budget enforcement in the House of Representatives

and the Senate, and under the Congressional Budget Act of 1974 (2 U.S.C. 601 et seq.) as if Payment in Lieu of Taxes (14-1114-0-1-806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217.

(B) EFFECTIVE DATE.—This paragraph shall—

(i) be effective beginning on the date of enactment of this Act; and

(ii) remain in effect for any fiscal year for which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

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 3842. Mr. REID proposed an amendment to amendment SA 3841 proposed by Mr. REID 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 from price gouging, to increase the energy 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:

At the end of the amendment add the following:

This section shall take effect one day after the date of this bill's enactment.

SA 3843. Mr. FEINGOLD (for himself and Mr. MENENDEZ) 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:

At the end of title I, insert the following:

Subtitle H—Flexible State Funds

SEC. 1941. OFFSET.

(a) OFFSET.—

(1) IN GENERAL.—Except as provided in paragraph (3) and notwithstanding any other provision of this Act, for the period beginning on October 1, 2007, and ending on September 30, 2012, the Secretary shall reduce the total amount of payments described in paragraph (2) received by the producers on a farm by 35 percent.

(2) PAYMENT.—A payment described in this paragraph is a payment in an amount of more than $10,000 for the crop year that is—

(A) a direct payment for a covered commodity or peanuts received by the producers on a farm for a crop year under section 1103 or 1303; or

(B) the fixed payment component of an average crop revenue payment for a covered commodity or peanuts received by the producers on a farm for a crop year under section 1401(b)(2).

(3) APPLICATION.—This subsection does not apply to a payment provided under a contract entered into by the Secretary before the date of enactment of this Act.

(b) SAVINGS.—The Secretary shall ensure, to the maximum extent practicable, that any savings resulting from subsection (a) are used—

(1) to provide $15,000,000 for each of fiscal years 2008 through 2012 to carry out section 379F of the Consolidated Farm and Rural Development Act (as added by section 1943);

(2) to provide an additional $35,000,000 for fiscal year 2008 and $40,000,000 for each of fiscal years 2009 through 2012 to carry out section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) (as amended by section 6401);

(3) to provide an additional $5,000,000 for each of fiscal years 2008 through 2012 to carry out the grassland reserve program established under subchapter C of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.);

(4) to provide an additional $10,000,000 for each of fiscal years 2008 through 2012 to carry out section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279)) (as amended by section 11052);

(5) to provide an additional $30,000,000 for each of fiscal years 2008 through 2012 to carry out the farmland protection program established under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838h et seq.) (commonly known as the ''Farm and Ranch Lands Protection Program'') ;

(6) to provide an additional $5,000,000 for fiscal year 2008 to carry out the Farmers' Market Promotion Program established under section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005);

(7) to carry out sections 4101 and 4013 (and the amendments made by those sections), without regards to paragraphs (1) and (3) of section 4908(b); and

(8) to make any funds that remain available after providing funds under paragraphs (1) through (7) to the Commodity Credit Corporation for use in carrying out section 1942.

SEC. 1942. FLEXIBLE STATE FUNDS.

(a) FUNDING.—

(1) BASE GRANTS.—The Secretary shall make a grant to each State to be used to benefit agricultural producers and rural communities in the State, in the amount of—

(A) for fiscal year 2008, $220,000; and

(B) for the period of fiscal years 2009 through 2017, $2,500,000.

(2) PROPORTIONAL FUNDING.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall allocate among the States $220,000,000 for fiscal years 2009 through 2017, with each State receiving a grant in an amount equal to the proportion that—

(i) the amount of the reduction in payments in the State under section 1941(a) ; bears to

(ii) the total amount of reduced payments in all States under that section.

(B) STATE FUNDS.—The Secretary shall maintain a separate account for each State consisting of amounts allocated for the State in accordance with subparagraph (A).

(C) USE OF FUNDS.—The Secretary shall use amounts maintained in a State account described in subparagraph (B) to carry out eligible programs in the appropriate State in accordance with a determination made by a State board under subsection (b)(3).

(b) STATE BOARDS.—

(1) IN GENERAL.—The Secretary shall establish a State board for each State that consists of the State directors of—

(A) the Farm Service Agency;

(B) the Natural Resources Conservation Service; and

(C) USDA-Rural Development.

(2) STAKEHOLDER INPUT.—A State board established under paragraph (1) shall consult with and conduct appropriate outreach activities with respect to relevant State agencies (including State agencies with jurisdiction over agriculture, rural development, energy, telecommunications, public schools, and nutrition assistance), producers, and local rural and agriculture industry leaders to collect information and provide advice regarding the needs and preferred uses of the funds provided under this section.

(3) DETERMINATION.—

(A) IN GENERAL.—Each State board shall determine the use of funds allocated under subsection (a)(2) among the eligible programs described in subsection (c)(1) based on the State needs and priorities as determined by the board.

(B) REQUIREMENT.—Of the funds allocated under subsection (a)(2) during each 5-year period, at least 20 percent of the funds shall be used to carry out eligible programs described in subparagraphs (M) through (P) of subsection (c)(1).

(4) OUTREACH ACTIVITIES.—Not more than 2 percent of the amounts maintained in a State account established under subsection (a) for a fiscal year may be used to carry out outreach activities described in paragraph (2).

(5) PROHIBITION.—Funds made available under this section may not be used for the administrative expenses of State boards in excess of the amount allowed for program administration under other law, including regulations.

(c) ELIGIBLE PROGRAMS.—

(1) IN GENERAL.—Funds allocated to a State under subsection (b) may be used in the State—

(A) to provide stewardship payments for conservation practices under the conservation security program established under subchapter A of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

(B) to provide cost share for projects to reduce pollution under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.), including manure management;

(C) to assist States and local groups to purchase development rights from farms and slow suburban sprawl under the farmland protection program established under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838h et seq.) (commonly known as the ''Farm and Ranch Lands Protection Program'');

(D) the grassland reserve program established under subchapter C of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.);

(E) to provide loans and loan guarantees to improve broadband access in rural areas in accordance with the program under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb);

(F) to provide to rural community facilities loans and grants under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a));

(G) to provide water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a));

(H) to make value-added agricultural product market development grants under section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224);

(I) the rural microenterprise assistance program under section 366 of the Consolidated Farm and Rural Development Act (as added by section 6022);

(J) to provide organic certification cost share or transition funds under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

(K) to provide grants under the Rural Energy for America Program established under section 9007 of the Farm Security and Rural Investment Act of 2002 (as amended by section 9001);

(L) to provide grants under the Farmers' Market Promotion Program established under section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005);

(M) to provide vouchers for the seniors farmers' market nutrition program under section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007);

(N) to provide vouchers for the farmers' market nutrition program established under section 17(m) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m));

(O) to provide grants to improve access to local foods and school gardens under section 18(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(i)); and

(P) subject to paragraph (2), to provide additional locally or regionally produced commodities for use by the State for any of—

(i) the fresh fruit and vegetable program under section 19 of the Richard B. Russell National School Lunch Act (as added by section 4903);

(ii) the commodity supplemental food program established under section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86);

(iii) the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

(iv) the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); and

(v) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2007 (7 U.S.C. 2013(b)).

(2) WAIVERS.—

(A) IN GENERAL.—The Secretary may waive a local or regional purchase requirement under any program described in clauses (i) through (v) of paragraph (1)(P) if the applicable State board demonstrates to the satisfaction of the Secretary that a sufficient quality or quantity of a local or regional product is not available.

(B) EFFECT.—A product purchased by a State board that receives a waiver under subparagraph (A) in lieu of a local or regional product shall be produced in the United States.

(d) MAINTENANCE OF EFFORT.—Funds made available to a program of a State under this section shall be in addition to, and shall not supplant, any other funds provided to the program under any other Federal, State, or local law (including regulations).

(e) EVALUATION AND REPORT.—Not later than March 1, 2012, the Secretary shall—

(1) evaluate the effectiveness of State funds made available under this section in meeting the unmet needs of agricultural producers, rural communities, and nutrition of school children and low-income individuals;

(2) evaluate whether base grants under subsection (a)(1) and proportional funding under subsection (a)(2) are equitable, based on national needs and the relative needs of each State;

(3) develop recommendations on whether the State flexible accounts described in subsection (a)(2)(B) should be continued and, if so, what changes should be made to the program;

(4) if the Secretary recommends that the State flexible accounts should not be continued, develop recommendations on what additional increases in other programs would be more beneficial to the broadest group of family farmers, rural communities, and the nutrition of school children and low-income individuals; and

(5) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the evaluation and recommendations required under this subsection.

SEC. 1943. GRANTS TO IMPROVE TECHNICAL INFRASTRUCTURE AND IMPROVE QUALITY OF RURAL HEALTH CARE FACILITIES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6028) is amended by adding at the end the following:

"SEC. 379F. GRANTS TO IMPROVE TECHNICAL INFRASTRUCTURE AND QUALITY OF RURAL HEALTH CARE FACILITIES.

''(a) DEFINITIONS.—In this section:

''(1) HEALTH INFORMATION TECHNOLOGY.—The term 'health information technology' includes total expenditures incurred for—

''(A) purchasing, leasing, and installing computer software and hardware, including handheld computer technologies, and related services;

''(B) making improvements to computer software and hardware;

''(C) purchasing or leasing communications capabilities necessary for clinical data access, storage, and exchange;

''(D) services associated with acquiring, implementing, operating, or optimizing the use of computer software and hardware and clinical health care informatics systems;

''(E) providing education and training to rural health facility staff on information systems and technology designed to improve patient safety and quality of care; and

''(F) purchasing, leasing, subscribing, or servicing support to establish interoperability that—

''(i) integrates patient-specific clinical data with well-established national treatment guidelines;

''(ii) provides continuous quality improvement functions that allow providers to assess improvement rates over time and against averages for similar providers; and

''(iii) integrates with larger health networks.

''(2) RURAL AREA.—The term 'rural area' means any area of the United States that is not—

''(A) included in the boundaries of any city, town, borough, or village, whether incorporated or unincorporated, with a population of more than 20,000 residents; or

''(B) an urbanized area contiguous and adjacent to such a city, town, borough, or village.

''(3) RURAL HEALTH FACILITY.—The term 'rural health facility' means any of—

''(A) a hospital (as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)));

''(B) a critical access hospital (as defined in section 1861(mm) of that Act (42 U.S.C. 1395x(mm)));

''(C) a Federally qualified health center (as defined in section 1861(aa) of that Act (42 U.S.C. 1395x(aa))) that is located in a rural area;

''(D) a rural health clinic (as defined in that section (42 U.S.C. 1395x(aa)));

''(E) a medicare-dependent, small rural hospital (as defined in section 1886(d)(5)(G) of that Act (42 U.S.C. 1395ww(d)(5)(G))); and

''(F) a physician or physician group practice that is located in a rural area.

''(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which the Secretary shall provide grants to rural health facilities for the purpose of assisting the rural health facilities in—

''(1) purchasing health information technology to improve the quality of health care or patient safety; or

''(2) otherwise improving the quality of health care or patient safety, including through the development of—

''(A) quality improvement support structures to assist rural health facilities and professionals—

''(i) to increase integration of personal and population health services; and

''(ii) to address safety, effectiveness, patient- or community-centeredness, timeliness, efficiency, and equity; and

''(B) innovative approaches to the financing and delivery of health services to achieve rural health quality goals.

''(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant provided under this section.

''(d) PROVISION OF INFORMATION.—A rural health facility that receives a grant under this section shall provide to the Secretary such information as the Secretary may require—

''(1) to evaluate the project for which the grant is used; and

''(2) to ensure that the grant is expended for the purposes for which the grant was provided.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.''.

SA 3844. Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) proposed an amendment to amendment SA 3830 proposed by Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. GREGG) to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; as folows:

In lieu of the matter to be inserted insert the following:

Subtitle ____—Public Safety Officers

SEC. _____1. SHORT TITLE.

This subtitle may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2007''.

SEC. _____2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in

meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. _____3. DEFINITIONS.

In this subtitle:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State, or political subdivision of a State, that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this subtitle. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PERSON.—The term ''person'' means an individual or a labor organization.

(9) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(10) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(11) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this subtitle, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact-finding.

(12) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this subtitle. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. _____4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subtitle, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section _____5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this subtitle.

SEC. _____5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this subtitle, the Authority shall issue regulations in accordance with the rights and responsibilities described in section _____4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section _____4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this subtitle and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this subtitle, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with

subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. _____6. STRIKES AND LOCKOUTS PROHIBITED.

(a) PROHIBITION.—An employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) MANDATORY TERMS AND CONDITIONS.—It shall not be a violation of subsection (a) for a public safety officer or labor organization to refuse to carry out services that are not required under the mandatory terms and conditions of employment applicable to the public safety officer or labor organization.

SEC. _____7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this subtitle shall not be invalidated by the enactment of this subtitle.

SEC. _____8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this subtitle shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section _____4(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this subtitle that provides for the rights and responsibilities described in section _____4(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this subtitle that provides for the rights and responsibilities described in section _____4(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section _____5 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this subtitle a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees; or

(7) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section _____4(b) solely because such law does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—

(1) ACTIONS OF STATES.—Nothing in this subtitle or the regulations promulgated under this subtitle shall be construed to require a State to rescind or preempt the laws or ordinances of any of its political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section _____4(b).

(2) ACTIONS OF THE AUTHORITY.—Nothing in this subtitle or the regulations promulgated under this subtitle shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section _____4(b);

(B) the laws or ordinance of any State or political subdivision of a State that provide for the rights and responsibilities described in section _____4(b) with respect to certain categories of public safety officers covered by this subtitle solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this subtitle; or

(C) the laws or ordinances of any State or political subdivision of a State that provides for the rights and responsibilities described in section _____4(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) LIMITED ENFORCEMENT POWER.—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section _____5 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section _____4(b).

(4) EXCLUSIVE ENFORCEMENT PROVISION.—Notwithstanding any other provision of this subtitle, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this subtitle with respect to employees of a State or political subdivision of a State.

SEC. _____9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle.

This section shall take effect one day after this bill's enactment.

SA 3845. Mr. HARKIN (for Mr. KENNEDY (for himself and Mr. DURBIN)) proposed an amendment to amendment SA 3539 proposed by Mr. DURBIN to the 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:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1170__. ACTION BY PRESIDENT AND CONGRESS BASED ON REPORT.

(a) PRESIDENT.—Not later than 180 days after the date on which the Congressional Bipartisan Food Safety Commission established by section 11060(a)(1)(A) submits to the President and Congress the report required under section 11060(b)(3), the President shall—

(1) review the report; and

(2) submit to Congress proposed legislation based on the recommendations for statutory language contained in the report, together with an explanation of the differences, if any, between the recommendations for statutory language contained in the report and the proposed legislation.

(b) CONGRESS.—On receipt of the proposed legislation described in subsection (a), the appropriate committees of Congress may hold such hearings and carry out such other activities as are necessary for appropriate consideration of the recommendations for statutory language contained in the report and the proposed legislation.

(c) SENSE OF SENATE.—It is the sense of the Senate that—

(1) it is vital for Congress to provide to food safety agencies of the Federal Government, including the Department of Agriculture and the Food and Drug Administration, additional resources, and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional inspectors are required to improve the ability of the Federal Government to safeguard the food supply of the United States;

(3) because of the increasing volume of international trade in food products, the Federal Government should give priority to entering into agreements with trading partners of the United States with respect to food safety; and

(4) based on the report of the Commission referred to in subsection (a) and the proposed legislation referred to in subsection (b), Congress should work toward a comprehensive legislative response to the issue of food safety.

SA 3846. Mr. HARKIN (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment to the bill S. 2271, to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; as follows:

On page 5, line 20, insert ''parent company,'' after ''subunit,''.

On page 7, strike lines 1 through 15.

On page 9, line 18, insert ''or'' after the semicolon.

On page 9, strike lines 19 through 21.

On page 9, line 22, strike ''(G)'' and insert ''(F)''.

On page 10, between lines 8 and 9, insert the following:

(3) APPLICABILITY.—The measure shall not apply to a person that demonstrates to the State or local government that the person does not conduct or have direct investments in business operations described in subsection (d).

(4) SENSE OF CONGRESS ON AVOIDING ERRONEOUS TARGETING.—It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person conducts or has

direct investments in business operations described in subsection (d).

On page 10, lines 24 and 25, strike '', directly or indirectly,''.

On page 16, strike lines 9 through 16.

On page 16, line 17, strike ''(d)'' and insert ''(c)''.

On page 17, line 3, strike ''(e)'' and insert ''(d)''.

On page 17, line 11, strike ''(f)'' and insert ''(e)''.

SA 3847. Mr. HARKIN (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 3997, to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Defenders of Freedom Tax Relief Act of 2007''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—TAX RELIEF AND PROTECTIONS FOR MILITARY PERSONNEL

Sec. 101. Permanent extension of qualified mortgage bond program rules for veterans.

Sec. 102. Exclusion of certain amounts from income for purposes of eligibility for certain housing provisions.

Sec. 103. Permanent extension of election to treat combat pay as earned income for purposes of earned income credit.

Sec. 104. Extension of statute of limitations to file claims for refunds relating to disability determinations by Department of Veterans Affairs.

Sec. 105. Credit for employer differential wage payments to employees who are active duty members of the uniformed services.

Sec. 106. Permanent extension of penalty-free withdrawals from retirement plans by individual called to active duty.

Sec. 107. State payments to service members treated as qualified military benefits.

Sec. 108. Survivor and disability payments with respect to qualified military service.

Sec. 109. Treatment of differential military pay as wages.

Sec. 110. Disclosure of return information relating to veterans programs made permanent.

Sec. 111. Contributions of military death gratuities to Roth IRAs and Education Savings Accounts.

TITLE II—CERTAIN HOUSING BENEFITS FOR INTELLIGENCE COMMUNITY AND PEACE CORPS VOLUNTEERS

Sec. 201. Permanent exclusion of gain from sale of a principal residence by certain employees of the intelligence community.

Sec. 202. Suspension of 5-year period during service with the Peace Corps.

TITLE III—REVENUE PROVISIONS

Sec. 301. Revision of tax rules on expatriation.

Sec. 302. Special enrollment option by employer health plans for members of uniform services who lose health care coverage.

Sec. 303. Increase in minimum penalty on failure to file a return of tax.

TITLE I—TAX RELIEF AND PROTECTIONS FOR MILITARY PERSONNEL

SEC. 101. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BOND PROGRAM RULES FOR VETERANS.

(a) IN GENERAL.—Section 143(d)(2)(D) (relating to exception) is amended by striking ''in the case of bonds issued after the date of the enactment of this subparagraph and before January 1, 2008,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2007.

SEC. 102. EXCLUSION OF CERTAIN AMOUNTS FROM INCOME FOR PURPOSES OF ELIGIBILITY FOR CERTAIN HOUSING PROVISIONS.

(a) IN GENERAL.—The last sentence of 142(d)(2)(B) (relating to income of individuals; area median gross income) is amended to read as follows ''For purposes of determining income under this subparagraph, subsections (g) and (h) of section 7872 shall not apply and any payments to a member of the Armed Forces under section 403 of title 37, United States Code, as a basic pay allowance for housing, shall be disregarded.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

SEC. 103. PERMANENT EXTENSION OF ELECTION TO TREAT COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Clause (vi) of section 32(c)(2)(B) (defining earned income) is amended to read as follows:

''(vi) a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2007.

SEC. 104. EXTENSION OF STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS RELATING TO DISABILITY DETERMINATIONS BY DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Subsection (d) of section 6511 (relating to special rules applicable to income taxes) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULES WHEN UNIFORMED SERVICES RETIRED PAY IS REDUCED AS A RESULT OF AWARD OF DISABILITY COMPENSATION.—

''(A) PERIOD OF LIMITATION ON FILING CLAIM.—If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

''(i) the reduction of uniformed services retired pay computed under section 1406 or 1407 of title 10, United States Code, or

''(ii) the waiver of such pay under section 5305 of title 38 of such Code,

as a result of an award of compensation under title 38 of such Code pursuant to a determination by the Secretary of Veterans Affairs, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund based upon the amount of such reduction or waiver, until the end of the 1-year period beginning on the date of such determination.

''(B) LIMITATION TO 5 TAXABLE YEARS.—Subparagraph (A) shall not apply with respect to any taxable year which began more than 5 years before the date of such determination.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund filed after the date of the enactment of this Act.

(c) TRANSITION RULES.—In the case of a determination described in paragraph (8) of section 6511(d) of the Internal Revenue Code of 1986 (as added by this section) which is made by the Secretary of Veterans Affairs after December 31, 2000, and on or before the date of the enactment of this Act, such paragraph—

(1) shall not apply with respect to any taxable year which began before January 1, 2001, and

(2) shall be applied by substituting ''the date of the enactment of the Defenders of Freedom Tax Relief Act of 2007'' for ''the date of such determination'' in subparagraph (A) thereof.

SEC. 105. CREDIT FOR EMPLOYER DIFFERENTIAL WAGE PAYMENTS TO EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

''SEC. 45O. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible small business employer, the differential wage payment credit for any taxable year is an amount equal to 20 percent of the sum of the eligible differential wage payments for each of the qualified employees of the taxpayer during such taxable year.

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

''(1) ELIGIBLE DIFFERENTIAL WAGE PAYMENTS.—The term 'eligible differential wage payments' means, with respect to each qualified employee, so much of the differential wage payments (as defined in section 3401(h)(2)) paid to such employee for the taxable year as does not exceed $20,000.

''(2) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who has been an employee of the taxpayer for the 91-day period immediately preceding the period for which any differential wage payment is made.

''(3) ELIGIBLE SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible small business employer' means, with respect to any taxable year, any employer which—

''(i) employed an average of less that 50 employees on business days during such taxable year, and

''(ii) under a written plan of the employer, provides eligible differential wage payments to every qualified employee of the employer.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(c) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under this chapter with respect to compensation paid to any employee shall be reduced by the credit determined under this section with respect to such employee.

''(d) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED

STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(1) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(2) the 2 succeeding taxable years.

''(e) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(f) TERMINATION.—This section shall not apply to any payments made after December 31, 2009.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end of following new paragraph:

''(32) the differential wage payment credit determined under section 45O(a).''.

(c) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45O(a),'' after ''45A(a),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45O. Employer wage credit for employees who are active duty members of the uniformed services.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after the date of the enactment of this Act.

SEC. 106. PERMANENT EXTENSION OF PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS BY INDIVIDUAL CALLED TO ACTIVE DUTY.

Clause (iv) of section 72(t)(2)(G) (relating to distributions from retirement plans to individuals called to active duty) is amended by striking all after ''September 11, 2001'' and inserting a period.

SEC. 107. STATE PAYMENTS TO SERVICE MEMBERS TREATED AS QUALIFIED MILITARY BENEFITS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(6) CERTAIN STATE PAYMENTS.—The term 'qualified military benefit' includes any bonus payment by a State or political subdivision thereof to any member or former member of the uniformed services of the United States or any dependent of such member only by reason of such member's service in an combat zone (as defined in section 112(c)(2), determined without regard to the parenthetical).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made before, on, or after the date of the enactment of this Act.

SEC. 108. SURVIVOR AND DISABILITY PAYMENTS WITH RESPECT TO QUALIFIED MILITARY SERVICE.

(a) PLAN QUALIFICATION REQUIREMENT FOR DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (36) the following new paragraph:

''(37) DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—A trust shall not constitute a qualified trust unless the plan provides that, in the case of a participant who dies while performing qualified military service (as defined in section 414(u)), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan had the participant resumed and then terminated employment on account of death.''.

(b) TREATMENT IN THE CASE OF DEATH OR DISABILITY RESULTING FROM ACTIVE MILITARY SERVICE FOR BENEFIT ACCRUAL PURPOSES.—Subsection (u) of section 414 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (8) the following new paragraph:

''(9) TREATMENT IN THE CASE OF DEATH OR DISABILITY RESULTING FROM ACTIVE MILITARY SERVICE.—

''(A) IN GENERAL.—For benefit accrual purposes, an employer sponsoring a retirement plan may treat an individual who dies or becomes disabled (as defined under the terms of the plan) while performing qualified military service with respect to the employer maintaining the plan as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability. In the case of any such treatment, and subject to subparagraphs (B) and (C), any full or partial compliance by such plan with respect to the benefit accrual requirements of paragraph (8) with respect to such individual shall be treated for purposes of paragraph (1) as if such compliance were required under such chapter 43.

''(B) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A) shall apply only if all individuals performing qualified military service with respect to the employer maintaining the plan (as determined under subsections (b), (c), (m), and (o)) who die or became disabled as a result of performing qualified military service prior to reemployment by the employer are credited with service and benefits on reasonably equivalent terms.

''(C) DETERMINATION OF BENEFITS.—The amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under subparagraph (A) for purposes of applying paragraph (8)(C) shall be determined on the basis of the individual's average actual employee contributions or elective deferrals for the lesser of—

''(i) the 12-month period of service with the employer immediately prior to qualified military service, or

''(ii) if service with the employer is less than such 12-month period, the actual length of continuous service with the employer.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 404(a)(2) is amended by striking ''and (31)'' and inserting ''(31), and (37)''.

(2) Section 403(b) is amended by adding at the end the following new paragraph:

''(14) DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—This subsection shall not apply to an annuity contract unless such contract meets the requirements of section 401(a)(37).''.

(3) Section 457(g) is amended by adding at the end the following new paragraph:

''(4) DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—A plan described in paragraph (1) shall not be treated as an eligible deferred compensation plan unless such plan meets the requirements of section 401(a)(37).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to deaths and disabilities occurring on or after January 1, 2007.

(2) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(A) IN GENERAL.—If this subparagraph applies to any plan or contract amendment, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(iii).

(B) AMENDMENTS TO WHICH SUBPARAGRAPH (A) APPLIES.—

(i) IN GENERAL.—Subparagraph (A) shall apply to any amendment to any plan or annuity contract which is made—

(I) pursuant to the amendments made by subsection (a) or pursuant to any regulation issued by the Secretary of the Treasury under subsection (a), and

(II) on or before the last day of the first plan year beginning on or after January 1, 2009.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this clause shall be applied by substituting ''2011'' for ''2009'' in subclause (II).

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless—

(I) the plan or contract is operated as if such plan or contract amendment were in effect for the period described in clause (iii), and

(II) such plan or contract amendment applies retroactively for such period.

(iii) PERIOD DESCRIBED.—The period described in this clause is the period—

(I) beginning on the effective date specified by the plan, and

(II) ending on the date described in clause (i)(II) (or, if earlier, the date the plan or contract amendment is adopted).

SEC. 109. TREATMENT OF DIFFERENTIAL MILITARY PAY AS WAGES.

(a) INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.—

(1) IN GENERAL.—Section 3401 (relating to definitions) is amended by adding at the end the following new subsection:

''(h) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

''(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

''(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

''(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

''(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to remuneration paid after December 31, 2007.

(b) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.—

(1) PENSION PLANS.—

(A) IN GENERAL.—Section 414(u) (relating to special rules relating to veterans' reemployment rights under USERRA), as amended by this Act, is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this

title to a retirement plan to which this subsection applies—

''(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

''(ii) the differential wage payment shall be treated as compensation, and

''(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

''(B) SPECIAL RULE FOR DISTRIBUTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(h)(2)(A).

''(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

''(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer (as determined under subsections (b), (c), (m), and (o)) performing service in the uniformed services described in section 3401(h)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5) of section 410(b) shall apply.

''(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(h)(2).''.

(B) CONFORMING AMENDMENT.—The heading for section 414(u) is amended by inserting ''AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY'' after ''USERRA''.

(2) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) (defining compensation) is amended by adding at the end the following new sentence: ''The term 'compensation' includes any differential wage payment (as defined in section 3401(h)(2)).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2007.

(c) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2009.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and

(ii) such plan or contract amendment applies retroactively for such period.

SEC. 110. DISCLOSURE OF RETURN INFORMATION RELATING TO VETERANS PROGRAMS MADE PERMANENT.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code or certain housing assistance programs) is amended by striking the last sentence.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after September 30, 2008.

SEC. 111. CONTRIBUTIONS OF MILITARY DEATH GRATUITIES TO ROTH IRAS AND EDUCATION SAVINGS ACCOUNTS.

(a) PROVISION IN EFFECT BEFORE PENSION PROTECTION ACT.—Subsection (e) of section 408A (relating to qualified rollover contribution), as in effect before the amendments made by section 824 of the Pension Protection Act of 2006, is amended to read as follows:

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). Such term includes a rollover contribution described in section 402A(c)(3)(A). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

''(2) MILITARY DEATH GRATUITY.—

''(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual made before the end of the 1-year period beginning on the date on which such individual receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

''(i) the sum of the amounts received during such period by such individual under such sections with respect to such person, reduced by

''(ii) the amounts so received which were contributed to a Coverdell education savings account under section 530(d)(9).

''(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by subparagraph (A).

''(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.''.

(b) PROVISION IN EFFECT AFTER PENSION PROTECTION ACT.—Subsection (e) of section 408A, as in effect after the amendments made by section 824 of the Pension Protection Act of 2006, is amended to read as follows:

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution—

''(A) to a Roth IRA from another such account,

''(B) from an eligible retirement plan, but only if—

''(i) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

''(ii) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

''(2) MILITARY DEATH GRATUITY.—

''(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual made before the end of the 1-year period beginning on the date on which such individual receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

''(i) the sum of the amounts received during such period by such individual under such sections with respect to such person, reduced by

''(ii) the amounts so received which were contributed to a Coverdell education savings account under section 530(d)(9).

''(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by the subparagraph (A).

''(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.''.

(c) EDUCATION SAVINGS ACCOUNTS.—Subsection (d) of section 530 is amended by adding at the end the following new paragraph:

''(9) MILITARY DEATH GRATUITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'rollover contribution' includes a contribution to a Coverdell education savings account made before the end of the 1-year period beginning on the date on which the contributor receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

''(i) the sum of the amounts received during such period by such contributor under such sections with respect to such person, reduced by

''(ii) the amounts so received which were contributed to a Roth IRA under section 408A(e)(2) or to another Coverdell education savings account.

''(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—The last sentence of paragraph (5) shall not apply with respect to amounts treated as a rollover by the subparagraph (A).

''(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is includible in gross income under paragraph (1), the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraphs (2) and (3), the amendments made by this section shall apply with respect to deaths from injuries occurring on or after the date of the enactment of this Act.

(2) APPLICATION OF AMENDMENTS TO DEATHS FROM INJURIES OCCURRING ON OR AFTER OCTOBER 7, 2001, AND BEFORE ENACTMENT.—The amendments made by this section shall apply to any contribution made pursuant to section 408A(e)(2) or 530(d)(5) of the Internal Revenue Code of 1986, as amended by this Act, with respect to amounts received under section 1477 of title 10, United States Code, or under section 1967 of title 38 of such Code, for deaths from injuries occurring on or after October 7, 2001, and before the date of the enactment of this Act if such contribution is made not later than 1 year after the date of the enactment of this Act.

(3) PENSION PROTECTION ACT CHANGES.—Section 408A(e)(1) of the Internal Revenue Code of 1986 (as in effect after the amendments made by subsection (b)) shall apply to taxable years beginning after December 31, 2007.

TITLE II—CERTAIN HOUSING BENEFITS FOR INTELLIGENCE COMMUNITY AND PEACE CORPS VOLUNTEERS

SEC. 201. PERMANENT EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 417(e) of division A of the Tax Relief and Health Care Act of 2006 is amended by striking ''and before January 1, 2011''.

(b) DUTY STATION MAY BE OUTSIDE UNITED STATES.—Section 121(d)(9)(C) (defining qualified official extended duty) is amended by striking clause (vi).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 2010.

SEC. 202. SUSPENSION OF 5-YEAR PERIOD DURING SERVICE WITH THE PEACE CORPS.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to special rules) is amended by adding at the end the following new paragraph:

''(12) PEACE CORPS.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving outside the United States—

''(i) on qualified official extended duty (as defined in paragraph (9)(C)) as an employee of the Peace Corps, or

''(ii) as an enrolled volunteer or volunteer leader under section 5 or 6 (as the case may be) of the Peace Corps Act (22 U.S.C. 2504, 2505).

''(B) APPLICABLE RULES.—For purposes of subparagraph (A), rules similar to the rules of subparagraphs (B) and (D) shall apply.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

TITLE III—REVENUE PROVISIONS

SEC. 301. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—All property of a covered expatriate shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence, determined without regard to paragraph (3).

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of paragraph (1) shall be reduced (but not below zero) by $600,000.

''(B) ADJUSTMENT FOR INFLATION.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the time for payment of the additional tax attributable to such property shall be extended until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF EXTENSION.—The due date for payment of tax may not be extended under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond which is furnished to, and accepted by, the Secretary, which is conditioned on the payment of tax (and interest thereon), and which meets the requirements of section 6325, or

''(ii) it is another form of security for such payment (including letters of credit) that meets such requirements as the Secretary may prescribe.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer makes an irrevocable waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable.

''(7) INTEREST.—For purposes of section 6601, the last date for the payment of tax shall be determined without regard to the election under this subsection.

''(c) EXCEPTION FOR CERTAIN PROPERTY.—Subsection (a) shall not apply to—

''(1) any deferred compensation item (as defined in subsection (d)(4)),

''(2) any specified tax deferred account (as defined in subsection (e)(2)), and

''(3) any interest in a nongrantor trust (as defined in subsection (f)(3)).

''(d) TREATMENT OF DEFERRED COMPENSATION ITEMS.—

''(1) WITHHOLDING ON ELIGIBLE DEFERRED COMPENSATION ITEMS.—

''(A) IN GENERAL.—In the case of any eligible deferred compensation item, the payor shall deduct and withhold from any taxable payment to a covered expatriate with respect to such item a tax equal to 30 percent thereof.

''(B) TAXABLE PAYMENT.—For purposes of subparagraph (A), the term 'taxable payment' means with respect to a covered expatriate any payment to the extent it would be includible in the gross income of the covered expatriate if such expatriate continued to be subject to tax as a citizen or resident of the United States. A deferred compensation item shall be taken into account as a payment under the preceding sentence when such item would be so includible.

''(2) OTHER DEFERRED COMPENSATION ITEMS.—In the case of any deferred compensation item which is not an eligible deferred compensation item—

''(A)(i) with respect to any deferred compensation item to which clause (ii) does not apply, an amount equal to the present value of the covered expatriate's accrued benefit shall be treated as having been received by such individual on the day before the expatriation date as a distribution under the plan, and

''(ii) with respect to any deferred compensation item referred to in paragraph (4)(D), the rights of the covered expatriate to such item shall be treated as becoming transferable and not subject to a substantial risk of forfeiture on the day before the expatriation date,

''(B) no early distribution tax shall apply by reason of such treatment, and

''(C) appropriate adjustments shall be made to subsequent distributions from the plan to reflect such treatment.

''(3) ELIGIBLE DEFERRED COMPENSATION ITEMS.—For purposes of this subsection, the term 'eligible deferred compensation item' means any deferred compensation item with respect to which—

''(A) the payor of such item is—

''(i) a United States person, or

''(ii) a person who is not a United States person but who elects to be treated as a United States person for purposes of paragraph (1) and meets such requirements as the Secretary may provide to ensure that the payor will meet the requirements of paragraph (1), and

''(B) the covered expatriate—

''(i) notifies the payor of his status as a covered expatriate, and

''(ii) makes an irrevocable waiver of any right to claim any reduction under any treaty with the United States in withholding on such item.

''(4) DEFERRED COMPENSATION ITEM.—For purposes of this subsection, the term 'deferred compensation item' means—

''(A) any interest in a plan or arrangement described in section 219(g)(5),

''(B) any interest in a foreign pension plan or similar retirement arrangement or program,

''(C) any item of deferred compensation, and

''(D) any property, or right to property, which the individual is entitled to receive in connection with the performance of services to the extent not previously taken into account under section 83 or in accordance with section 83.

''(5) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any deferred compensation item which is attributable to services performed outside the United States while the covered expatriate was not a citizen or resident of the United States.

''(6) SPECIAL RULES.—

''(A) APPLICATION OF WITHHOLDING RULES.—Rules similar to the rules of subchapter B of chapter 3 shall apply for purposes of this subsection.

''(B) APPLICATION OF TAX.—Any item subject to the withholding tax imposed under paragraph (1) shall be subject to tax under section 871.

''(C) COORDINATION WITH OTHER WITHHOLDING REQUIREMENTS.—Any item subject to withholding under paragraph (1) shall not be subject to withholding under section 1441 or chapter 24.

''(e) TREATMENT OF SPECIFIED TAX DEFERRED ACCOUNTS.—

''(1) ACCOUNT TREATED AS DISTRIBUTED.—In the case of any interest in a specified tax deferred account held by a covered expatriate on the day before the expatriation date—

''(A) the covered expatriate shall be treated as receiving a distribution of his entire interest in such account on the day before the expatriation date,

''(B) no early distribution tax shall apply by reason of such treatment, and

''(C) appropriate adjustments shall be made to subsequent distributions from the account to reflect such treatment.

''(2) SPECIFIED TAX DEFERRED ACCOUNT.—For purposes of paragraph (1), the term 'specified tax deferred account' means an individual retirement plan (as defined in section 7701(a)(37)) other than any arrangement described in subsection (k) or (p) of section 408, a qualified tuition program (as defined in section 529), a Coverdell education savings account (as defined in section 530), a health savings account (as defined in section 223), and an Archer MSA (as defined in section 220).

''(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—

''(1) IN GENERAL.—In the case of a distribution (directly or indirectly) of any property from a nongrantor trust to a covered expatriate—

''(A) the trustee shall deduct and withhold from such distribution an amount equal to 30 percent of the taxable portion of the distribution, and

''(B) if the fair market value of such property exceeds its adjusted basis in the hands of the trust, gain shall be recognized to the trust as if such property were sold to the expatriate at its fair market value.

''(2) TAXABLE PORTION.—For purposes of this subsection, the term 'taxable portion' means, with respect to any distribution, that portion of the distribution which would be includible in the gross income of the covered expatriate if such expatriate continued to be subject to tax as a citizen or resident of the United States.

''(3) NONGRANTOR TRUST.—For purposes of this subsection, the term 'nongrantor trust' means the portion of any trust that the individual is not considered the owner of under subpart E of part I of subchapter J. The determination under the preceding sentence shall be made immediately before the expatriation date.

''(4) SPECIAL RULES RELATING TO WITHHOLDING.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (d)(6) shall apply, and

''(B) the covered expatriate shall be treated as having waived any right to claim any reduction under any treaty with the United States in withholding on any distribution to which paragraph (1)(A) applies.

''(5) APPLICATION.—This subsection shall apply to a nongrantor trust only if the covered expatriate was a beneficiary of the trust on the day before the expatriation date.

''(g) DEFINITIONS AND SPECIAL RULES RELATING TO EXPATRIATION.—For purposes of this section—

''(1) COVERED EXPATRIATE.—

''(A) IN GENERAL.—The term 'covered expatriate' means an expatriate who meets the requirements of subparagraph (A), (B), or (C) of section 877(a)(2).

''(B) EXCEPTIONS.—An individual shall not be treated as meeting the requirements of subparagraph (A) or (B) of section 877(a)(2) if—

''(i) the individual—

''(I) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(II) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 10 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

''(ii)(I) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(II) the individual has been a resident of the United States (as so defined) for not more than 10 taxable years before the date of relinquishment.

''(C) COVERED EXPATRIATES ALSO SUBJECT TO TAX AS CITIZENS OR RESIDENTS.—In the case of any covered expatriate who is subject to tax as a citizen or resident of the United States for any period beginning after the expatriation date, such individual shall not be treated as a covered expatriate during such period for purposes of subsections (d)(1) and (f) and section 2801.

''(2) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, and

''(B) any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)).

''(3) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date on which the individual ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)).

''(4) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(5) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(6) EARLY DISTRIBUTION TAX.—The term 'early distribution tax' means any increase in tax imposed under section 72(t), 220(e)(4), 223(f)(4), 409A(a)(1)(B), 529(c)(6), or 530(d)(4).

''(h) OTHER RULES.—

''(1) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(A) any time period for acquiring property which would result in the reduction in the amount of gain recognized with respect to property disposed of by the taxpayer shall terminate on the day before the expatriation date, and

''(B) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(2) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of subsection (a), property which was held by an individual on the date the individual first became a resident of the United States (within the meaning of section 7701(b)) shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

''(3) COORDINATION WITH SECTION 684.—If the expatriation of any individual would result in the recognition of gain under section 684, this section shall be applied after the application of section 684.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) TAX ON GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—

(1) IN GENERAL.—Subtitle B (relating to estate and gift taxes) is amended by inserting after chapter 14 the following new chapter:

''CHAPTER 15—GIFTS AND BEQUESTS FROM EXPATRIATES

''Sec. 2801. Imposition of tax.

''SEC. 2801. IMPOSITION OF TAX.

''(a) IN GENERAL.—If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

''(1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt (or, if greater, the highest rate of tax specified in the table applicable under section 2502(a) as in effect on the date), and

''(2) the value of such covered gift or bequest.

''(b) TAX TO BE PAID BY RECIPIENT.—The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

''(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection (a) shall apply only to the extent that the value of covered gifts and bequests received by any person during the calendar year exceeds $10,000.

''(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE TAX.—The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

''(e) COVERED GIFT OR BEQUEST.—

''(1) IN GENERAL.—For purposes of this chapter, the term 'covered gift or bequest' means—

''(A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, is a covered expatriate, and

''(B) any property acquired directly or indirectly by reason of the death of an individual who, immediately before such death, was a covered expatriate.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Such term shall not include—

''(A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and

''(B) any property included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

''(3) TRANSFERS IN TRUST.—

''(A) DOMESTIC TRUSTS.—In the case of a covered gift or bequest made to a domestic trust—

''(i) subsection (a) shall apply in the same manner as if such trust were a United States citizen, and

''(ii) the tax imposed by subsection (a) on such gift or bequest shall be paid by such trust.

''(B) FOREIGN TRUSTS.—

''(i) IN GENERAL.—In the case of a covered gift or bequest made to a foreign trust, subsection (a) shall apply to any distribution attributable to such gift or bequest from such trust (whether from income or corpus) to a United States citizen or resident in the same manner as if such distribution were a covered gift or bequest.

''(ii) DEDUCTION FOR TAX PAID BY RECIPIENT.—There shall be allowed as a deduction under section 164 the amount of tax imposed by this section which is paid or accrued by a United States citizen or resident by reason of a distribution from a foreign trust, but only to the extent such tax is imposed on the portion of such distribution which is included in the gross income of such citizen or resident.

''(iii) ELECTION TO BE TREATED AS DOMESTIC TRUST.—Solely for purposes of this section, a foreign trust may elect to be treated as a domestic trust. Such an election may be revoked with the consent of the Secretary.

''(f) COVERED EXPATRIATE.—For purposes of this section, the term 'covered expatriate' has the meaning given to such term by section 877A(g)(1).''.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle B is amended by inserting after the item relating to chapter 14 the following new item:

''CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(50) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(g)(4).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 877(e) is amended to read as follows:

''(1) IN GENERAL.—Any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) shall be treated for purposes of this section and sections 2107, 2501, and 6039G in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.''.

(B) Paragraph (6) of section 7701(b) is amended by adding at the end the following flush sentence:

''An individual shall cease to be treated as a lawful permanent resident of the United States if such individual commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country, does not waive the benefits of such treaty applicable to residents of the foreign country, and notifies the Secretary of the commencement of such treatment.''.

(C) Section 7701 is amended by striking subsection (n) and by redesignating subsections (o) and (p) as subsections (n) and (o), respectively.

(d) INFORMATION RETURNS.—Section 6039G is amended—

(1) by inserting ''or 877A'' after ''section 877(b)'' in subsection (a), and

(2) by inserting ''or 877A'' after ''section 877(a)'' in subsection (d).

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (as defined in section 877A(g) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) is on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Chapter 15 of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to covered gifts and bequests (as defined in section 2801 of such Code, as so added) received on or after the date of the enactment of this Act from transferors whose expatriation date is on or after such date of enactment.

SEC. 302. SPECIAL ENROLLMENT OPTION BY EMPLOYER HEALTH PLANS FOR MEMBERS OF UNIFORM SERVICES WHO LOSE HEALTH CARE COVERAGE.

(a) IN GENERAL.—Section 9801(f) (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

''(3) LOSS OF MILITARY HEALTH COVERAGE.—

''(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), a group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

''(i) The employee or dependent, by reason of service in the uniformed services (within the meaning of section 4303 of title 38, United States Code), was covered under a Federal health care benefit program (including coverage under the TRICARE program (as that term is defined in section 1072 of title 10, United States Code) or by reason of entitlement to health care benefits under the laws administered by the Secretary of Veterans Affairs or as a member of the uniformed services on active duty), and the employee or dependent loses eligibility for such coverage.

''(ii) The employee or dependent is otherwise eligible to enroll for coverage under the terms of the plan.

''(iii) The employee requests such coverage not later than 90 days after the date on which the coverage described in clause (i) terminated.

''(B) EFFECTIVE DATE OF COVERAGE.—Coverage requested under subparagraph (A)(iii) shall become effective not later than the first day of the first month after the date of such request.''.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following:

''(3) LOSS OF MILITARY HEALTH COVERAGE.—

''(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

''(i) The employee or dependent, by reason of service in the uniformed services (within the meaning of section 4303 of title 38, United States Code), was covered under a Federal health care benefit program (including coverage under the TRICARE program (as that term is defined in section 1072 of title 10, United States Code) or by reason of entitlement to health care benefits under the laws administered by the Secretary of Veterans Affairs or as a member of the uniformed services on active duty), and the employee or dependent loses eligibility for such coverage.

''(ii) The employee or dependent is otherwise eligible to enroll for coverage under the terms of the plan.

''(iii) The employee requests such coverage not later than 90 days after the date on which the coverage described in clause (i) terminated.

''(B) EFFECTIVE DATE OF COVERAGE.—Coverage requested under subparagraph (A)(iii) shall become effective not later than the first day of the first month after the date of such request.''.

(c) PUBLIC HEALTH SERVICE ACT.—Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following:

''(3) LOSS OF MILITARY HEALTH COVERAGE.—

''(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

''(i) The employee or dependent, by reason of service in the uniformed services (within the meaning of section 4303 of title 38, United States Code), was covered under a Federal health care benefit program (including coverage under the TRICARE program (as that

term is defined in section 1072 of title 10, United States Code) or by reason of entitlement to health care benefits under the laws administered by the Secretary of Veterans Affairs or as a member of the uniformed services on active duty), and the employee or dependent loses eligibility for such coverage.

''(ii) The employee or dependent is otherwise eligible to enroll for coverage under the terms of the plan.

''(iii) The employee requests such coverage not later than 90 days after the date on which the coverage described in clause (i) terminated.

''(B) EFFECTIVE DATE OF COVERAGE.—Coverage requested under subparagraph (A)(iii) shall become effective not later than the first day of the first month after the date of such request.''.

(d) REGULATIONS.—The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services, consistent with section 104 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg-92 note), may promulgate such regulations as may be necessary or appropriate to require the notification of individuals (or their dependents) of their rights under the amendment made by this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 303. INCREASE IN MINIMUM PENALTY ON FAILURE TO FILE A RETURN OF TAX.

(a) IN GENERAL.—Subsection (a) of section 6651 is amended by striking ''$100'' in the last sentence and inserting ''$225''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for the filing of which (including extensions) is after December 31, 2007.

SA 3848. Mr. HARKIN (for Mr. BAUCUS) proposed an amendment to the bill H.R. 3997, to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes; as follows:

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes.''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to advise that the oversight hearing scheduled before the Senate Committee on Energy and Natural Resources to receive testimony regarding Reform of the Mining Law of 1872, on Thursday, December 13, 2007, at 9:30 a.m., has been postponed. A rescheduled date and time will be announced when it becomes available.

For further information, please contact Patty Beneke at (202) 224–5451, Angela Becker-Dippman at (202) 224–5269 or Gina Weinstock at (202) 224–5684.

AUTHORITY FOR COMMITTEES TO MEET

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 Wednesday, December 12, 2007, at 11 a.m. in order to hold a closed briefing on North Korea.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in Executive session during the session of the Senate on Wednesday, December 12, 2007, at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, December 12, 2007, at 10 a.m. in order to consider the nominations of Harvey E. Johnson, Jr., to be Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security, and Jeffrey William Runge to be Assistant Secretary for Health Affairs and Chief Medical Officer, U.S. Department of Homeland Security.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, December 12, 2007, at 10 a.m., in order to hear testimony on the funding challenges and facilities maintenance issues facing the Smithsonian Institution.

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

SPECIAL COMMITTEE ON AGING

Mr. HARKIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet tomorrow, Wednesday, December 12, 2007 from 10:30 a.m.—12:30 p.m. in room SD–628 of the Dirksen Senate Office Building for the purposes of conducting a hearing.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on the Constitution, be authorized to meet during the session of the Senate, in order to conduct a hearing entitled ''S. 1782, The Arbitration Fairness Act of 2007'' on Wednesday, December 12, 2007 at 9:30 a.m. in room SD–226 of the Dirksen Senate Office Building.

Witness list: Richard M. Alderman, Associate Dean, University of Houston Law Center, Houston, Texas; Mark A. de Bernardo, Executive Director and President, Council for Employment Law Equity, Jackson Lewis LLP, Vienna, Virginia; F. Paul Bland, Jr., Staff Attorney, Public Justice, Washington, DC; Fonza Luke, Birmingham, Alabama; Richard Naimark, Senior Vice President, The American Arbitration Association, Washington, DC; Peter B. Rutledge, Associate Professor of Law, Columbus School of Law, The Catholic University of America, Washington, DC; and Tanya Solov, Director, Securities Department, Illinois Secretary of State, Chicago, Illinois.

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

PRIVILEGES OF THE FLOOR

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that a member of my staff, Dave Frederickson, who is my agriculture staff person from Minnesota and former head of the National Farmers Union, be granted floor privileges for the remainder of the farm bill debate.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 96–114, as amended, appoints the following individual to the Congressional Award Board: Patrick Murphy of Washington, DC, and reappoints the following individual to the Congressional Award Board: Andrew Ortiz of Arizona.

The Chair, on behalf of the majority leader, and after consultation with the ranking members of the Senate Committee on Armed Services and the Senate Committee on Finance, pursuant to Public Law 106–398, appoints the following individual as a member of the United States–China Economic Security Review Commission: Patrick A. Mulloy of Virginia for a term beginning January 1, 2008, and expiring December 31, 2009, vice C. Richard D' Amato of Maryland, and reappoints the following individual to the United States–China Economic Security Review Commission: William A. Reinsch of Maryland for a term beginning January 1, 2008, and expiring December 31, 2009.

CONGRATULATING BOYS TOWN ON ITS 90TH ANNIVERSARY CELEBRATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 403, 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. 403) congratulating Boys Town on its 90th anniversary celebration.

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. 403) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 403

Whereas on Wednesday, December 12, 2007, Boys Town celebrates the 90th anniversary of the date Father Flanagan founded Boys Town to serve hurting children and their families;

Whereas Father Flanagan's legacy, Boys Town, is a beacon of hope to thousands of young people across the Nation;

Whereas in 2006 nearly 450,000 children and families found help through the Boys Town National Hotline, including 34,000 calls from youth where hotline staff intervened to save a life or provide therapeutic counseling, and nearly 1,000,000 more children were assisted through outreach and training programs;

Whereas Boys Town continues to find new ways to bring healing and hope to more children and families;

Whereas new programs at Boys Town seek to increase the number of children assisted and bring resources and expertise to bear on the problems facing our Nation's children; and

Whereas Boys Town's mission is to change the way America cares for children and families by providing and promoting a continuum of care that strengthens them in mind, body, and spirit: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its heartfelt congratulations to the Boys Town family on the historic occasion of its 90th anniversary; and

(2) extends its thanks to the extraordinary Boys Town community for its important work with our Nation's children and families.

REFORMING MUTUAL AID AGREEMENTS FOR THE NATIONAL CAPITAL REGION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 525, S. 1245.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1245) to reform mutual aid agreements for the National Capital Region.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I further ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 1245) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1245

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

SECTION 1. REFORM OF MUTUAL AID AGREEMENTS FOR THE NATIONAL CAPITAL REGION.

Section 7302 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 5196 note) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking ", including its agents or authorized volunteers,"; and

(B) in paragraph (5), by striking "or town" and all that follows and inserting "town, or other governmental agency, governmental authority, or governmental institution with the power to sue or be sued in its own name, within the National Capital Region.";

(2) in subsection (b)(1), in the matter preceding subparagraph (A), by striking ", the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority"; and

(3) in subsection (d), by striking "or employees" each place that term appears and inserting ", employees, or agents".

FAIR TREATMENT FOR EXPERIENCED PILOTS ACT

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4343 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4343) to amend title 49, United States Code, to modify age standards for pilots engaged in commercial aviation operations.

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 with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4343) was ordered to a third reading, was read the third time, and passed.

SUDAN ACCOUNTABILITY AND DIVESTMENT ACT OF 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 458, S. 2271.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2271) to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. DODD. Mr. President, I want to speak about the Sudan Accountability and Divestment Act of 2007. This bill was approved unanimously by the Senate Banking, Housing, and Urban Affairs Committee, and I am pleased to report that, in the same bipartisan spirit, it will soon be approved by the full Senate. I am indebted to Ranking Member SHELBY for his tremendous collaboration on this important measure. And I want to recognize Senator DURBIN, as well—few have been stronger leaders of the divestment effort, or fiercer advocates for the people of Darfur.

This bill is aimed at ending the Darfur genocide. I strongly believe that it is our responsibility to help bring that end about—not simply because genocide, everywhere and always, imposes a grave moral obligation on those with the power to stop it, but because many of us share responsibility for this genocide in a much more concrete way.

Consider this hypothetical: One of our 50 States invests its employees' pension funds in a wide range of stocks. Some of those dollars end up supplying capital to a multinational corporation, one of whose subsidiaries operates in Sudan—mining, say, for copper or gold. That firm pays the Sudanese government for mining rights, and in the fullness of time, money that began in America finds its way into the bloodstained coffers of Omar al-Bashir. What could those dollars become at last? A plane dropping fire on a Darfuri village; a knife held to a woman's throat; weapons of murder and rape.

It is a chain of cause and effect in which American money may finally objectively fund genocide—in which Americans may come to pay, through no fault or intention of their own, for crimes they abhor. If responsibility means anything, it exists at every step of that chain. To be sure, it grows heavier at each step; but just as it is certain at the last step, it is present at the first.

That is why those who have recognized their place in that chain and who have resolved to break it deserve our blessing and our support. Twenty-one states have begun to divest from Sudan, and similar work is underway in about 20 more. At least 55 colleges and universities have divested, and efforts are underway at about 50 more. Many large cities, non-profits, and pension and mutual funds have joined this campaign—a campaign that recognizes that our responsibility for Darfur can go beyond speaking out, to actively depriving the Sudanese government and the Janjaweed militia of some of their means of murder. Along with sanctions, Security Council resolutions, and a combined UN/African Union force, divestment is part of a global movement to cut off funding and end, at long last, the Darfur genocide. Even if it succeeds, it will have come more than 450,000 lives too late; but lost time and lost lives should only fire our urgency.

The Accountability and Divestment Act is Congress's latest step to aid this global movement. It helps Americans

to divest from firms whose business props up the Sudanese regime, it gives them the tools to make socially responsible investment decisions, and it ensures that investors who choose to divest will be held harmless for those decisions. The bill has five key provisions.

First, it explicitly authorizes states and localities to divest from companies involved in those economic sectors that, by its own admission, are Khartoum's main sources of foreign investment—petroleum, mining, and power production—along with military production. Investment in these sectors, more than any others, is propping up the Bashir regime and enabling its intransigence.

The divestment standards set by this bill are universal. It allows divestment to take place in a unitary, federally sanctioned manner. That alone should contradict the claim that this bill somehow violates the Constitution's Supremacy Clause by establishing ''50 different foreign policies.'' Moreover, state divestment could hardly be considered unconstitutional when it is explicitly authorized on the federal level. Paul H. Schwartz, legal counsel to the Sudan Divestment Task Force, and former clerk to two Supreme Court Justices, made the case convincingly:

> It is only logical that when a bill authorizing state measures touching on foreign affairs becomes federal law, the federal government has expressed a judgment that the measures do not ''intrude'' into or ''interfere'' with federal foreign policy, but rather complement that policy.

That is exactly what this legislation does. It outlines a targeted, federal divestment policy and authorizes states and investors to act consistently with that policy if they so choose. In doing so, the bill protects the investors' right to be guided by conscience; it also allows investors to protect themselves from the financial and reputational risks posed by an affiliation with Khartoum.

Second, this bill allows mutual fund and corporate pension fund managers to cut ties, at their discretion, with companies involved in the 4 key sectors. It also offers limited protection from lawsuits for those choosing to divest, while preserving their normal fiduciary duties.

Third, it establishes the sense of Congress that private pension managers are already authorized to divest their public pension funds from businesses in the 4 sectors, in accordance with existing Department of Labor regulations.

Fourth, it requires federal contractors to certify that they do not do business with firms involved in the 4 sectors, and it provides several punitive options, including debarment, if those contractors are found to be lying. The bill does, however, authorize the President to grant contractors a waiver if their operations in Sudan are found to be in the national interest; and it adds an extra level of accountability by mandating that the President report these exceptions to Congress on a case-by-case basis.

I am aware that some have argued for an additional waiver on the basis of ''substantial humanitarian work'' in Sudan, but I believe that that criterion would fit within any conception of the national interest, properly understood. In the end, the exposure mandated by the president's case-by-case reports to Congress will be the best deterrent to firms that seek waivers on spurious grounds: They will be exposed to the whole nation and forced to justify their actions to a highly skeptical public.

Fifth, the bill's authorities terminate when the government of Sudan ends its murderous policies and returns to the community of law-abiding nations. The divestment campaign will end when, and only when, Sudan fully accepts the presence of the joint UN/AU peacekeeping force, ceases attacks on civilians, demilitarizes the Janjaweed militia, allows the unfettered delivery of humanitarian relief, and grants the right of return to refugees. Anything short of those targets, divestment must and will continue.

The international divestment campaign exists precisely to pressure Khartoum to meet those goals. It is stunning, Mr. President, that pressure should even be needed to force a sovereign nation to end targeted attacks on civilians. Yet that is the case; that is the radical evil we face.

Even still, some in this administration are urging us to treat Khartoum with kid gloves at this delicate time for peace negotiations, as the Justice Department put it in a letter 2 months ago. That would be the same administration whose Special Envoy to Sudan declared American action on the genocide imminent 11 months ago. That would be the same administration whose president declared the crimes in Darfur ''genocide'' more than two years ago, and has done next to nothing of substance since.

Ironically, one of those few substantive actions has been to endorse a bill that originated in the Senate, the International Emergency Economic Powers Enhancement Act, which strengthened penalties on companies violating U.S. sanctions. That bill was approved unanimously by the Senate Banking Committee and adopted unanimously by this Congress. That bill, like this one, targets the Khartoum regime's financial supports; that bill, like this one, comes at a ''delicate time'' for negotiations. As my colleague Senator MENENDEZ asked an official of the State Department at a recent hearing of the Senate Banking Committee:

> What is the difference? You have a sanctions regime that you are all enthusiastically pursuing before the peace conference in Tripoli, and yet you are back-pedaling on this effort.

Honestly, I can't see my way through the contradiction. If the administration endorsed tough measures then, it should do the same now, and if it wants to shirk our responsibility altogether, it should tell us why.

Of course, as the Administration has stalled and insisted that we refrain from approving this critical legislation, talks have broken down. The Tripoli conference that the State Department had been heralding as a great breakthrough at the Banking Committee's October 3rd hearing ended up being canceled.

The truth is that economic pressure has seemed to be the only tool that's proven successful in bringing Khartoum back to the table in the first place. That truth is in keeping with everything the regime has shown us in its 18 years of existence. As John Prendergast, Co-Chair of the ENOUGH Project and former National Security Council and State Department Official, told the Banking Committee during our hearing.

> Four times in 18 years, we have been able to change the policies of the Government of Sudan.

In the mid-1990s, Khartoum renounced its support for international terrorist organizations, including al-Qaeda. Why? International pressure and multilateral sanctions from the United States, its allies, and the Security Council.

In the same decade, Sudan ended its support of the slave trade. Why? Again, multilateral sanctions led by the Security Council.

In 2005, the government signed a peace deal with rebels, ending a civil war that had taken 2 million lives. Why? In large part, because of a coordinated divestment campaign and Congress's passage of the Sudan Peace Act, which condemned the government's human rights record.

Just this year, the government acquiesced in the UN/AU peacekeeping force. Why? Largely because of economic pressure from China.

Four times, the international community has brought some measure of control to Khartoum's criminal behavior, and there is one common thread: sustained pressure. As Prendergast put it, the only way to end the genocide is if ''multilateral, targeted pressures are increased.'' Conversely, ''the deadly mistake that has been made for Darfur repeatedly during the last 4½ years is to do precisely as the administration proposes now to reduce pressure, to let up.''

After all, it makes perfect sense. What do we expect from those capable of presiding over all this blood? What do we expect from killers who, in the words of one survivor, ''are happy when they rape they sing when they rape''?

Do we expect them to listen politely to our objections? Do we expect to change their minds?

No. All of our prayers, no matter how fervent, and all of our words, no matter how eloquent, are only noise to them. They do not speak the language of should or ought. They speak the language of must. To the genocidal killers and their sponsors, this bill is one more word in the only language they know.

And given everything we have learned from history and from simple common sense, all the talk of kid gloves would be hysterical—if it weren't infuriating.

Even if some in this administration haven't learned the lesson, I have learned it in my bones. In 1945, my father, Tom Dodd, was called to Nuremberg, Germany, to help lead the prosecution of Nazi war criminals. He wrote my mother that few things were more painful than being away from his family. I learned to walk and talk in his absence. But he also wrote home: ''I will never do anything as worthwhile.''

What, today, could be more worthwhile? What could be clearer than the duty we owe to the 2.5 million displaced, the orphaned, the raped, the dead themselves? Even if they cannot fathom the chain linking us to the fire falling on their villages, or the knives against their throats, we can; we can see it and choose to break it. Even if we bear only the smallest fraction of responsibility, we can choose to act as if we bore all of it. Measure by measure and step by step and inch by inch, we can choose to push with all our strength against death's machinery until it cracks at last.

Here is another step. I ask my colleagues to take it with me.

Mr. DURBIN. Mr. President, I have regularly come to the Senate floor to speak about the genocide in Darfur.

For 4 long years, the world has watched this tragedy the killing of hundreds of thousands of innocent civilians, the torching of entire villages, rape, torture, and untold human suffering.

More than 3 years have passed since the UN Commission of Inquiry concluded that:

crimes against humanity and war crimes have been committed in Darfur and may be no less serious and heinous than genocide.

Many of us on both sides of the aisle and in the international community have repeatedly called for greater U.S. and global action to stem the humanitarian crisis in Darfur.

President Bush, British Prime Minister Gordon Brown, and UN Secretary General Ban Ki-moon have all called for greater action.

Just this week, a group calling itself the Elders including several Nobel Peace Prize Winners and former heads of state spoke forcefully for action in Darfur.

Despite these efforts, the Sudanese government has continued to show its contempt for its own people and the demands of the global community.

The message was loud and clear earlier this year when the UN Security Council voted to deploy a 26,000 member peacekeeping force to Darfur. This hybrid UN-African Union force will help stem the violence and create an atmosphere in which peace talks can move toward a long-term political agreement.

With the peacekeepers set to begin deployment on January 1, we are once again witnessing the same old pattern from Khartoum. The Sudanese government is now denying deployment of non-African peacekeepers, despite their acceptance of this new force only a few months ago.

We have waited long enough for this murderous government to take action, to stop slaughtering its own people, to stop thumbing its nose at the international community.

That is why I commend the Senate for its action today to encourage cooperation by the Sudanese government.

Earlier this year, I introduced 2 bills that would have increased economic pressure on the Sudanese regime. Each bill supported state and local divestment efforts, allowing each of us to do our part to end the madness in Darfur by selling investments that help prop up the Sudanese regime.

I am pleased that Senator DODD, as chairman of the Banking Committee, has adopted ideas from these bills into the Sudan Accountability and Divestment Act of 2007. I thank him, as well as Ranking Member SHELBY and others who have worked on this bill especially Senators CORNYN and BROWNBACK, who joined me as lead sponsors of the legislation I had introduced.

I urge my colleagues to support this critically-important legislation, and I look forward to working with the House to send it to the President for his signature as soon as possible.

Mr. REID. Mr. President, I am proud that the Senate will have taken strong action tonight to help stop the genocide in Darfur. I would like to commend Senator DODD for his hard work to get the Sudan Accountability and Divestment Act of 2007 passed. I would also like to congratulate Senator DURBIN who was the lead cosponsor of the first legislation on this issue.

By passing this bill, the Senate is saying clearly to the government of Sudan that the American people do not want to fund genocide. We already have a wide range of sanctions against Sudan, but this bill closed an important loophole by targeting pension plans. The legislation would make sure that the money we put away each month for our retirement does not go to fund companies which support the genocidal regime in Sudan.

The House has already passed similar legislation with an overwhelming, and bipartisan, vote of 418–1. With Senate passage, we will hopefully be able to move quickly to turn this bill into the law of the land.

As we pass this legislation the crisis in Darfur continues, with nearly 2 million people displaced and an estimated 450,000 people killed. The real hope for the people of Darfur is a strong UN-AU peacekeeping force. But President Bashir is once again keeping that force from moving forward, putting a man indicted by the International Criminal Court for war crimes on the committee overseeing these peacekeepers. He also continues to put other roadblocks in front of the peacekeepers, who should be in place and operating by January 1.

This legislation sends a loud and a clear message to the Sudanese regime that they must stop standing in the way of full implementation of the AU-UN peacekeepers. I hope that President Bashir is listening and that we will see that AU-UN force operational by January 1 of next year. The U.S. Senate will be watching, the United Nations will be watching, and the eyes of the world are on President Bashir. We all have a moral obligation to end the genocide, stop the violence, and relieve the suffering of the people of Darfur.

Mr. HARKIN. I ask unanimous consent that the amendment at the desk be considered and agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

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

The amendment (No. 3846) was agreed to, as follows:

On page 5, line 20, insert ''parent company,'' after ''subunit,''.

On page 7, strike lines 1 through 15.

On page 9, line 18, insert ''or'' after the semicolon.

On page 9, strike lines 19 through 21.

On page 9, line 22, strike ''(G)'' and insert ''(F)''.

On page 10, between lines 8 and 9, insert the following:

(3) APPLICABILITY.—The measure shall not apply to a person that demonstrates to the State or local government that the person does not conduct or have direct investments in business operations described in subsection (d).

(4) SENSE OF CONGRESS ON AVOIDING ERRONEOUS TARGETING.—It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person conducts or has direct investments in business operations described in subsection (d).

On page 10, lines 24 and 25, strike '', directly or indirectly,''.

On page 16, strike lines 9 through 16.

On page 16, line 17, strike ''(d)'' and insert ''(c)''.

On page 17, line 3, strike ''(e)'' and insert ''(d)''.

On page 17, line 11, strike ''(f)'' and insert ''(e)''.

The bill (S. 2271), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2271

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 ''Sudan Accountability and Divestment Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Financial Services, the Committee on Foreign Affairs, and the

Permanent Select Committee on Intelligence of the House of Representatives.

(2) BUSINESS OPERATIONS.—The term ''business operations'' means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(3) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(4) GOVERNMENT OF SUDAN.—The term ''Government of Sudan''—

(A) means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan); and

(B) does not include the regional government of southern Sudan.

(5) MARGINALIZED POPULATIONS OF SUDAN.—The term ''marginalized populations of Sudan'' refers to—

(A) adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Public Law 109–344; 50 U.S.C. 1701 note); and

(B) marginalized areas in Northern Sudan described in section 4(9) of such Act.

(6) MILITARY EQUIPMENT.—The term ''military equipment'' means—

(A) weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems or military-grade transport vehicles; or

(B) supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(7) MINERAL EXTRACTION ACTIVITIES.—The term ''mineral extraction activities'' means exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

(8) OIL-RELATED ACTIVITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''oil-related activities'' means—

(i) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; and

(ii) constructing, maintaining, or operating a pipeline, refinery, or other oilfield infrastructure.

(B) EXCLUSIONS.—A person shall not be considered to be involved in an oil-related activity if—

(i) the person is involved in the retail sale of gasoline or related consumer products in Sudan but is not involved in any other activity described in subparagraph (A); or

(ii) the person is involved in leasing, or owns, rights to an oil block in Sudan but is not involved in any other activity described in subparagraph (A).

(9) PERSON.—The term ''person'' means—

(A) a natural person, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group;

(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

(C) any successor, subunit, parent company or subsidiary of any entity described in subparagraph (A) or (B).

(10) POWER PRODUCTION ACTIVITIES.—The term ''power production activities'' means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar entity of the Government of Sudan whose purpose is to facilitate power generation and delivery, including establishing power-generating plants or hydroelectric dams, selling or installing components for the project, or providing service contracts related to the installation or maintenance of the project.

(11) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(12) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' includes—

(A) any State and any agency or instrumentality thereof;

(B) any local government within a State, and any agency or instrumentality thereof;

(C) any other governmental instrumentality; and

(D) any public institution of higher education within the meaning of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 3. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO DIVEST FROM CERTAIN COMPANIES DIRECTLY INVESTED IN CERTAIN SUDANESE SECTORS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should support the decision of any State or local government to divest from, or to prohibit the investment of assets of the State or local government in, a person that the State or local government determines poses a financial or reputational risk.

(b) AUTHORITY TO DIVEST.—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (e) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, persons that the State or local government determines, using credible information available to the public, are conducting or have direct investments in business operations described in subsection (d).

(c) NOTICE TO DEPARTMENT OF JUSTICE.—Not later than 30 days after adopting a measure pursuant to subsection (b), a State or local government shall submit written notice to the Attorney General describing the measure.

(d) BUSINESS OPERATIONS DESCRIBED.—

(1) IN GENERAL.—Business operations described in this subsection are business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment.

(2) EXCEPTIONS.—Business operations described in this subsection do not include business operations that the person conducting the business operations can demonstrate—

(A) are conducted under contract directly and exclusively with the regional government of southern Sudan;

(B) are conducted under a license from the Office of Foreign Assets Control, or are expressly exempted under Federal law from the requirement to be conducted under such a license;

(C) consist of providing goods or services to marginalized populations of Sudan;

(D) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(E) consist of providing goods or services that are used only to promote health or education; or

(F) have been voluntarily suspended.

(e) REQUIREMENTS.—Any measure taken by a State or local government under subsection (b) shall meet the following requirements:

(1) NOTICE.—The State or local government shall provide written notice and an opportunity to comment in writing to each person to whom a measure is to be applied.

(2) TIMING.—The measure shall apply to a person not earlier than the date that is 90 days after the date on which written notice is provided to the person under paragraph (1).

(3) APPLICABILITY.—The measure shall not apply to a person that demonstrates to the State or local government that the person does not conduct or have direct investments in business operations described in subsection (d).

(4) SENSE OF CONGRESS ON AVOIDING ERRONEOUS TARGETING.—It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person conducts or has direct investments in business operations described in subsection (d).

(f) DEFINITIONS.—In this section:

(1) INVESTMENT.—The ''investment'' of assets, with respect to a State or local government, includes—

(A) a commitment or contribution of assets;

(B) a loan or other extension of credit of assets; and

(C) the entry into or renewal of a contract for goods or services.

(2) ASSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''assets'' refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is controlled by a State or local government.

(B) EXCEPTION.—The term ''assets'' does not include employee benefit plans covered by title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(g) NONPREEMPTION.—A measure of a State or local government authorized under subsection (b) is not preempted by any Federal law or regulation.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section applies to measures adopted by a State or local government before, on, or after the date of the enactment of this Act.

(2) NOTICE REQUIREMENTS.—Subsections (c) and (e) apply to measures adopted by a State or local government on or after the date of the enactment of this Act.

SEC. 4. SAFE HARBOR FOR CHANGES OF INVESTMENT POLICIES BY ASSET MANAGERS.

(a) IN GENERAL.—Section 13 of the Investment Company Act of 1940 (15 U.S.C. 80a–13) is amended by adding at the end the following:

''(c) LIMITATION ON ACTIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, no person may bring any civil, criminal, or administrative action against any registered investment company, or any employee, officer, director, or investment adviser thereof, based solely upon the investment company divesting from, or avoiding investing in, securities issued by persons that the investment company determines, using credible information that is available to the public,

conduct or have direct investments in business operations in Sudan described in section 3(d) of the Sudan Accountability and Divestment Act of 2007.

''(2) APPLICABILITY.—

''(A) ACTIONS FOR BREACHES OF FIDUCIARY DUTIES.—Paragraph (1) does not prevent a person from bringing an action based on a breach of a fiduciary duty owed to that person with respect to a divestment or non-investment decision, other than as described in paragraph (1).

''(B) DISCLOSURES.—Paragraph (1) shall not apply to a registered investment company, or any employee, officer, director, or investment adviser thereof, unless the investment company makes disclosures in accordance with regulations prescribed by the Commission.

''(3) PERSON DEFINED.—For purposes of this subsection the term 'person' includes the Federal Government and any State or political subdivision of a State.''.

(b) SEC REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Securities and Exchange Commission shall prescribe regulations, in the public interest and for the protection of investors, to require disclosure by each registered investment company that divests itself of securities in accordance with section 13(c) of the Investment Company Act of 1940. Such rules shall require the disclosure to be included in the next periodic report filed with the Commission under section 30 of such Act (15 U.S.C. 80a–29) following such divestiture.

SEC. 5. SENSE OF CONGRESS REGARDING CERTAIN ERISA PLAN INVESTMENTS.

It is the sense of Congress that a fiduciary of an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), may divest plan assets from, or avoid investing plan assets in, any person the fiduciary determines is conducting or has direct investments in business operations in Sudan described in section 3(d) of this Act, without breaching the responsibilities, obligations, or duties imposed upon the fiduciary by section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104), if—

(1) the fiduciary makes such determination using credible information that is available to the public; and

(2) such divestment or avoidance of investment is conducted in accordance with section 2509.94–1 of title 29, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

SEC. 6. PROHIBITION ON UNITED STATES GOVERNMENT CONTRACTS.

(a) CERTIFICATION REQUIREMENT.—The head of each executive agency shall ensure that each contract entered into by such executive agency for the procurement of goods or services includes a clause that requires the contractor to certify to the contracting officer that the contractor does not conduct business operations in Sudan described in section 3(d).

(b) REMEDIES.—

(1) IN GENERAL.—The head of an executive agency may impose remedies as provided in this subsection if the head of the executive agency determines that the contractor has submitted a false certification under subsection (a) after the date the Federal Acquisition Regulation is amended under subsection (e) to implement the requirements of this section.

(2) TERMINATION.—The head of an executive agency may terminate a covered contract upon the determination of a false certification under paragraph (1).

(3) SUSPENSION AND DEBARMENT.—The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts upon the determination of a false certification under paragraph (1). The debarment period may not exceed 3 years.

(4) INCLUSION ON LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS.—The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation issued under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) each contractor that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency on the basis of a determination of a false certification under paragraph (1).

(5) RULE OF CONSTRUCTION.—This section shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a determination of a false certification under paragraph (1).

(c) WAIVER.—

(1) IN GENERAL.—The President may waive the requirement of subsection (a) on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees that it is in the national interest to do so.

(2) REPORTING REQUIREMENT.—Not later than April 15, 2008, and semi-annually thereafter, the Administrator for Federal Procurement Policy shall submit to the appropriate congressional committees a report on waivers granted under paragraph (1).

(d) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—Not later than 120 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) to provide for the implementation of the requirements of this section.

(e) REPORT.—Not later than one year after the date the Federal Acquisition Regulation is amended under subsection (e) to implement the requirements of this section, the Administrator of General Services, with the assistance of other executive agencies, shall submit to the Office of Management and Budget and the appropriate congressional committees a report on the actions taken under this section.

SEC. 7. SENSE OF CONGRESS ON EFFORTS BY OTHER COUNTRIES.

It is the sense of Congress that the governments of all other countries should adopt measures, similar to those contained in this Act, to publicize the activities of all persons that, through their financial dealings, knowingly or unknowingly enable the Government of Sudan to continue to oppress and commit genocide against people in the Darfur region and other regions of Sudan, and to authorize divestment from, and the avoidance of further investment in, such persons.

SEC. 8. SENSE OF CONGRESS ON PEACEKEEPING EFFORTS IN SUDAN.

It is the sense of Congress that the President should—

(1) continue to work with other members of the international community, including the Permanent Members of the United Nations Security Council, the African Union, the European Union, the Arab League, and the Government of Sudan to facilitate the urgent deployment of a peacekeeping force to Sudan; and

(2) bring before the United Nations Security Council, and call for a vote on, a resolution requiring meaningful multilateral sanctions against the Government of Sudan in response to its acts of genocide against the people of Darfur and its continued refusal to allow the implementation of a peacekeeping force in Sudan.

SEC. 9. SENSE OF CONGRESS ON THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

It is the sense of Congress that nothing in this Act—

(1) conflicts with the international obligations or commitments of the United States; or

(2) affects article VI, clause 2, of the Constitution of the United States.

SEC. 10. REPORTS ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) IN GENERAL.—The Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report assessing the effectiveness of sanctions imposed with respect to Sudan at the time the Secretary of State and the Secretary of the Treasury submits reports required under—

(1) the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note);

(2) the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note); and

(3) the Darfur Peace and Accountability Act of 2006 (Public Law 109–344; 50 U.S.C. 1701 note).

(b) ADDITIONAL REPORT BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall submit to the appropriate congressional committees a report assessing the effectiveness of sanctions imposed with respect to Sudan under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) at the time the President submits the reports required by section 204(c) of such Act (50 U.S.C. 1703(c)) with respect to Executive Order 13,067 (50 U.S.C. 1701 note; relating to blocking property of persons in connection with the conflict in Sudan's region of Darfur).

(c) CONTENTS.—The reports required by subsections (a) and (b) shall include—

(1) a description of each sanction imposed under a law or executive order described in subsection (a) or (b);

(2) the name of the person subject to the sanction, if any; and

(3) whether or not the person subject to the sanction is also subject to sanctions imposed by the United Nations.

SEC. 11. REPEAL OF REPORTING REQUIREMENT.

Section 6305 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 172) is repealed.

SEC. 12. TERMINATION.

The provisions of sections 3, 4, 5, 6, and 10 shall terminate 30 days after the date on which the President has certified to Congress that the Government of Sudan has honored its commitments to—

(1) abide by United Nations Security Council Resolution 1769 (2007);

(2) cease attacks on civilians;

(3) demobilize and demilitarize the Janjaweed and associated militias;

(4) grant free and unfettered access for delivery of humanitarian assistance; and

(5) allow for the safe and voluntary return of refugees and internally displaced persons.

HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 516, H.R. 3997.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3997) to amend the Internal Revenue Code of 1986 to provide earnings assistance and tax relief to members of the uniformed services, volunteer firefighters, and Peace Corps volunteers, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendments at the desk be considered and agreed to; the bill, as amended, be read the third time and passed; that 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 amendment (No. 3847) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 3848) was agreed to, as follows:

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes.''.

The bill (H.R. 3997), as amended, was ordered to a third reading, was read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—H.R. 3997

Mr. HARKIN. Mr. President, I ask unanimous consent that if the Senate receives from the House a message on H.R. 3997 with an amendment that is not germane to the Senate amendment with the underlying bill, that the bill and its amendments be referred to the Finance Committee.

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

MEASURE READ THE FIRST TIME—S. 2461

Mr. HARKIN. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first 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. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

ORDERS FOR THURSDAY, DECEMBER 13, 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 8:30 a.m., Thursday, December 13; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders reserved for their use later in the day, and the Senate then resume consideration of H.R. 2419, with the time until 9:15 a.m. equally divided and controlled between the leaders or their designees for debate only; that at 9:15 a.m., the Senate vote in relation to the Dorgan amendment No. 3695, as modified, as provided for under a previous order; that upon disposition of the Dorgan amendment, there be 2 minutes of debate prior to a cloture vote on the motion to concur with respect to H.R. 6.

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

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. HARKIN. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:39 p.m., adjourned until Thursday, December 13, 2007, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

MARCIA STEPHENS BLOOM BERNICAT, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT F. COHEN, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2012, VICE STANLEY C. SUBOLESKI, TERM EXPIRED.

DEPARTMENT OF HOMELAND SECURITY

HARVEY E. JOHNSON, JR., OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

WITHDRAWAL

Executive Message transmitted by the President to the Senate on December 12, 2007 withdrawing from further Senate consideration the following nomination:

HARVEY E. JOHNSON, JR., OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR AND CHIEF OPERATING OFFICER, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION), WHICH WAS SENT TO THE SENATE ON SEPTEMBER 7, 2007.