

S. 2579

At the request of Mr. INOUE, the names of the Senator from Montana (Mr. TESTER), the Senator from Oregon (Mr. WYDEN), the Senator from Rhode Island (Mr. REED), the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2595

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2595, a bill to create a national licensing system for residential mortgage loan originators, to develop minimum standards of conduct to be enforced by State regulators, and for other purposes.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2731, a bill to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. 2736

At the request of Mr. KOHL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2736, a bill to amend section 202 of the Housing Act of 1959 to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 2759

At the request of Mr. DODD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2759, a bill to provide for Kindergarten Plus programs.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2817

At the request of Mr. SALAZAR, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2817, a bill to establish the National Park Centennial Fund, and for other purposes.

S. 2819

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada

(Mr. REID) was added as a cosponsor of S. 2819, a bill to preserve access to Medicaid and the State Children's Health Insurance Program during an economic downturn, and for other purposes.

S. 2874

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2874, a bill to amend titles 5, 10, 37, and 38, United States Code, to ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, and for other purposes.

S. 2932

At the request of Mrs. MURRAY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 2932, a bill to amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

S. 2959

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2959, a bill to amend the Help America Vote Act of 2002 to require States to provide for election day registration.

S. 2979

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2979, a bill to exempt the African National Congress from treatment as a terrorist organization, and for other purposes.

S. 3008

At the request of Mr. BOND, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3008, a bill to improve and enhance the mental health care benefits available to members of the Armed Forces and veterans, to enhance counseling and other benefits available to survivors of members of the Armed Forces and veterans, and for other purposes.

S. 3031

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 3031, a bill to amend the Clean Air Act to limit the use of ethanol to meet the renewable fuel standard, and for other purposes.

S. CON. RES. 82

At the request of Mrs. LINCOLN, the name of the Senator from Montana

(Mr. TESTER) was added as a cosponsor of S. Con. Res. 82, a concurrent resolution supporting the Local Radio Freedom Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. COCHRAN, Mrs. CLINTON, Mr. MENENDEZ, Mr. INOUE, Mr. KENNEDY, Mr. SMITH, Ms. MIKULSKI, Mrs. LINCOLN, Mr. CASEY, Mr. BAYH, Mr. ROCKEFELLER, and Mr. WHITEHOUSE):

S. 3037. A bill to amend the National and Community Service Act of 1990 to improve the educational awards provided for national service, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senator COCHRAN and others to introduce legislation that will build on one of the best service success stories of the last quarter century: AmeriCorps. Fifteen years ago, as he swore in the first class of AmeriCorps members, President Bill Clinton said, "When it is all said and done, it comes down to three simple questions: What is right? What is wrong? And what are we going to do about it?"

Since that time, more than a half-million AmeriCorps members have taken it upon themselves to try and answer those questions in communities across this country.

They have done so by serving in a variety of settings from senior centers and veterans' hospitals to schools and afterschool programs. They have helped clean up our neighborhoods and rebuilt our houses. These members have sacrificed their time and energy to meet the fundamental needs of our nation.

Last year alone, 75,000 AmeriCorps members gave back to our communities, serving in over 4,000 schools, faith-based and community organizations, and nonprofits across the country. They also brought reinforcements—recruiting another 1.7 million community volunteers to work alongside them. Because of AmeriCorps, our communities have been strengthened, and our democracy fortified.

Unfortunately, as the hours AmeriCorps members have contributed to our communities have increased, the Segal AmeriCorps Education Award created to help members pay for their college tuition has remained flat at \$4,725. Meanwhile, the average college tuition has skyrocketed. The education award previously paid for two years of college, but currently it does not even cover the cost of a single year. I am introducing the AmeriCorps: Together Improving Our Nation Act, ACTION, in part, to update the education award to keep pace with 15 years of tuition increases.

The ACTION Act will raise the education award to \$6,185 and increase the award annually to match the average tuition at a 4-year public university.

That figure, \$6,185 is the average cost of tuition at a four-year public university according to the College Board. The act will also make the education award tax exempt to ensure that students are able to use their entire award to advance their education.

In addition, to recognize service as a national priority, this legislation promotes the position of Executive Director of the Corporation for National and Community Service to Cabinet status and reestablishes the Corporation for National and Community Service's authority to partner with other Federal agencies. As partners of equal status, Federal Departments will be able to coordinate their priorities and have AmeriCorps members work to meet their needs.

For example, the Department of Education could use volunteers to help solve the "Dropout Crisis" and the Environmental Protection Agency could use volunteers to increase our energy efficiency.

As a former Peace Corps volunteer, I know that national service ought not to simply be virtuous, but rather, a resource with which we can carry out our most urgent national priorities, from tackling poverty to making our communities cleaner and more vibrant. We need to recognize service as a national priority, and with passage of the ACTION Act, we will.

By Mr. FEINGOLD (for himself and Mr. HAGEL):

S. 3041. A bill to establish the Foreign Intelligence and Information Commission to assess needs and provide recommendations to improve foreign intelligence and information collection, analysis, and reporting and for other purposes; to the Select Committee on Intelligence.

Mr. FEINGOLD. Mr. President, today I am introducing legislation with the senior Senator from Nebraska, Senator HAGEL, to establish an independent commission to address long-standing, systemic problems in the collection, reporting, and analysis of foreign intelligence as well as diplomatic reporting and open source information. First, as the DNI has testified, we continue to direct "disproportionate" resources toward current crises, rather than toward long-term strategic issues and emerging threats. Second, we don't have the geographic distribution of resources needed to anticipate threats around the world. The lack of "global reach" has also been acknowledged by the Intelligence Community leadership. And third, we lack a comprehensive strategic approach to the collection of information by the entire U.S. Government, including not only the Intelligence Community, but also State Department and other Government officers who are based in our embassies.

To put it simply, the Government does not have a process for asking the following questions: What do we need to know, not only today but in the future? Who is best suited to get that information and where do they need to be? Is our analysis up to the task? And

how do we allocate resources, across agencies, so that these requirements are met with adequate funding? These big strategic questions are critical to our national security, yet they don't get asked, much less answered. These problems extend well beyond the authorities of the DNI and the jurisdiction of any one congressional committee. That is why we need an independent commission to finally address them comprehensively and to make recommendations for the executive branch and for Congress.

There are concrete reasons why this is so important. Around the world, including in Africa, South and Southeast Asia, there are current and potential terrorist safe havens. There is also the potential for instability and the persistence of political, economic and social conditions that can result in a crisis that threatens our national security. Do we need more clandestine collectors in these parts of the world? Do we need more embassy political officers doing more diplomatic reporting? After all, information gleaned from conversations with government officials, civil society and tribal and religious leaders can be critical to understanding potential terrorist safe havens and can often be obtained more effectively than through the IC. What about other U.S. Government officials based overseas, such as FBI officers? What mix of these personnel is appropriate? What does a U.S. Embassy in one of these countries look like, from an interagency collection and reporting perspective? Are more consulates and out-of-embassy posts part of the solution? And how do we connect the requirements of our embassies overseas to Washington, where administration budget requests and congressional budgetary allocations and appropriations should reflect a broad, multi-year interagency collection strategy?

An independent commission will be able to answer these questions. It will be able to look at the Intelligence Community, the State Department, and other departments and agencies to ensure that strategic and budgetary planning is not only consistent with national requirements, but is part of a larger, interagency process. The commission will consider the role of the National Security Council and the OMB in this process. It will look at the problem from top to bottom, interviewing NSC officials in Washington and visiting country missions overseas. This would not be a confrontational or accusatory investigation. It is an inquiry intended to produce concrete recommendations to fix long-standing problems. Those recommendations will be of enormous benefit to whoever the next president is. It will help Congress as it conducts oversight and considers the role of the Intelligence Community, the DNI, the State Department, and other agencies in the context of broader interagency strategies.

This legislation has been endorsed by a broad range of people, including Zbigniew Brzezinski, Donald Gregg, Carl Ford, Larry Wilkerson, David

Kay, Gayle Smith and Rand Beers. I am pleased that the Intelligence Committee approved the legislation earlier this month as an amendment to the fiscal year 2009 intelligence authorization bill. I will continue working with Senator HAGEL to ensure that this important legislation is enacted.

Mr. HAGEL. Mr. President, the Feingold-Hagel bill establishes an independent Foreign Intelligence and Information Commission, appointed by Congress, to review strategies for collection, analysis, and reporting of intelligence and diplomatic information from our outposts around the world. The Commission would have a 2-year lifespan.

We must ensure that the United States is prepared to face the challenges of the 21st Century. Our intelligence agencies and diplomatic outposts must provide policymakers with information that helps anticipate threats before they loom large, and our efforts must not be focused solely on the "threat of the day."

As observers and veterans of the intelligence community—including the 9/11 Commission—have noted, the U.S. Government and intelligence community obviously have to focus on current threats, many times at the expense of having the "strategic depth" to analyze and anticipate potential threats and surprises lurking over the horizon. The focus mainly on current reporting has been cited within the Intelligence Community as inhibiting its ability to forecast significant longer term problems.

With the creation of the Director of National Intelligence, DNI, and the National Counterterrorism Center, NCTC, Congress helped move the Intelligence Community in the right direction, but we need strategic intelligence not just on terrorism, but many other threats that our intelligence agencies and policymakers must anticipate.

This bi-partisan Commission would enhance—not supplant—the Senate Select Committee on Intelligence's oversight of intelligence.

"Strategic depth" in collection and analysis is an issue that cuts across the oversight responsibilities of both the Senate's Intelligence and Foreign Relations Committees. This Commission would examine diplomatic as well as intelligence reporting, which would help provide an in-depth analysis of issues that are not entirely within the scope of responsibilities of the DNI. The Commission would be able to probe these areas in depth and would have two years to issue its final report.

We have seen how Commission reports can be useful tools to both Congress and the Executive branch to highlight needed reforms. For instance, the 2001 Carlucci Commission report on "State Department Reform" proved to be a tremendous resource for Secretary Colin Powell as he developed an action program to revitalize the State Department and make needed reforms. Secretary Powell studied the findings and recommendations of this and other panels. He met extensively with Carlucci and other members of various

commissions, and relied on their detailed insights in formulating his reform efforts.

The Feingold-Hagel legislation's commission report would help the next administration evaluate and improve the effectiveness of key instruments underlying our national power. The Commission would provide recommendations on how to improve collection strategy, analysis, interagency information sharing, and language training.

A bipartisan group of respected intelligence and national security experts have endorsed the Commission, including former National Security Advisor Zbigniew Brzezinski; Donald Gregg, former Ambassador and National Security Advisor to Vice President George H. W. Bush, and Larry Wilkerson, former Chief of Staff to Secretary Colin Powell. Earlier this month, in a bipartisan vote, the Senate Intelligence Committee endorsed the Feingold-Hagel legislation setting up this commission.

This Commission would help Congress and the Executive to better position our intelligence agencies and diplomats to provide the information the United States Government needs to anticipate future strategic challenges, and I urge my colleagues to support this measure.

By Mrs. MCCASKILL (for herself and Mr. HATCH):

S. 3043. A bill to improve Federal land management, resource conservation, environmental protection, and use of Federal real property, by requiring the Secretary of the Interior to develop a multipurpose cadastre of Federal and real property and identifying inaccurate, duplicate, and out-of-date Federal land inventories, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. MCCASKILL. Mr. President, have you ever flown over the heartland of the United States and wondered how the Midwest and West got its distinctive and remarkable checkerboard pattern?

The reason for that extraordinary system is a law enacted on this date in 1785. On May 20, 1785, Congress enacted a bill that laid the foundation for American land policy. The Land Ordinance of 1785 provided that from a point of beginning in East Liverpool, Ohio, the new Northwest Territory was to be systematically surveyed and the lands subdivided into settlements and townships. Of the thirty-six sections of 640 acres in each township, the sixteenth was reserved "for the maintenance of public schools." Congress began an extraordinary process of inventorying the lands to the west, providing for settlement and homesteads, surveying and subdividing the lands, and providing land for Revolutionary War soldiers, as payment in lieu of compensation to relieve the new Republic of its war debts to those who fought for our freedom.

But while these early Acts of Congress, beginning with the Land Ordinance of 1785, the Northwest Ordinance of 1787, through the Homestead Act of 1862 and the more recent Federal Land Policy and Management Act FLPMA in 1976, all contributed to the inventorying, surveying, preservation, disposal and settlement of lands of the West, to this day the United States does not have a current, accurate inventory of the lands the Federal government owns.

The fact is, the Federal Government does not know what it owns, where it owns it, what condition it is in, what its characteristics are, or what its designated use should be. This is the third consecutive Congress in which Congress's watchdog agency, the Government Accountability Office placed 'Managing Federal Real Property' in the High-Risk Series, a category describing those activities with the highest risk of waste, fraud or abuse.

The GAO, GAO-03-122, found over 30 Federal agencies control hundreds of thousands of real property assets worldwide, including facilities and land. However, the portfolio is not well managed, many assets are no longer consistent with agency mission or needs, and many assets are in an alarming state of disrepair. Also, GAO, GAO-T-RCED-95-117, told Congress, "The General Services Administration, GSA, publishes statistics on the amount of land managed by each federal agency. However, we found this information was not current or reliable."

To remedy the lack of a current accurate inventory of all Federal real property, and the duplication and inefficiency of the many property databases the government does maintain, I am today introducing the Federal Land Asset Inventory Reform, FLAIR, Act, along with my colleague Senator ORRIN HATCH of Utah. Our bill is a companion to H.R. 5532, introduced in the House on a bipartisan basis by Representative KIND of Wisconsin and Representative CANNON of Utah.

There is no reason for the Government to lack a current, accurate inventory of all the land it has been entrusted to manage for the citizens of the United States. With the technology available, it should not happen that then-Secretary of the Interior Gale Norton would testify before the House Interior Appropriations Subcommittee on March 2, 2005 that "The Department currently uses 26 different financial management systems and over 100 different property systems. Employees must enter procurement transactions multiple times in different systems so that the data are captured in real property inventories, financial systems, and acquisition systems. This fractured approach is both costly and burdensome to manage."

It is time the U.S. Government invested in a methodology and technology to identify and inventory its land holdings. Such a system can help enhance the Federal land management,

resource conservation, environmental protection, and use of Federal real property. We should not be creating multiple inventories when today's technology permits us to do it once and use it many times. Gathering information to solve national problems should not require an Act of Congress, particularly when a few keystrokes on a computer will do the job.

Although the Bush administration took a step toward solving this problem when President Bush issued Executive Order 13327 in 2004, the resulting GSA inventory is neither GIS-based nor includes public lands. Unfortunately, this means that more than 300 million acres are exempt from the inventory currently maintained by GSA.

Since 1980, the National Academy of Sciences has been calling for the development of a multipurpose cadastre, or land registry, in its report, "Need for a Multipurpose Cadastre." The report said, "There is a critical need for a better land-information system in the United States to improve land-conveyance procedures, furnish a basis for equitable taxation, and provide much-needed information for resource management and environmental planning." In 2007, the Academy renewed this effort and recommended the idea of the FLAIR Act, in its report, "National Land Parcel Data: A Vision for the Future."

This Federal effort will also help State and local agencies verify their ongoing efforts to identify what each level of government owns, and permit the fair, efficient and equitable taxation of private property. This will enable government at all levels to find missing lands through a gap analysis that identifies properties on which taxes are not being collected due to the inefficiencies in our systems. For example, when the State of Wyoming used a GIS to audit the mass appraisal process, it found that approximately 250,000 parcels were not on the tax rolls.

Over the past decade, nearly 30 Governors and State Legislatures have created State land inventories. Let me give you a few examples of what some States have found.

In California, an inventory discovered that in 1955, the State purchased a golf course in Oakland to make way for a highway. The road was never built, and the State still owns the land, unbeknownst to any State agency.

In South Carolina, a State commission found the University of South Carolina, a State university, still owned Wedge Plantation, a 1,500 acre tract valued at \$5 million, originally used for research of insect-borne diseases, but now leased to a half-dozen hunters who pay no rent.

While serving as Missouri State Auditor, my office issued a report noting that the Missouri Department of Transportation lacked accurate and reliable records of excess property and property being held for future projects. The best MoDOT could do was estimate

the amount and value of the land they held.

The FLAIR Act addresses the twin problems of a lack of a single, interoperable, current and accurate Federal land inventory, and the proliferation of inefficient, duplicative, costly, inaccurate and out-of-date inventories by authorizing the Department of the Interior to develop and manage a single multipurpose, uniform Federal GIS database to track and account for all Federal Real Property, as called for by GAO and recommended by the National Academy.

Waste and duplication can be avoided if the Government knew what inventories it had. The FLAIR Act also authorizes the Secretary of the Interior to conduct an "inventory of inventories" to identify all inventory databases, whether efficient or inefficient. The efficient databases will be merged into a single multipurpose cadastre while the inefficient databases are repealed, thus preventing waste and duplication from continuing. By integrating the efficient databases, redundancy can be identified and eliminated. Resources can be applied to gaps in data rather than duplicative data.

Once a multipurpose inventory is complete, the government can become a better real property asset manager, and a responsible steward of its land holdings. This will result in more efficient land management, again providing savings. That is what the FLAIR Act provides.

I urge my colleagues to join Senator HATCH and myself in enacting this good-government bill.

By Mr. REID (for himself, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CONRAD, Mr. DODD, Mr. DURBIN, Mr. JOHNSON, Mr. KENNEDY, Ms. KLOBUCHAR, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. MCCASKILL, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. SCHUMER, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 3044. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes; read the first time.

Mr. REID. 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. 3044

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 "Consumer-First Energy Act of 2008".

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—TAX PROVISIONS RELATED TO OIL AND GAS

Sec. 101. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 102. 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. 103. Windfall profits tax.

Sec. 104. Energy Independence and Security Trust Fund.

TITLE II—PRICE GOUGING

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Energy emergency and additional price gouging enforcement.

Sec. 204. Presidential declaration of energy emergency.

Sec. 205. Enforcement by the Federal Trade Commission.

Sec. 206. Enforcement by State attorneys general.

Sec. 207. Penalties.

Sec. 208. Effect on other laws.

TITLE III—STRATEGIC PETROLEUM RESERVE

Sec. 301. Suspension of petroleum acquisition for Strategic Petroleum Reserve.

TITLE IV—NO OIL PRODUCING AND EXPORTING CARTELS

Sec. 401. No Oil Producing and Exporting Cartels Act of 2008.

TITLE V—MARKET SPECULATION

Sec. 501. Speculative limits and transparency for off-shore oil trading.

Sec. 502. Margin level for crude oil.

SEC. 2. FINDINGS.

Congress finds that—

(1) excessive prices for petroleum products have created, or imminently threaten to create, severe economic dislocations and hardships, including the loss of jobs, business failures, disruption of economic activity, curtailment of vital public services, and price increases throughout the economy;

(2) those hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy and economic crisis that is a threat to the public health, safety, and welfare of the United States;

(3) consumers, workers, small businesses, and large businesses of the United States are particularly vulnerable to those price increase due to the failure of the President to aggressively develop alternatives to petroleum and petroleum products and to promote efficiency and conservation;

(4) reliable and affordable supplies of crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel) are vital to the economic and national security of the United States given current energy infrastructure and technology;

(5) the price of crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel) have skyrocketed to record levels and are continuing to rise;

(6) since 2001, oil prices have increased from \$29 per barrel to levels near \$120 per barrel and gasoline prices have more than doubled from \$1.47 per gallon to more than \$3.50 per gallon;

(7) the record prices for crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel)—

(A) are hurting millions of consumers, workers, small businesses, and large busi-

nesses of the United States, and threaten long-term damage to the economy and security of the United States;

(B) are partially due to—

(i) the declining value of the dollar and a widespread lack of confidence in the management of economic and foreign policy by the President;

(ii) the accumulation of national debt and growing budget deficits under the failed economic policies of the President; and

(iii) high levels of military expenditures under the failed policies of the President in Iraq; and

(C) are no longer justified by traditional forces of supply and demand;

(8) rampant speculation in the markets for crude oil and products refined from crude oil has magnified the price increases and market volatility resulting from those underlying causes of price increases; and

(9) Congress must take urgent action to protect consumers, workers, and businesses of the United States from rampant speculation in the energy markets and the price increases resulting from the failed domestic and foreign policies of the President.

TITLE I—TAX PROVISIONS RELATED TO OIL AND GAS

SEC. 101. 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, 2008.

SEC. 102. 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 of the Internal Revenue Code of 1986 (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) of the Internal Revenue Code of 1986 (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 Consumer-First Energy Act of 2008) for preceding taxable years beginning after December 31, 1982.

“(C) REDUCTION FOR POST-2008 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, 2008, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

“(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.

“(i) 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 Consumer-First Energy Act of 2008.”.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) of the Internal Revenue Code of 1986 (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-2009 AND 2009 DISALLOWED CREDITS.—

“(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, 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, 2008—

“(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) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Consumer-First Energy Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, 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) of the Internal Revenue Code of 1986 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, 2008.

SEC. 103. WINDFALL PROFITS TAX.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; qualified investment.

“Sec. 5898. Special rules and definitions.

“SEC. 5896. IMPOSITION OF TAX.

“(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed on any applicable taxpayer an excise tax in an amount equal to 25 percent of the excess of—

“(1) the windfall profit of such taxpayer, over

“(2) the excess of—

“(A) the amount of the qualified investments of such applicable taxpayer for such taxable year, over

“(B) the average of the qualified investment of such applicable taxpayer for taxable years beginning during the 2002–2006 taxable year period.

“(b) APPLICABLE TAXPAYER.—For purposes of this chapter, the term ‘applicable taxpayer’ means any major integrated oil company (as defined in section 167(h)(5)(B)).

“SEC. 5897. WINDFALL PROFIT; QUALIFIED INVESTMENT.

“(a) GENERAL RULE.—For purposes of this chapter, the term ‘windfall profit’ means the excess of the adjusted taxable income of the applicable taxpayer for the taxable year over the reasonably inflated average profit for such taxable year.

“(b) ADJUSTED TAXABLE INCOME.—For purposes of this chapter, with respect to any applicable taxpayer, the adjusted taxable income for any taxable year is equal to the taxable income for such taxable year (within the meaning of section 63 and determined without regard to this subsection)—

“(1) increased by any interest expense deduction, charitable contribution deduction, and any net operating loss deduction carried forward from any prior taxable year, and

“(2) reduced by any interest income, dividend income, and net operating losses to the extent such losses exceed taxable income for the taxable year.

In the case of any applicable taxpayer which is a foreign corporation, the adjusted taxable income shall be determined with respect to such income which is effectively connected with the conduct of a trade or business in the United States.

“(c) REASONABLY INFLATED AVERAGE PROFIT.—For purposes of this chapter, with respect to any applicable taxpayer, the reasonably inflated average profit for any taxable year is an amount equal to the average of the adjusted taxable income of such taxpayer for taxable years beginning during the 2002–2006 taxable year period (determined without regard to the taxable year with the highest adjusted taxable income in such period) plus 10 percent of such average.

“(d) QUALIFIED INVESTMENT.—For purposes of this chapter, the term ‘qualified investment’ means, with respect to any applicable taxpayer, means any amount paid or incurred with respect to—

“(1) any qualified facility described in paragraph (1), (2), (3), (4), (5), (6), (7), or (9) of section 45(d) (determined without regard to any placed in service date), or

“(2) any facility for the production renewable fuel or advanced biofuel (as defined in section 211(o) of the Clean Air Act 942 U.S.C. 7545).

“SEC. 5898. SPECIAL RULES AND DEFINITIONS.

“(a) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896.

“(b) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information as the Secretary may by regulations prescribe.

“(c) RETURN OF WINDFALL PROFIT TAX.—The Secretary shall provide for the filing and

the time of such filing of the return of the tax imposed under section 5896.

“(d) **CRUDE OIL.**—The term ‘crude oil’ includes crude oil condensates and natural gasoline.

“(e) **BUSINESSES UNDER COMMON CONTROL.**—For purposes of this chapter, 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.

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

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

“CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL.”

(c) **DEDUCTIBILITY OF WINDFALL PROFIT TAX.**—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

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

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 104. ENERGY INDEPENDENCE AND SECURITY TRUST FUND.

(a) **ESTABLISHMENT.**—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

“**SEC. 9511. ENERGY INDEPENDENCE AND SECURITY TRUST FUND.**

“(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as ‘Energy Independence and Security Trust Fund’ (referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

“(b) **TRANSFERS TO TRUST FUND.**—There is hereby appropriated to the Trust Fund an amount equivalent to the increase in the revenues received in the Treasury as the result of the amendments made by sections 101, 102, and 103 of the Consumer-First Energy Act of 2008.

“(c) **DISTRIBUTION OF AMOUNTS IN TRUST FUND.**—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for the purposes of reducing the dependence of the United States on foreign and unsustainable energy sources and reducing the risks of global warming through programs and measures that—

“(1) reduce the burdens on consumers of rising energy prices;

“(2) diversify and expand the use of secure, efficient, and environmentally-friendly energy supplies and technologies;

“(3) result in net reductions in emissions of greenhouse gases; and

“(4) prevent energy price gouging, profiteering, and market manipulation.”

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

“Sec. 9511. Energy Independence and Security Trust Fund.”

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

TITLE II—PRICE GOUGING

SEC. 201. SHORT TITLE.

This title may be cited as the ‘Petroleum Consumer Price Gouging Protection Act’.

SEC. 202. DEFINITIONS.

In this title:

(1) **AFFECTED AREA.**—The term ‘affected area’ means an area covered by a Presidential declaration of energy emergency.

(2) **SUPPLIER.**—The term ‘supplier’ means any person engaged in the trade or business of selling or reselling, at retail or wholesale, or distributing crude oil, gasoline, petroleum distillates, or biofuel.

(3) **PRICE GOUGING.**—The term ‘price gouging’ means the charging of an unconscionably excessive price by a supplier in an affected area.

(4) **UNCONSCIONABLY EXCESSIVE PRICE.**—The term ‘unconscionably excessive price’ means an average price charged during an energy emergency declared by the President in an area and for a product subject to the declaration, that—

(A)(i)(I) constitutes a gross disparity from the average price at which it was offered for sale in the usual course of the supplier’s business during the 30 days prior to the President’s declaration of an energy emergency; and

(II) grossly exceeds the prices at which the same or similar crude oil, gasoline, petroleum distillates, or biofuel was readily obtainable by purchasers from other suppliers in the same relevant geographic market within the affected area; or

(ii) represents an exercise of unfair leverage or unconscionable means on the part of the supplier, during a period of declared energy emergency; and

(B) is not attributable to increased wholesale or operational costs, including replacement costs, outside the control of the supplier, incurred in connection with the sale of crude oil, gasoline, petroleum distillates, or biofuel, and is not attributable to local, regional, national, or international market conditions.

(5) **COMMISSION.**—The term ‘Commission’ means the Federal Trade Commission.

SEC. 203. ENERGY EMERGENCY AND ADDITIONAL PRICE GOUGING ENFORCEMENT.

(a) **IN GENERAL.**—During any energy emergency declared by the President under section 204 of this title, it is unlawful for any supplier to sell, or offer to sell crude oil, gasoline, petroleum distillates, or biofuel subject to that declaration in, or for use in, the area to which that declaration applies at an unconscionably excessive price.

(b) **FACTORS CONSIDERED.**—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether—

(1) the price charged was a price that would reasonably exist in a competitive and freely functioning market; and

(2) the amount of gasoline, other petroleum distillates, or biofuel the seller produced, distributed, or sold during the period the Proclamation was in effect increased over the average amount during the preceding 30 days.

SEC. 204. PRESIDENTIAL DECLARATION OF ENERGY EMERGENCY.

(a) **IN GENERAL.**—If the President finds that the health, safety, welfare, or economic well-being of the citizens of the United States is at risk because of a shortage or imminent shortage of adequate supplies of crude oil, gasoline, petroleum distillates, or biofuel due to a disruption in the national distribution system for crude oil, gasoline, petroleum distillates, or biofuel (including such a shortage related to a major disaster (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency As-

sistance Act (42 U.S.C. 5122(2))), or significant pricing anomalies in national energy markets for crude oil, gasoline, petroleum distillates, or biofuel the President may declare that a Federal energy emergency exists.

(b) **SCOPE AND DURATION.**—The emergency declaration shall specify—

(1) the period, not to exceed 30 days, for which the declaration applies;

(2) the circumstance or condition necessitating the declaration; and

(3) the area or region to which it applies which may not be limited to a single State; and

(4) the product or products to which it applies.

(c) **EXTENSIONS.**—The President may—

(1) extend a declaration under subsection (a) for a period of not more than 30 days;

(2) extend such a declaration more than once; and

(3) discontinue such a declaration before its expiration.

SEC. 205. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) **ENFORCEMENT.**—This title 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 were incorporated into and made a part of this title. In enforcing section 203 of this title, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, petroleum distillates, and biofuel in excess of \$500,000,000 per year but shall not exclude enforcement actions against companies with total United States wholesale sales of \$500,000,000 or less per year.

(b) **VIOLATION IS TREATED AS UNFAIR OR DECEPTIVE ACT OR PRACTICE.**—The violation of any provision of this title 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)).

(c) **COMMISSION ACTIONS.**—Following the declaration of an energy emergency by the President under section 204 of this title, the Commission shall—

(1) maintain within the Commission—

(A) a toll-free hotline that a consumer may call to report an incident of price gouging in the affected area; and

(B) a program to develop and distribute to the public informational materials to assist residents of the affected area in detecting, avoiding, and reporting price gouging;

(2) consult with the Attorney General, the United States Attorney for the districts in which a disaster occurred (if the declaration is related to a major disaster), and State and local law enforcement officials to determine whether any supplier in the affected area is charging or has charged an unconscionably excessive price for crude oil, gasoline, petroleum distillates, or biofuel in the affected area; and

(3) conduct investigations as appropriate to determine whether any supplier in the affected area has violated section 203 of this title, and upon such finding, take any action the Commission determines to be appropriate to remedy the violation.

SEC. 206. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) **IN GENERAL.**—A State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 203 of this title, or to impose the civil penalties authorized by section 207 for violations of section 203, whenever the attorney general of the State has reason to believe that the interests of the residents of

the State have been or are being threatened or adversely affected by a supplier engaged in the sale or resale, at retail or wholesale, or distribution of crude oil, gasoline, petroleum distillates, or biofuel in violation of section 203 of this title.

(b) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (a) prior to initiating the action. The notice shall include a copy of the complaint to be filed to initiate the civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting the civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Commission may intervene in the civil action and, upon intervening—

(1) may be heard on all matters arising in such civil action; and

(2) may file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the Attorney General by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action or an administrative action for violation of this title, a State attorney general, or official or agency of a State, may not bring an action under this section during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this title alleged in the Commission's civil or administrative action.

(g) NO PREEMPTION.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of that State.

SEC. 207. PENALTIES.

(a) CIVIL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act, any supplier—

(A) that violates section 203 of this title is punishable by a civil penalty of not more than \$1,000,000; and

(B) that violates section 203 of this title is punishable by a civil penalty of—

(i) not more than \$500,000, in the case of an independent small business marketer of gasoline (within the meaning of section 324(c) of the Clean Air Act (42 U.S.C. 7625(c))); and

(ii) not more than \$5,000,000 in the case of any other supplier.

(2) METHOD.—The penalties provided by paragraph (1) shall be obtained in the same manner as civil penalties imposed under sec-

tion 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the court shall take into consideration, among other factors, the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(b) CRIMINAL PENALTY.—Violation of section 203 of this title is punishable by a fine of not more than \$5,000,000, imprisonment for not more than 5 years, or both.

SEC. 208. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF THE COMMISSION.—Nothing in this title shall be construed to limit or affect in any way the Commission's authority to bring enforcement actions 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) STATE LAW.—Nothing in this title preempts any State law.

TITLE III—STRATEGIC PETROLEUM RESERVE

SEC. 301. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is \$75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(c) EXISTING CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

TITLE IV—NO OIL PRODUCING AND EXPORTING CARTELS

SEC. 401. NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008.

(a) SHORT TITLE.—This section may be cited as the “No Oil Producing and Exporting Cartels Act of 2008” or “NOPEC”.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

“SEC. 7A. OIL PRODUCING CARTELS.

“(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumen-

tality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

“(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

“(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

“(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

“(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

“(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

“(d) ENFORCEMENT.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.”

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking “or” after the semicolon;

(2) in paragraph (7), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(8) in which the action is brought under section 7A of the Sherman Act.”

TITLE V—MARKET SPECULATION

SEC. 501. SPECULATIVE LIMITS AND TRANSPARENCY FOR OFF-SHORE OIL TRADING.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—In the case of any foreign board of trade for which the Commission has granted or is considering an application to grant a board of trade located outside of the United States relief from the requirement of subsection (a) to become a designated contract market, derivatives transaction execution facility, or other registered entity, with respect to an energy commodity that is physically delivered in the United States, prior to continuing to or initially granting the relief, the Commission shall determine that the foreign board of trade—

“(A) applies comparable principles or requirements regarding the daily publication of trading information and position limits or accountability levels for speculators as apply to a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States; and

“(B) provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the energy commodity that is comparable to the information the Commission determines necessary to publish a Commitment of Traders report for a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—During the period beginning 1 year after the

date of enactment of this subsection and ending 18 months after the date of enactment of this subsection, the Commission shall determine whether to continue to grant relief in accordance with paragraph (1) to any foreign board of trade for which the Commission granted relief prior to the date of enactment of this subsection.”

SEC. 502. MARGIN LEVEL FOR CRUDE OIL.

(a) IN GENERAL.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

“(G) MARGIN LEVEL FOR CRUDE OIL.—Not later than 90 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations to set a substantial increase in margin levels for crude oil traded on any trading facility or as part of any agreement, contract, or transaction covered by this Act in order to reduce excessive speculation and protect consumers.”

(b) STUDIES.—

(1) STUDY RELATING TO EFFECT OF CERTAIN REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission shall submit to the appropriate committees of Congress a report describing the effect of the amendment made by subsection (a) on any trading facilities and agreements, contracts, and transactions covered by the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(2) STUDY RELATING TO EFFECTS OF CHANGES IN MARGIN LEVELS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report describing the effect (including any effect relating to trade volume or volatility) of any change of a margin level that occurred during the 10-year period ending on the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 571—RECOGNIZING THE 100TH BIRTHDAY OF LYNDON BAINES JOHNSON, 36TH PRESIDENT, DESIGNER OF THE GREAT SOCIETY, POLITICIAN, EDUCATOR, AND CIVIL RIGHTS ENFORCER

Mr. REID (for himself, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. CORNYN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of NE-

BRASKA, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TESTER, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 571

Whereas August 27, 2008, marks the 100th birthday of Lyndon Baines Johnson;

Whereas Lyndon B. Johnson was born in Stonewall, Texas, to Samuel Ealy Johnson, Jr., a Texas representative, and Rebekah Baines, on August 27, 1908;

Whereas upon graduation, Lyndon B. Johnson enrolled in Southwest Texas State Teachers' College, where he vigorously participated in debate, campus politics, and edited the school newspaper;

Whereas Lyndon B. Johnson had several teaching positions throughout Texas, including at the Welhausen School in La Salle County, at Pearsall High School, and as a public speaking teacher at Sam Houston High School in Houston;

Whereas Lyndon B. Johnson went to work as a congressional assistant at the age of 23;

Whereas Lyndon B. Johnson served the 10th Congressional District in the Texas House of Representatives from April 10, 1937, to January 3, 1949;

Whereas Lyndon B. Johnson became a commissioned officer in the Navy Reserve in December 1941;

Whereas, during World War II, Lyndon B. Johnson was recommended by Undersecretary of the Navy James Forrestal to President Franklin D. Roosevelt, who assigned Johnson to a 3-man survey team in the southwest Pacific;

Whereas Lyndon B. Johnson was conferred the Silver Star, which is the military's 3rd highest medal, by General Douglas MacArthur;

Whereas, in 1948, Lyndon B. Johnson was elected to the Senate at the age of 41;

Whereas, in 1951, Lyndon B. Johnson was elected Senate minority leader at the age of 44, and elected Senate majority leader at the age of 46, the youngest in United States history;

Whereas Lyndon B. Johnson was elected Vice President at the age of 52, becoming president of the Senate;

Whereas Lyndon B. Johnson's congressional career and his leadership spanned the stock market crash, the Great Depression, World War II, the nuclear age, the Cold War, the space age, and the civil rights movement, some of the most turbulent years in American history;

Whereas Vice President Lyndon B. Johnson was appointed as head of the President's Committee on Equal Employment Opportunities, through which he worked with African-Americans and other minorities;

Whereas an hour and 38 minutes after the assassination of President Kennedy, Lyndon B. Johnson was sworn in as President aboard Air Force One;

Whereas Lyndon B. Johnson was a bold leader and an idealist, who had the energy, determination, and leadership to turn those dreams into reality;

Whereas Lyndon B. Johnson was a “can-do” President because no matter how difficult and daunting the task at hand, he never rested until it was completed;

Whereas, in 1964, at the request of the Johnson Administration, Congress passed the landmark Civil Rights Act of 1964, which

banned de jure segregation in the Nation's schools and public places;

Whereas Congress passed by request of the Johnson Administration the Voting Rights Act of 1965, which outlawed obstructive provisions that were determined to be impractical and potentially biased against prospective voters;

Whereas, in January of 1965, the Johnson Administration introduced by request the legislation that encompassed the Great Society programs;

Whereas, in 1967, President Johnson nominated Thurgood Marshall as the 1st African-American to serve on the Supreme Court;

Whereas, during President Johnson's time in office, the National Aeronautics and Space Administration made spectacular steps forward in space exploration when 3 astronauts successfully orbited the moon in December 1968;

Whereas Lyndon B. Johnson died at 4:33 p.m. on January 22, 1973, at his ranch in Johnson City, Texas, at the age of 64;

Whereas Lyndon B. Johnson was posthumously awarded the Presidential Medal of Freedom in 1980; and

Whereas Lyndon B. Johnson is honored, venerated, and revered for his drive to establish equality for all Americans, illustrated in the momentous legislation passed during his Administration: Now, therefore, be it

Resolved, That the Senate—

(1) honors Lyndon B. Johnson for his fortitude in bringing about the passage of the historic Civil Rights Act of 1964 and Voting Rights Act of 1965;

(2) extols the contributions of Lyndon B. Johnson to the United States;

(3) commends Lyndon B. Johnson for establishing the Medicare Act of 1965 that has helped millions of Americans; and

(4) recognizes the 100th birthday of Lyndon Baines Johnson, the 36th President, designer of the Great Society, politician, educator, and civil rights enforcer.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4789. Mr. REID proposed an amendment to House amendment numbered 2 to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

SA 4790. Mr. REID proposed an amendment to amendment SA 4789 proposed by Mr. REID to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, *supra*.

SA 4791. Mr. KERRY submitted an amendment intended to be proposed by him to the amendment of the House numbered 1 to the amendment of the Senate to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4792. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4793. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4794. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4795. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.