

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments to the House amendments to the Senate bill were concurred in.

A motion to reconsider was laid on the table.

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**PERMITTING EXPENDITURES  
FROM LEAKING UNDERGROUND  
STORAGE TANK TRUST FUND**

Mr. CHOCOLA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6131) to permit certain expenditures from the Leaking Underground Storage Tank Trust Fund.

The Clerk read as follows:

H.R. 6131

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXPENDITURES PERMITTED FROM THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.**

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “section 9003(h)” and inserting “sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013”, and

(2) by striking “Superfund Amendments and Reauthorization Act of 1986” and inserting “Public Law 109-168”.

(b) CONFORMING AMENDMENTS.—Section 9014(2) of the Solid Waste Disposal Act is amended by striking “Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986” and inserting “Fund”.

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. CHOCOLA) and the gentleman from Washington (Mr. McDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana.

GENERAL LEAVE

Mr. CHOCOLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. CHOCOLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6131, a bill that would permit certain expenditures from the Leaking Underground Storage Tank Trust Fund. I want to thank the Energy and Commerce Committee for their leadership in assisting to move this bill forward, and I urge my colleagues to join me in passing this legislation.

Moneys appropriated from the Leaking Underground Storage Tank Trust Fund, which is often referred to as the LUST trust fund, are used for detection, prevention and clean-up of leaking underground storage tanks in order

to reduce water pollution. This bill would codify within the Internal Revenue Code an updated list of permitted expenditures from the fund as sought by the Energy and Commerce Committee and the Environmental Protection Agency within the Energy Policy Act of 2005.

This bill should not be controversial, as it is in everyone's interest to keep our Nation's drinking water from being contaminated. In addition, the bill has no spending or revenue effect.

H.R. 6131 will allow the LUST trust fund to be used for expanding corrective action in response to releases from underground storage tanks, including those containing MTBEs, and will provide additional measures to protect groundwater.

It will expand Federal and State enforcement efforts, improve prevention measures and compliance, and expand inspections of underground storage tanks. Mr. Speaker, we have the opportunity today to join together and continue our efforts to keep our Nation's water supply clean. I urge my colleagues to vote in favor of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 6131, does some good. It would change the rules regarding the Leaking Underground Storage trust fund and allow these funds to address the MTBE leaks. That is shorthand for gasoline additives in underground tanks at your neighborhood gas station.

MTBE leaks are dangerous and destructive, and this legislation will amend the energy bill in a good way. Unfortunately, these additives get into water and create problems for human beings. The legislation does nothing to address the other dangers and destructive leaks in the President's energy policy, however. It does not amend the bill to repeal the tax giveaways the President's energy bill gives Big Oil.

It does not repeal the \$30 billion in corporate welfare Republicans have given to Big Oil and their energy companions. It does not make America less dependent on oil, and it does not make America less vulnerable to nations that have the oil resources that we need.

Oil and gas companies continue to line their pockets with American taxpayer dollars. The Republicans have delivered billions in tax breaks last year. That was after the Republicans handed over billions in 2004. Republicans gave oil companies a sweetheart tax break that climbs in value as the process and profits claim. You pay and pay, while they keep and keep.

That sums up the Republican energy policy. Today, we should act to stop one big leak in the Nation's energy policy. It will take removing Republicans in the midterm election to begin to plug the other big leaks in the Republican energy policy.

Mr. Speaker, I reserve the balance of my time.

Mr. CHOCOLA. Mr. Speaker, I continue to reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I also rise today to discuss H.R. 6131, legislation to make technical corrections to the Energy Policy Act of 2005. We are here today to make these technical corrections because of the hastily drafted Energy Policy Act of 2005.

As ranking Democrat of the Environment and Hazardous Materials Subcommittee, which has authorization over the leaking underground storage tank program, I will support the policy to fix this piece of legislation.

However, the bill should not mask the failure of the Bush administration and the Republican-led Congress to adequately fund this Federal program. The Leaking Underground Storage Tank program is responsible for protecting groundwater and local drinking water supplies by preventing and cleaning up MTBE and petroleum contamination from leaking underground storage tanks in our communities.

More than a year ago, Congress dramatically increased the funding authorization for the EPA Leaking Underground Storage Tank program to \$605 million annually. This increase was necessary to support additional clean-ups of leaky tanks to ensure States have funding to carry out new inspections, operator training, delivery prohibition, and secondary containment requirements.

However, President Bush proposed a reduction in funding to clean up MTBE and petroleum from the tens of thousands of leaking tanks throughout the country in his fiscal year 2007 budget. The budget which has been approved by the rubber-stamp Congress, in my opinion, is outrageous.

During this time of high gas prices, Americans are being taxed one-tenth of 1 cent for every gallon of gasoline they purchase with the expectation this money will be contributed to the Leaking Underground Storage Tank trust fund and released to help to clean up contamination.

The tax on the American public raises \$190 million every year; and by the end of fiscal year 2007, the trust fund will have a surplus of more than \$2.7 billion.

Yet President Bush only sought \$72.8 million for the clean-up and protection of our water supplies, an amount that the Republican-led Congress said was needed. The amount is nearly \$120 million less than what taxpayers will be contributing next year.

Rather than use this money to clean up contamination and protect water supplies, the administration and Republican-led Congress are holding onto the money to offset the cost of Republican budget priorities, such as tax cuts to the wealthy.

Congress acted in the Energy Policy Act of 2005 to take steps to prevent leaks before they occurred by adding new requirements for inspections, operating training, delivery prohibition, and secondary containment. And during consideration of EPACT, Congress authorized \$155 million annually to carry out these prevention activities.

Again, the President only requested \$37.5 million in his fiscal year 2007 budget, only 24 percent of what Congress authorized. This Congress appropriated even less. The rubber-stamp Congress approved only \$17.5 million, only 9 percent of what we authorized for this program.

As a result of Congress's failure to adequately fund the program, States are now facing unfunded mandates. Between 2005 and 2007, States have lost \$899 million in Federal support. The lack of Federal support is leading States to consider turning back their programs to the Federal Government, including their tank programs.

In a letter dated December 9, 2005, a coalition of State officials, gasoline marketers, convenience store owners, stated: "If the administration and Congress do not break with tradition and appropriate significantly higher amounts from the fund in the coming years, EPA and the States will be unable to implement those important reforms."

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It is unacceptable that our States are being saddled with these unfunded mandates. There is absolutely no reason to justify saddling our States with unfunded mandates and failing to appropriately use taxpayer money.

Mr. Speaker, I will insert at this point in the RECORD a letter Ranking Member DINGELL and I sent to the EPA and the EPA's response.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
Washington, DC, February 22, 2006.

Hon. STEPHEN L. JOHNSON,  
Administrator, Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR JOHNSON: Last summer, the Congress completed the conference on the Energy Policy Act of 2005, and the President signed it into law on August 8, 2005 (P.L. 109-58). Title XV, Subtitle B of the Energy Policy Act of 2005, dramatically increased the authorization for the Environmental Protection Agency Leaking Underground Storage Tank (LUST) program to \$605 million annually. This was necessary to support increased cleanups of leaking underground storage tanks and provide funding to States to carry out new inspection, operator training, delivery prohibition, and secondary containment/financial responsibility requirements.

Much of the debate in Congress on this subject over the past few years centered on the escalating costs to cleaning up contamination of drinking water supplies from methyl tertiary butyl ether (MTBE) with the most widely cited estimate being \$29 billion. According to the Environmental Protection Agency (EPA) 2006 Annual Performance Plan and Congressional Justification, MTBE contamination can increase cleanup costs from 25 percent to more than 100 percent. This debate led Congress to authorize \$400 million

per year from the LUST Trust Fund to fund petroleum and MTBE cleanups to minimize the continuing impacts on drinking water supplies and the environment (Section 9014 2(A) & (B) of the Solid Waste Disposal Act).

The President's budget acknowledges that there is a national backlog of over 119,000 confirmed releases in need of cleanup. In addition, the budget documents indicate that new confirmed releases averaged 10,844 annually between FY1999 and FY2005. We also note that completed cleanups nationwide will fall dramatically from 18,518 in FY2003 to the target of 13,000 set forth in the President's FY2007 Budget request.

We also note that the Energy Policy Act of 2005 extended until 2011 the 0.1 cent per gallon tax on motor fuels that all motorists in America pay. According to the budget documents, revenues from this tax were \$189 million in FY2005 and are estimated to climb to \$194 million in FY2006 and \$196 million in FY2007.

The tax revenues are dedicated to the LUST Trust Fund, which will increase from \$2.349 billion in FY2005 to an estimated \$2.764 billion in FY2007. However, with over \$2.7 billion in a dedicated LUST Trust Fund and over \$190 million in revenues for FY2007, the President is only requesting \$72.8 million—a slight reduction from his FY2006 budget request and less than the enacted level from FY2006. The following table shows the budget requests and enacted levels for the past four Fiscal Years:

LEAKING UNDERGROUND STORAGE TANKS FOR CLEANUP  
(Millions)

Budget request		Enacted	
FY2004	\$75.5	FY2004	\$75.6
FY2005	72.5	FY2005	69.4
FY2006	73.0	FY2006	76.2
FY2007	72.8	FY2007	

The President's budget request for FY2007 ignores the clear Congressional intent, demonstrated by a \$400 million annual authorization in the Energy Policy Act of 2005, to increase funding for cleanup of leaking underground storage tanks. Why did the President support and sign into law an additional approximate \$1 billion in taxes on U.S. motorists if he is not willing to request that the money be spent for the specific purpose for which it is collected?

On December 9, 2005, a coalition of State officials, gasoline marketers, convenience store owners, and major environmental organizations joined together to request that you and Office of Management and Budget, Director Joshua Bolten change the "minimal annual budget requests and appropriations levels . . ." Their letter to you further stated as follows:

"Clearly, the LUST Trust Fund is being used as a Federal deficit reduction device rather than for the important purpose originally envisioned by Congress—protection of the environment. This situation must change. We request your assistance in making this change happen as soon as possible . . ."

"The Energy Policy Act of 2005 contained several reforms to the Federal UST [underground storage tank] program that expand the permitted uses of Federal LUST Trust Fund dollars and place substantial new responsibilities on the EPA and State UST agencies. The legislation authorized significant increases in appropriations from the Fund to assure that EPA has the financial resources to implement these reforms, to assure that the new regulatory provisions do not represent an unreasonable burden on the States, and to allow EPA and states to expand their response to UST petroleum releases, including those containing MTBE. If

the Administration and Congress do not break with tradition and appropriate significantly higher amounts from the Fund in the coming years, EPA and the States will be unable to implement these important reforms."

This request from State officials who implement the program, tank owners, and public interest groups appears to have fallen on deaf ears. The question is why—particularly since the source of funding for the LUST Trust Fund is a direct tax on the motoring public. We look forward to your response.

We are also aware that the President's FY2007 budget requests an increase in funding from \$11 million to \$37.5 million, from the State Tribal Assistance Grant (STAG) account for new inspection, operating training, delivery prohibition, and secondary containment/financial responsibility requirements imposed by the Energy Policy Act of 2005. However, the Energy Policy Act of 2005 authorized \$155 million (Section 9014(2)(C) & (D) of the Solid Waste Disposal Act) to carry out these specific prevention activities. The President's budget request is only 24 percent of the authorized amount. By what analysis did you determine that \$37.5 million was an adequate amount? How much will each State receive? Please provide any analyses that EPA has conducted concerning the adequacy of the President's budget request to fund these important prevention requirements.

We also note and strongly oppose the President's budget request to cut \$35 million from the same STAG account for grants to the States to implement the Clean Air Act, and questions on that requested cut will be the subject of separate correspondence.

Please provide a response by no later than Wednesday, March 8, 2006. If you have any questions concerning this request please have your staff contact Richard A. Frandsen, Senior Minority Counsel to the Committee, at (202) 225-3641.

Sincerely,

JOHN D. DINGELL,  
Ranking Member,  
Committee on Energy and Commerce.

HILDA L. SOLIS,  
Ranking Member, Subcommittee on Environment and Hazardous Materials.

UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY,  
Washington, DC, March 30, 2006.

Hon. JOHN D. DINGELL,  
Ranking Member, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR CONGRESSMAN DINGELL: Thank you for your February 22, 2006, letter to Administrator Johnson regarding funding for the Environmental Protection Agency's (EPA's) implementation of the underground storage tank (UST) provisions of the Energy Policy Act (EPAct). Implementing these new provisions as well as our ongoing efforts to prevent and clean up leaks from USTs is an important priority for the Agency.

As you noted in your letter, the President's Fiscal Year 2007 budget requested an additional \$26 million (for a total of \$37.6 million) in state tribal assistance grants (STAG) to support state efforts to implement the UST provisions in EPAct. Most of these provisions help to strengthen prevention aspects of the underground storage tank program (e.g., mandatory inspections, requiring training for UST operators and prohibiting delivery of fuel to ineligible facilities).

EPA believes that the most pressing issue facing states in implementing the UST provisions of EPAct will be completing all of

the required inspections and have therefore focused our requested increase to enable states to accomplish this task. Based on estimates of the full cost per inspector (including training and follow-up enforcement support), and the number of inspections that one inspector can do per year, we estimate that the \$26 million increase can fund up to 40,000 additional inspections. We believe that this amount, plus what EPA and states are currently doing, should put states in a position to meet the 3-year inspection cycle required by EPAct.

Although EPAct expanded the allowable uses of the Leaking Underground Storage Tank (LUST) Trust Fund to cover compliance and leak prevention activities, a provision inserted in the Transportation Equity Act of 2005 limited EPA's ability to use LUST Trust Fund monies for the purposes authorized by the EPAct. If EPA were to use LUST Trust Fund monies for purposes other than for carrying out leaking underground storage tank cleanup activities authorized by Section 9003(h) of the Solid Waste Disposal Act in effect at the time of the enactment of Section 205 of the Superfund Amendments and Reauthorization Act of 1986, future tax revenue would not be appropriated into the LUST Trust Fund. Expending LUST Trust Fund appropriations for the compliance and leak prevention activities authorized by the EPAct would trigger this provision. For this reason, the President has requested the additional appropriation from STAG rather than from the LUST Trust Fund to provide financial assistance to states to carry out their compliance and leak prevention responsibilities under the EPAct.

Also included in the President's FY 2007 budget is a request for nearly \$73 million in LUST funds to be used by EPA, states, and tribes to clean up releases caused by leaking underground storage tanks. To date, almost 330,000 releases have been cleaned up. In fact, since FY 2000, a period when LUST funding levels have averaged about \$72 million a year, more than 80,000 sites have been cleaned up, reducing the cleanup backlog from more than 160,000 sites to less than 120,000 sites. As is the case with every budget, EPA must weigh the needs of all programs and we will continue to re-evaluate the adequacy of resources to address this important priority. However, the agency believes that if Congress appropriates the President's request for FY 2007, EPA, states and tribes will be able to continue to make progress cleaning up releases and reducing the backlog of sites needing cleanup.

Thank you, again, for your continued interest in the underground storage tank program. We look forward to working with you as we implement the UST provisions of the EPAct. If you have any further questions or concerns, please contact me, or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

SUSAN PARKER BODINE,  
Assistant Administrator.

The President's budget and the actions taken by this rubber-stamp Congress will result in more leaky tanks, more contamination of drinking water supplies, fewer cleanups and very few adverse impacts on the public health and well-being of our communities.

I support, believe it or not, H.R. 6131 and the necessary technical changes it makes, but we must not ignore the real issue at hand, the failure of this President and the administration to prevent contamination of our water supplies and to protect the public health.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

I would simply say, Mr. Speaker, that I think from the previous speaker and myself you understand that this bill does not do any harm. I think that is why we will support it. It does not do very much about the energy problems in this country, and I really think that is where we ought to be spending our time.

If the Federal Government really was interested in cleaning up the environment, they would spend the money that is there. It is there for that purpose. However, they need it to cover the debts of war and a whole lot of other things which, in my opinion, are not the way this money should have been spent.

So I personally will urge a voice vote and pass the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. CHOCOLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the bottom line is that the Energy Policy Act of 2005 authorized an additional \$400 million annually for inspection, prevention and cleanup of our water supply; and without passage of this legislation, none of that money can be spent, regardless if you agree with the level of appropriations or not.

So I think it is important that we pass this piece of legislation, and I encourage my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Indiana (Mr. CHOCOLA) that the House suspend the rules and pass the bill, H.R. 6131.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

Mr. SMITH of Texas. Mr. Speaker, pursuant to House Resolution 1038, I call up the bill (H.R. 2679) to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1038, the amendment in the nature of a substitute printed in the bill is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 2679

*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 "Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006".*

#### SEC. 2. LIMITATIONS ON CERTAIN LAWSUITS AGAINST STATE AND LOCAL OFFICIALS.

(a) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—Section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is amended—

(1) by inserting "(a)" before the first sentence; and

(2) by adding at the end the following:

"(b) The remedies with respect to a claim under this section are limited to injunctive and declaratory relief where the deprivation consists of a violation of a prohibition in the Constitution against the establishment of religion, including, but not limited to, a violation resulting from—

"(1) a veterans' memorial's containing religious words or imagery;

"(2) a public building's containing religious words or imagery;

"(3) the presence of religious words or imagery in the official seals of the several States and the political subdivisions thereof; or

"(4) the chartering of Boy Scout units by components of States and political subdivisions, and the Boy Scouts' using public buildings of States and political subdivisions."

(b) ATTORNEY'S FEES.—Section 722(b) of the Revised Statutes of the United States (42 U.S.C. 1988(b)) is amended by adding at the end the following: "However, no fees shall be awarded under this subsection with respect to a claim described in subsection (b) of section nineteen hundred and seventy nine."

#### SEC. 3. LIMITATIONS ON CERTAIN LAWSUITS AGAINST THE UNITED STATES AND FEDERAL OFFICIALS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a court shall not award reasonable fees and expenses of attorneys to the prevailing party on a claim of injury consisting of the violation of a prohibition in the Constitution against the establishment of religion brought against the United States or any agency or any official of the United States acting in his or her official capacity in any court having jurisdiction over such claim, and the remedies with respect to such a claim shall be limited to injunctive and declaratory relief.

(b) DEFINITION.—As used in this section, the term "a claim of injury consisting of the violation of a prohibition in the Constitution against the establishment of religion" includes, but is not limited to, a claim of injury resulting from—

(1) a veterans' memorial's containing religious words or imagery;

(2) a Federal building's containing religious words or imagery;

(3) the presence of religious words or imagery in the official seal of the United States and in its currency and official Pledge; or

(4) the chartering of Boy Scout units by components of the Armed Forces of the United States and by other public entities, and the Boy Scouts' using Department of Defense and other public installations.

#### SEC. 4. EFFECTIVE DATE.

*This Act and the amendments made by this Act take effect on the date of the enactment of this Act and apply to any case that—*

(1) is pending on such date of enactment; or

(2) is commenced on or after such date of enactment.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SMITH) and the