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Senate

(Legislative day of Wednesday, July 23, 2008)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable KEN SALAZAR, a Senator from the State of Colorado.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by guest Chaplain Rev. Willie C. Barnes from Macedonia Missionary Baptist Church in Eatonville, FL.

The guest Chaplain offered the following prayer:

Let us pray.

O Lord our God, how excellent is thy Name in all the Earth.

We come today to give You thanks for Your excellent greatness throughout this country, the United States of America. We acknowledge You, O God, for Your wonderful attributes of omnipotence, omniscience, and omnipresence.

As we assemble in this august body, it is our prayer that You restore Your blessings upon the Commander in Chief of these United States, President George W. Bush. Give him wisdom to execute the many responsibilities he is confronted with for the sake and safety of this Nation. Bless his family with health and prosperity.

Then, Lord, for this branch of Government, the Senate, it is our prayer that each Member of this great body may be gifted with the acumen to make decisions that will reflect the principles and morals of this great Nation. For every dilemma, please provide the answer through these men and women You have ordained to satisfy the needs of the millions of people they represent. As this Senate debates the issues at hand, let every voice that desires to be heard speak with clarity, with honesty, and profoundness in such a way that the democratic process of this Government be made with peace from every representative.

We ask that You would bless the men and women of the armed services who serve this country so bravely. Bless their families and loved ones with comfort.

We pray this day that Your guidance will revive, restore, and refresh in these arduous times; that the towns and cities and States of our country may give help and the hope so needed today. There is an answer, O God, from You. We need You for reasoning for families, for businesses, for schools, and faith-based institutions, that the future prosperity of the United States may be well even to the benefit of the needs of this world.

Please forgive us for erroneous infringements that have resulted in ill will toward our families and neighbors alike. Help us, dear God, to appreciate You for our daily necessities, and help us to realize that our sufficiency comes only through You.

Now unto Him who is able to do exceedingly abundantly above all that we can ask or think, according to the power that worketh in us, unto Him be glory throughout the world without end.

In the Name of God the father, God the son, Jesus Christ our Lord, and the Holy Spirit, we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KEN SALAZAR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 24, 2008.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the motion to proceed to S. 3186, the Low-Income Home Energy Assistance Program.

I ask unanimous consent that following leader time, the time until 10:30 be equally divided and controlled between the two leaders or their designees.

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

Mr. REID. As previously agreed to, the time from 10:30 until 5:30 will be equally divided and controlled by the leaders in 30-minute alternating blocks, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes.

As a reminder to all Senators, there will be a moment of silence at 3:40 p.m. today in remembrance of Officers Gibson and Chestnut. They were murdered

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

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10 years ago today in the Capitol. All Senators are encouraged to be on the floor for this moment of silence.

ORDER OF PROCEDURE

Mr. REID. Mr. President, it is my understanding and I ask unanimous consent that the Senator from Florida, Mr. NELSON, be recognized to make remarks regarding our guest Chaplain.

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

The Senator from Florida is recognized.

WELCOMING THE GUEST CHAPLAIN

Mr. NELSON of Florida. Mr. President, it has been some time, with great anticipation and joy, that I have extended an invitation for Rev. Willie C. Barnes of Eatonville, FL, to come and be with us as the guest Chaplain for the day. Reverend Barnes's church in the historically Black town of Eatonville is a very large church. It is a church that ministers to the entire Orlando metropolitan area. They do it not only with the excellence and the soaring oratory of Reverend Barnes himself but with an outreach to the community, with projects to help the least of these, our brothers and sisters.

It is with great appreciation and humility that I recognize the accomplishments of that church and am so glad to have its pastor, a man who, with a twinkle in my eye, I call my pastor, come and be with us here in our Senate family today.

The ACTING PRESIDENT pro tempore. The majority leader.

ENERGY CRISIS

Mr. REID. Mr. President, it appears that our Republican colleagues think they finally found a way. They think, with Americans from coast to coast facing huge gas prices, up to $4.70 a gallon in some places, they can score some easy political points off the energy crisis. They say that all we need to do is open our coasts for oil companies to drill and gas prices will go down. I should say that is what they did say. Now they say that is not enough. They say the energy crisis is so important that the Senate should stay on the issue and do nothing else until this problem is solved. We all know actions speak louder than words, and the Republican rhetoric has no basis in reality.

This is not the first time Democrats have tried to address energy. We have tried on many other occasions. We have worked to try to lower gas prices before this latest energy crisis hit. In fact, Democrats have proposed plans to lower gas prices six times in the past few weeks. Six times, Republicans have blocked us, just as they are blocking us now on the speculation legislation. What has happened over those weeks? Gas prices have broken one record after another.

Democrats proposed legislation to extend tax credits for innovators who are researching and producing clean, renewable energy to decrease our consumption of oil. Republicans said no. Democrats proposed legislation to roll back tax breaks on the oil companies—remember, last year they made $250 billion, oil companies that are making record profits while we pay record prices—and invest that money in renewable energy. But the Republicans said no. Democrats proposed a cap-and-trade system that would address global warming and provide billions of dollars of alternative energy and create hundreds of thousands of jobs. Republicans said no. Democrats proposed legislation to protect consumers from price gouging of already record-high prices. Republicans, of course, said no, because this would have been an opportunity to have the oil companies pay back some of the obscene profits they are making. Democrats proposed a renewable electricity standard which would save consumers billions of dollars through energy savings. Republicans said no. Democrats proposed legislation to go after OPEC for collusion and price fixing. But the Republicans said no. Democrats proposed legislation that would curb the excessive speculation of Wall Street traders who artificially bid up the price we pay at the pump. Republicans said no. Democrats proposed improvements to the LIHEAP program which helps senior citizens and the disabled with assistance to pay the cost of heating and cooling their homes. Republicans said no. Democrats even offered the one thing they have been talking about: drilling. Let's vote on drilling. But the Republicans said no. They didn't take our offer, yet they claim it is the panacea for the problems facing America today. They said no.

The game they seem to be playing is this: Make the American people think they are willing to grind the Senate to a halt to deal with gas prices. The American people obviously can see the record.

Republicans are having trouble finding out what they really want. Yesterday, out of the blue, came a new one. After all these years, they decided they wanted to drill in ANWR again, even though their Presidential nominee, JOHN MCCAIN, has said no on the drilling they have said they want to do. Maybe the one reason they have been a little hesitant is because their Presidential nominee, JOHN MCCAIN, has said it is only psychological; it is not going to help anything.

The American people can see the record. We have tried. Democrats have offered a comprehensive set of solutions for the short- and long-term, and Republicans have offered nothing but talk. They have talked more about drilling. What they don't say is that their drilling bill wouldn't put a drop of oil in the marketplace for at least 12 to 15 years. Even the Republican nominee for President, JOHN MCCAIN, has called the Republican drilling plan purely psychological. Democrats believe in increased domestic production through responsible drilling, but the American people deserve solutions a lot quicker than 12 to 15 years.

If Republicans truly believe their drilling legislation would solve the problem, why would they say no to an offer to have a vote on it? It doesn't add up. Or maybe it does add up.

Fortunately, the American people are seeing clearly exactly what is going on. That is why a moderate columnist like David Broder today said that he has never seen a worse month for a Presidential candidate than what we have seen with JOHN MCCAIN this past month.

It appears there is a lot of desperation going on here. While the Republicans keep talking—we have three filibusters going on as we speak—Democrats are trying to address a critical problem the American people are facing every day. Republican strategists have called the disingenuous Republican strategy a Hail Mary for the fall elections. Perhaps a 2-year Republican strategy of nonstop delay, obstruction, and slow-walking has put them in such electoral peril that a Hail Mary is all they have left. Their strategy is bad for the American people. I have no doubt that the American people will see what they are trying to do and, come this November, will reject it.

RECOGNITION OF THE MINORITY LEADER

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

TENTH ANNIVERSARY OF THE LOSS OF OFFICER CHESTNUT AND DETECTIVE GIBSON

Mr. MCCONNELL. Mr. President, if you visit the U.S. Capitol through a certain entrance on the first floor of the East Front, you will see a plaque by the door. The plaque is in honor and remembrance of Capitol Police Officer Jacob Joseph Chestnut and Detective John Michael Gibson, where 10 years ago today they gave their lives in defense of this Capitol.

Their deaths remind us that, just as bravery was required from our Founders who built the Capitol, the bravery of great men is required today to protect and keep it. The names of Chestnut and Gibson will forever be remembered among American patriots.

Officer Chestnut, or J.J. to his friends, was 58 and a father of five. An 18-year veteran of the force, he was just months away from retirement. He was also an Air Force veteran of 20 years who had served in Vietnam and Taiwan, where he met his wife.

J.J. lovingly tended a vegetable garden in the back yard of his house, and

neighbors often saw him practicing his golf swing in his front lawn.

John Gibson also had 18 years of service with the Capitol Police. A friend of his recalls that just a few days before the shooting, John told him he had never had to draw his weapon on the job. Forty-two years old, he had three children, and was a native of Massachusetts.

Friends recall John's ardent love for his Boston sports teams—the Bruins, the Red Sox, and U Mass basketball.

Officer Chestnut and Detective Gibson were the first Capitol Police officers to die in the line of duty. As we honor them today, we also honor the hundreds of brave men and women of that force who put their lives on the line to protect this House of democracy.

To the casual tourist, Capitol Police officers may just seem like friendly people who stand guard at the doors. But in truth, they are an elite, highly trained force charged with a critical mission. In moments of crisis, when not just lives but our very system of government is threatened, they stand ready at the front lines.

We saw again on September 11, 2001, how the Capitol can be a target for terror. And we saw again the bravery of the Capitol Police, who rushed into the building to rescue others when most of us were busy rushing out.

As my friend, the majority leader, a former Capitol Police officer himself; certainly know, police work is both an honorable job and a dangerous one.

In fact, in the 10 years since the loss of Officer Chestnut and Detective Gibson, 24 peace officers in my home State of Kentucky have also been lost in the line of duty. If there is no objection, Mr. President, I ask unanimous consent that their names be printed in the RECORD.

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

KENTUCKY PEACE OFFICERS KILLED IN THE LINE OF DUTY, JULY 24, 1998–JULY 24, 2008.

Regina Woodward Nickles
Joey Tremayne Vincent
Jason Wayne Cammack
William J. Collins Jr.
Billy Ray Walls III
Charles Brown Morgan Jr.
Samuel Wilson Catron
Howard Callis
Ray B. Franklin
Eddie Mundo Jr.
Douglas Wayne Bryant
Robert T. Hansel
Steven Lloyd Hutchinson
Larry Dale Cottingham
Peter Alan Grignon
Roger Dale Lynch
Elmer Kiser
David George Whitson
Jonathan Kyle Leonard
Ronnie K. Jones
Garry Randy Lacy
Randy Wells
Anthony Sean Pursifull
Joe E. Howard Sr.

Mr. MCCONNELL. So today the U.S. Senate remembers J.J. Chestnut and John Gibson. We are grateful for their heroic sacrifice. And we say a prayer for their families, who we embrace as we would our own.

HONORING OUR ARMED FORCES

STAFF SERGEANT DELMAR WHITE

Mr. MCCONNELL. Mr. President, I rise because a son of Kentucky who joined the Kentucky National Guard has been lost in service to his country. SSG Delmar White of Wallins, KY, was tragically killed on September 2, 2007, when an improvised explosive device detonated near his vehicle while he was on patrol in Iraq. He was 37 years old.

Staff Sergeant White had been stationed in Iraq for less than a week. For his valor in uniform, he received numerous medals, awards, and decorations, including the Bronze Star Medal and the Purple Heart.

For anyone who wonders how those who loved Staff Sergeant White will remember him, the words of his wife, Michele, leave no doubt.

''He went out a hero,'' Michele says. ''He was a hero before he went to Iraq, in my book. . . . He was a fantastic person that everybody loved.''

Born in Illinois, Delmar—or Dale, as his friends called him—was raised in Wallins, a small town in Harlan County, KY, in the southeastern corner of my State. He graduated from James A. Cawood High School there. He eventually moved to Lexington, KY, heart of the Bluegrass Country.

In Lexington, Dale worked as a corrections officer for the Lexington-Fayette Urban County Government. He also worked at the University of Kentucky, where he met Michele—the woman who would become his wife.

There was an instant attraction between the two. Their first date was to a local carnival, where Dale showed off his athletic prowess for Michele by winning some stuffed animals. Or maybe he had his old training to thank—Dale was a former U.S. Marine of 4 years who had served in Desert Storm.

Dale was proud of his service, and in 1998, he chose to enlist again, this time with the Kentucky National Guard. But he didn't do anything without first talking to Michele, by that time his wife. He was concerned she wouldn't want him to go. He shouldn't have been.

''You are military and always will be—do it,'' Michele told him in support.

One Labor Day weekend, Dale was in Cincinnati with the Guard, working crowd control for a local event. Michele tells us that an older man walked up to him and asked, ''Why would you wear that uniform?''

At that moment, a little boy approached Dale and stretched his hand up to him. The boy said, ''Mr. Soldier, can I shake your hand?''

After Dale shook the boy's hand, he looked the man right in the eye and said, ''That's why.''

Clearly, Dale was proud to serve his country, and confident in his mission. As Michele says, ''He was military 100 percent.''

Of course, there was a lighter side to Dale. He loved the outdoors and the go-cart track, where he was so aggressive he was known as ''the Competitor.'' He liked a good video game, especially one that involved shooting at something and honing his target skills.

Most of all, he was a devoted father to his two children, daughter Shelby and son Seth. He would plan special game nights for them and other children. Dale had previously served as a youth minister, and he told Michele that was something he was interested in doing again. He also hoped to serve with a fire department in the future.

Dale was deployed to Iraq in August of 2007 with Battery B, 2nd Battalion, 138th Field Artillery, based out of Carlisle, KY. He left an impression on his commanding officer, CPT Robert S. Mattingly, among others. This is what Captain Mattingly had to say:

There is a line that we are familiar with that says we will ''cheerfully obey the orders.'' That was Delmar White for certain.

Captain Mattingly said: he was an excellent [non-commissioned officer], who led by example and never asked anything of his soldiers he wasn't willing to do himself.

Captain Mattingly added: Delmar White was loved by everyone in the battery and will be terribly missed by all.

Dale talked to Michele and his children over the Internet the day before the bombing that took his life. Son Seth was so small all he could do was bang on the keyboard, but Dale would always write back, ''hey buddy,'' so Seth knew he was there.

During the funeral procession to Dale's burial in Camp Nelson, KY, Michele was overwhelmed at the people lining both sides of the street to pay their respects. Police cars and fire trucks stopped as police and firemen stood, solemnly saluting or with their hands on their hearts.

At the service, bagpipes played ''Amazing Grace,'' and there was a 21-gun salute. Three helicopters flew overhead as the American flag that had covered Dale's casket was folded and given to Michele.

Mr. President our thoughts are with Staff Sergeant White's family after his tragic loss. We are thinking of his wife, Michele; his daughter, Shelby; his son, Seth; his brothers, Robert and Doug; his sister, Tressa Fisher; his mother, Hazel White Blincoe; and many other beloved family members and friends. Dale was predeceased by his father, Perry White.

Mr. President, this U.S. Senate rises as one today to salute Staff Sergeant White's service, and to honor his sacrifice. The legacy he has left for his family, friends, neighbors, and a little boy in Cincinnati—who only remembers him as ''Mr. Soldier''—will live on. And that is a legacy that his loved ones can cherish forever.

ENERGY

Mr. MCCONNELL. Mr. President, when historians look back at the 110th Congress, they will say the most vexing domestic issue we faced was a rapid and dramatic rise in the price of gas at the pump. As it stands today, they will have to conclude that the Democratic leaders ignored the problem by refusing to unlock the domestic energy resources that were put off limits when gas and oil were cheap.

If these historians do their homework, they will note the irony in all of this. They will note that these same Democrats were the ones who took the majority less than 2 years ago, promising to do something about gas prices that were a lot lower back then than they are today.

I recently received a letter from a dialysis center in Kentucky. It was an urgent plea to do something about gas prices. The letter said some of the rural patients who have to go to this center for treatment three times a week are now foregoing their dialysis treatment because they cannot afford the gas to get there. This is the kind of crisis high gas prices is for low-income and sick people.

After reading that, I have a simple question for our friends across the aisle: If you won't act now, with dialysis patients unable to get into town for treatment, when will you unlock the natural resources Americans have right under their own feet? What is it going to take? Clearly, this is a very serious problem for the American people, and we have an obligation to address it, and the time to do it is now. I am afraid the Democrats who run the Senate want it all to somehow go away. They have been going to great lengths to make sure it goes away. They are cancelling hearings when they are afraid the issue might come up, and they are muzzling their own Members, more than a dozen of whom favor a balanced solution that includes more domestic production and increased conservation. They are telling them the same thing they are telling the American people: No, we can't.

The problem we face, as everyone knows, is that the demand for oil is rising faster than the supply, and the solution, as everyone knows, is to increase supply and lower demand. Yet this week, the Democratic leadership in Congress is saying: No, we can't. They are saying: No, we can't produce a single barrel of oil at home.

Instead of increasing supply, they are trying to distract us with the same blame game they roll out whenever the demands of some special interest group conflict with the will of the people.

This time they have turned their attention on speculators. They say the reason gas prices have nearly doubled since the Democrats took over a year and a half ago is the speculators.

Well, Republicans have no problem strengthening regulation of the futures markets. That is part of the bill that 44 of us are sponsoring. But if Congress does not allow any new exploration, it is perfectly clear what the speculation about future prices will be: not good. The speculators are betting on scarcity, and the majority is helping to prove them right.

So here we are. After months of frustration, Americans are hearing from the Democratic leaders that Congress is going to do one thing about the single most vexing issue in America today. The Democratic leaders are telling the American people that the solution is to write up some new guidelines for energy traders, call it a day, and head home. And if we do not support this very timid solution, they will go back to the blame game again. They will say Republicans voted against lowering gas prices, when the fact is not a single person in America who does not sit behind a desk on the other side of the aisle thinks this particular speculation provision will do anything to lower gas prices.

Let's be perfectly clear: A vote for this narrow bill alone is not a serious vote about high gas prices. It is an abdication of our responsibilities as lawmakers. It is an insult to the American people who are demanding every single day that we do something to ease their pain at the pump.

This is not a theoretical problem. This is not a looming problem. It is an urgent problem. It is an urgent problem with families who have to struggle to put food on the table or send their kids to school. It is an urgent problem for the dialysis patients in my State who can't get treatment because they can't afford to get to town to see the doctor. And Americans are hearing the Democratic leadership's response, which is: No, we can't.

The ranking member of the Energy and Natural Resources Committee, my good friend from New Mexico, put it this way. He said that in his 37 years of service in the Senate, he has never seen a single bigger problem met with a smaller solution. The Senator from New Mexico said he had never seen a bigger problem met with a smaller solution.

I would put it this way: Americans are saying the house is on fire, and the Democratic leadership is showing up at the scene with squirt guns.

Let's put the scope of this bill in perspective. During last year's energy debate—a year ago—on the Energy Independence and Security Act, 331 amendments were proposed, 49 amendments were agreed to, and gas prices were $3.06 a gallon. Two years before that, during the debate on the Energy Policy Act, 235 amendments were proposed, 57 amendments were agreed to, and gas was selling for $2.26 a gallon.

With gas prices in some places at more than double what they were then and when Americans are clamoring for dramatic action and when it is clearly the No. 1 issue in the country, the Democratic majority wants us to tighten the leash on a few speculators and then head home and do nothing else until next year.

To drive down gas prices, we could be opening the Outer Continental Shelf. Democratic leaders say: No, we can't. To drive down gas prices, we could be lifting the ban on development of vast oil shale deposits in Western States that sit on three times the reserves of Saudi Arabia. The Democratic leaders say: No, we can't.

To drive down gas prices, we could be approving incentives for battery-powered electric cars and trucks. Democratic leaders say: No, we can't.

To drive down gas prices, we could be voting to open untapped American oil. Democratic leaders say: No, we can't.

To drive down gas prices, we could be voting for new clean nuclear technology, but Democratic leaders say: No, we can't.

To drive down gas prices, we could be approving new and promising coal-to-liquid technology. Again, Democratic leaders say: No, we can't.

When will the Democratic leadership listen to the 77 percent of Americans who want us to use our own domestic resources to drive down the price of gas and say: Yes, we can. When will they listen to more than a dozen of their own Members on the other side of the aisle who are saying: Yes, we can.

Americans never imagined they would be paying these prices at the pump, but if the Democratic leadership has its way, Americans will be paying even more in the years to come. When that time comes and there is no one else to blame, they will look around and see that there is no one else around to blame but themselves. Then Americans will know whom to blame, and I can tell my colleagues it will not be the speculators.

Mr. President, I see my friend from Arizona on his feet, and I am wondering if he wishes to ask me a question.

Mr. KYL. Mr. President, I wonder if my colleague would yield for two questions.

Mr. MCCONNELL. I would be happy to.

Mr. KYL. I thank the Senator. Mr. President, I believe at least twice the majority leader has made a comment about my colleague from Arizona, JOHN MCCAIN, and I wanted to see if the Republican leader's understanding is the same as mine.

The majority leader said: ''McCain says drilling is only psychological and won't make a difference.''

I have checked the actual record of what Senator MCCAIN said. It was a discussion of offshore drilling, which Senator MCCAIN strongly supports on the Outer Continental Shelf, and the question was whether there would be short-term relief. Here is precisely what Senator MCCAIN said in response:

I don't see an immediate relief, but I do see that exploitation of existing reserves that may exist—and in view of many experts that do exist off our coasts—is also a way that we need to provide relief. Even though it may take some years, the fact that we are exploiting those reserves would have psychological impact that I think is beneficial.

Now, I ask the leader: Is it correct, in your view, that what Senator MCCAIN was saying is that while the benefits of production would take some years to achieve, there could be an immediate psychological benefit simply from the decision that we were going to do this, such as the $20 reduction in the price of a barrel of oil following shortly after the President's announcement that he was going to lift the moratorium on offshore drilling?

Mr. MCCONNELL. My understanding of Senator MCCAIN's position is the same as my good friend from Arizona. I believe he states correctly the position of his senior colleague from Arizona on this important issue of whether it would be useful for America—the third-largest oil producer in the world, sitting on vast reserves—to expand the usage of those reserves, particularly on the Outer Continental Shelf.

Mr. KYL. Secondly, Mr. President, the second question. The Republican leader said a moment ago that speculators were betting on scarcity and the majority is doing everything to prove them right.

With respect to a decision to begin production off our shores on the Outer Continental Shelf, is it the Senator's opinion that this would have a beneficial effect on drawing down the price of futures in the oil market because the decision would be seen as a commitment to produce more?

Mr. MCCONNELL. I would say to my friend from Arizona, my view on that is probably not as significant as others. For example, the famous oilman, T. Boone Pickens, who has been in town this week and who has met with Republicans and Democrats, has made it quite clear that he thinks we ought to be doing all these things, both on the find-more side, which would certainly involve greater use of the Outer Continental Shelf which is currently off-limits. He thinks we ought to be doing all these things. I gather that most experts understand the law of supply and demand, and if you increase supply and diminish demand, you are working in tandem to get gas prices down. I think it makes elementary good sense that that is the only way we will be able to make progress on this issue.

Mr. KYL. I thank the leader.

RESERVATION OF LEADER TIME

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

WARM IN WINTER AND COOL IN SUMMER ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3186 which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 835, S. 3186, a bill to provide funding for the Low-Income Home Energy Assistance Program.

Mr. DURBIN addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled between the two leaders or their designees.

The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, I was going to ask unanimous consent to speak as in leader time on behalf of Senator REID, who is not here, following Senator MCCONNELL.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Reserving the right to object, I understand the remaining time until 10:30 is already allocated, half of it to the Democrats and half to us. From our side, I intend to claim our half, and I will use it when the time arises.

The ACTING PRESIDENT pro tempore. The time until 10:30 is equally divided.

Mr. DOMENICI. Does the Senator from Illinois desire to speak now? Is that what he is saying? I am glad to let that happen.

Mr. DURBIN. Yes. I ask to be allocated the Democratic time, and I am going to yield to the Senator from Missouri to begin that.

The ACTING PRESIDENT pro tempore. The Senator is correct. The assistant majority leader.

Mr. KYL. Mr. President, might I clarify? There was no objection to the assistant leader speaking as part of the Democratic time as it is now allocated; is that right?

Mr. DURBIN. I would like to yield to the Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I would like to ask, if I could, the minority whip one brief question before he leaves the Chamber. I notice you all were trying to clarify the position of our colleague from Arizona on drilling, and this is simply a yes or no question. Does Senator MCCAIN support drilling in ANWR?

Mr. KYL. Mr. President, I am happy to respond. I was not only clarifying his position but ensuring people understood what the majority leader said about his position was incorrect. Senator MCCAIN does not support drilling in ANWR, but he does support drilling off our coastal shores and the Outer Continental Shelf.

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

GAS PRICES

Mr. DURBIN. Mr. President, the motto of the Republicans in the Senate is: Talk more, produce less. Do you know what we offered them this week? We said to the Republicans: Here is the opportunity of a lifetime. Do you have a position on speculation? Do you think it is an issue? If you do, put your proposal on the floor and we will put our proposal on the floor. We will have an equal vote requirement, equal debate time. We will go at it and we will let the Senate decide. We are not going to write your version of the speculation, you would not write ours, but you have every right to do that. The Republican response was: No, we are not interested in that. We don't think speculation is a problem.

Well, they ought to meet with the CEOs of the major airlines. They ought to spend a minute talking to them about what they feel because they are paying the jet fuel costs and they are cutting back on service and they are cutting back on employment. That is the reality of what they face today. Speculation, manipulation is a major concern. We have a responsible approach to it. The Republicans refuse to offer an alternative. OK. That is their decision.

Then we said to them: Why don't you present your energy bill? The Republican leader came to the floor with a litany of things the Republicans believe in. For over a week we have said to them: Put it in a bill offered on the floor. They have said: No, no. We would rather come to the floor and complain, rather than come to the floor and debate our approach.

I listened to the Republican leader as he came to the floor, and it is very clear to me. They don't want a debate and a vote. They want this issue to drag out forever and ever, amen. That is not what the American people want. They want us to tackle this thing, offer alternatives on the floor, debate them up or down, go forward.

It troubles me when the Republican leader repeatedly says—incorrectly—that when it comes to energy, from the Democratic view, we want to deal with speculation and, in his words, ''do nothing else.'' He forgets the whole second part of this—the Energy bill we are proposing on the Democratic side and they are going to propose on the Republican side. We offered them that. They turned us down.

I might also say there is no idea how many amendments the Republicans are going to offer. Two days ago, Senator KYL and I were on the floor, and he said there were 25 amendments. Senator SPECTER walked up and said: I have 2, so make that 27. Then Senator KYL said: Come to think of it, I have one too. We are up to 28. That was 2 days ago. This is growing similar to bacteria in a petri dish as the Republicans meet in their conference and dream up more amendments. That is good. It shows a creative mind at work, and it is a great exercise, but it isn't what the American people are asking for.

If you have a good set of ideas, offer them. You want to bring up more nuclear power, Senator DOMENICI? Put that in your package. You want to have more offshore drilling, put it in your package. You want to have coal to oil, put it in your package. If you believe in it, stand and fight for it. But they will not. They will not fight for it. They want to run. Run to the press and

explain that they are not being given enough time on the floor, if they could have a little more time, as days burn off the calendar as they stand and complain. They can't come up with a plan, and that is the unfortunate reality.

Then, they quote T. Boone Pickens. Mr. Pickens, I am sure, is a gifted man. I have never met him. I have seen him on TV. He has spent a lot of money to make sure we all get to see him. They have misquoted him on the floor so often. I have watched that ad he is paying millions of dollars for America to see, and I do remember the part of the ad where he says: ''We can't drill our way out of this problem.'' Mr. T. Boone Pickens said that.

You don't hear that from the Republican side. Their idea is we can drill our way out of this. They forget the reality. Of all the oil in the world, if you look at the vast quantity, we have 3 percent of it under our control—3 percent. We use 25 percent of the oil. You can't drill your way out of it. We know we are going to need exploration and production, but we know we need a lot more, including conservation, renewables, sustainable energy sources. That is the reality of what we face.

We have made this offer to them time and again. They will not accept it. They would rather come to the floor and complain.

When you go through the list, you see first drilling offshore. Democrats support that. There are 34 million acres currently under lease to oil companies for drilling they are not using. Why don't they start drilling there since they paid for this land?

Oil shale. That is in our bill. Even though that is 15 years away, we want to take a look at oil shale as an opportunity.

Incentives for batteries, of course we support that. There is no debate there.

Untapped American oil. We think there is untapped American oil in Alaska—23 million acres' worth that the oil companies aren't touching. They should go in there and take a look, drill for it, bring it forward.

Nuclear energy. I don't understand how Senator MCCONNELL could come to the floor and say we could bring gasoline prices down with more nuclear energy. Could you picture a car being powered by nuclear energy? I can't. If he is talking about plug-in hybrids, he ought to clarify the example he is using.

There are plenty of things we can do. It should have started with a good-faith offer which we made to the Republicans and, frankly, they should have accepted.

I yield the floor to the Senator from Missouri.

Mr. DOMENICI. He can't yield the floor to the Senator. He either uses it or it is there made available for the Republicans to use. He can't yield to someone.

Mrs. MCCASKILL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator can allocate time to another Senator based on the time allocated to him.

Mr. DOMENICI. Mr. President, I have no objection to her speaking. I understand that the time is allocated specifically. Who has time?

Mr. DURBIN. How much time remains?

The ACTING PRESIDENT pro tempore. There is 3 minutes 45 seconds on the majority side, 12 minutes on the minority side.

Mrs. MCCASKILL. Mr. President, I will speak as in morning business, so I am happy to yield now to the Senator from New Mexico. I am happy to do that.

Mr. DOMENICI. I understand there is 3 minutes left for the Senator from Illinois.

Mr. DURBIN. I will use it after the Senator speaks.

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

Mr. DOMENICI. Mr. President, I don't know where to begin. So many things are being said by the other side. In particular, the Senator from Illinois spoke for 10 minutes, and it is impossible for me to answer all of the falsities he indicated to the American people in his remarks.

I want to say that yesterday afternoon I got word from the floor of the Senate that the American people are not going to be permitted to have a vote by the Senate on an amendment that would open the offshore lands owned by the American people, because the majority leader has seen fit to use a parliamentary process—and I know the people are confused and tired of us talking about parliamentary processes around here, but the truth is that Senators are also getting fed up with it. The majority leader comes along—and we all understand he has the right to be recognized—and, when he was recognized, he offered amendments, so that yesterday evening, as I sat preparing for today, I was told to change your thoughts and your approach because you cannot offer any amendments. That is an undeniable fact.

The majority leader has cloaked this bill in amendments and that is called ''filling up the tree.'' I don't know where such an interesting concept came from. If it were Christmas time, filling up the tree would seem like a nice event. When you are here trying to get the Senate to vote on whether a giant asset that belongs to the American people can be open for drilling, it is not a very good-sounding series of words.

''Filling up the tree'' means that those who want to offer amendments, who want to let the Senate determine the future of that 85 percent of the offshore lands of America, cannot do so. Those Senators, on behalf of their people—every Senator represents people and all of the people have an interest in the ownership of this land; it is a huge piece of land. It is very valuable in terms of crude oil and natural gas. Americans should probably have woken up this morning to go to breakfast and to read in the paper: United States Senate permits drilling in the offshores of continental America so the price of gasoline can come down. That is what they should have read in the newspapers across the land. There is no question that more than 50 Senators—Democrats and Republicans—favor opening all of those lands to exploration; that is, drilling, and to let the Governors of the States participate in that process so the States can share in the royalty. That is a very simple proposition. That is the bill and that is the issue.

Now we have been told, for their own reasons, the Democrats have said you cannot do that, we have filled the tree. You will come to us and prayerfully ask for permission to do anything on this bill. You will have to seek our permission. So the Senator from Nevada can stand here and say you can do this or that, but the truth is, what he is saying is: If I want to let you do it, you can, because the rules of the Senate do not permit it.

So we are unable to get a vote. That doesn't mean we are going to quit. We are going to stay here on this floor. If, in fact, the majority leader tries to close off debate, he will lose, because we believe the biggest issue confronting the American people, bar none, today is the price of oil. We think the biggest opportunity to lower the pressure and bring down gasoline prices at the pump and cause us to import less is to open the offshore of the United States to drilling, plain and simple.

The majority started this issue with a bill they put in, which is supposed to have something to do with the price of oil. It has to do with speculation.

I send to the desk to be printed the statement of several prominent Americans, all of whom say the problem is not speculation; the problem is supply and demand. To affect supply and demand, you ought to be opening the offshores, which affects supply in a big way. I ask unanimous consent that this be printed in the RECORD.

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

''It's not speculation, it is supply and demand. We don't have excess capacity in the world anymore, and that's what you're seeing in oil prices.''—Warren Buffett, Chairman & CEO, Berkshire Hathaway, 6/25/08

''There is little evidence that large investment flows into the futures market are causing an imbalance between supply and demand, and are therefore contributing to high oil prices. . . . Blaming speculation is an easy solution which avoids taking the necessary steps to improve supply-side access and investment or to implement measures to improve energy efficiency.''—International Energy Agency, Medium-Term Oil Market Report, July 2008

''If financial speculation were pushing all prices above the level consistent with the fundamentals of supply and demand, we would expect inventories of crude oil and petroleum products to increase as supply rose

and demand fell. But, in fact, available data on oil inventories shows notable declines over the past year.''—Ben Bernanke, Chairman of the Federal Reserve, 7/15/2008

''There is speculation, but speculation, under most circumstances, is a positive thing. It provides liquidity and allows people to hedge their risks. And it provides price discovery. It can help allocate oil availability over time, depending on the pattern of futures prices and so on.''—Ben Bernanke, Chairman of the Federal Reserve, 7/15/2008

''The rise in oil prices can be explained by basic economic factors, such as limited growth in supplies in recent years, a weakening dollar, a global surge in energy demand and a string of production disruptions in countries like Nigeria.''—Daniel Yergin, Chairman, Cambridge Energy Research Associates, 6/25/08

''The truth is that increased speculation in oil futures is not a cause of rising oil prices, but rather an effect of those prices, which have skyrocketed due to growth in global demand, geopolitical instability, and constricted supply in several producing countries.''—John Chapman, Researcher at the American Enterprise Institute, 7/16/2008

''If Congress is literally going over the CFTC's head and talking about imposing legislation or making the CFTC exercise its emergency powers to limit excess speculation when they don't even know what that means. I don't even know what excess speculation means.''—Michael Haigh, senior commodity analyst at Societe Generale Corporate and Investment Banking and former associate chief economist with the CFTC, 6/30/2008

''There's no evidence of speculative influence. Speculators are not contributing to the demand for physical oil as they almost always roll positions prior to delivery.''—Craig Pirrong, professor of finance at the University of Houston, member, CFTC energy markets advisory committee, 6/24/08

''On any given day, expectations determine the price; but the spot market also has to clear, and the way this happens is that excess supply must be added to physical stocks. Even with fairly inelastic supply and demand, any large speculative deviation from the ''fundamental'' price should show up in a noticeable increase in inventories.''—Paul Krugman, New York Times columnist, 6/28/08

''To date, the PWG has not found valid evidence to suggest that high crude oil prices over the long term are a direct result of speculation or systematic market manipulation by traders. Rather, prices appear to be reflecting tight global supplies and the growing world demand for oil, particularly in emerging economies. As a result, Congress should proceed cautiously before drastically changing the regulation of the energy markets.''—President's Working Group on Financial Markets, Letter to Senator Saxby Chambliss, 7/21/2008

''The Task Force's preliminary assessment is that current oil prices and the increase in oil prices between January 2003 and June 2008 are largely due to fundamental supply and demand factors. During this same period, activity on the crude oil futures market—as measured by the number of contracts outstanding, trading activity, and the number of traders—has increased significantly. While these increases broadly coincided with the run-up in crude oil prices, the Task Force's preliminary analysis to date does not support the proposition that speculative activity has systematically driven changes in oil prices.''—Interagency Task Force on Commodity Markets, Interim Report on Crude Oil, 7/22/2008

Mr. DOMENICI. Mr. President, I have been here for 36 years. I chose this year to leave. When an energy bill came forth on the floor and we were going to be able to amend it, I thought we were going to be able to talk about all of the issues, get together with the Democrats and see how many would join us in a major piece of legislation, and I was rather excited. I thought the American people might be pleased with us again, because we were going to do something good.

Do you know what. This 9-percent approval rating of the Senate is not there for no good cause. We are, today, adding to that negative image when the American people try to understand what is going on. We were told—and we applauded when we heard it—that this great big piece of property we own—everything 3 miles out from the shoreline of America is owned by the people. There is oil and gas there. For some reason, we closed it down 27 years ago, and every year we put that moratorium on again. It is time to open that and say to the world that we don't have a total solution, but we have a lot of oil and gas we ought to put into the mix and let our companies get to work on, trying to drill and see how it will affect the price of oil.

Some people are saying, well, there are already a lot of oil and gas leases on the Outer Continental Shelf; why don't we force those oil companies to do better at using it? Let me make that proposition clear. Eighty-five percent of the offshore land is tied up in the moratorium and 15 percent is being used. That 15 percent that is being used is all subject to leases which say that if you don't produce on time, you lose the lease. We don't need any further management in that regard. It is already managed by a ''use it or lose it'' clause in every lease that anyone has on any of the lands that are currently on lease to American companies, or a consortia of American companies and others. So that is a joke when we talk about the fact that we will get more by rearranging that. We need to open the portions that are closed. We need a thorough debate on a number of amendments, and our leaders have said there are at least five or six of them. We don't need a long period of time, but we need an open and free amendment process that we could use. We could go to the other side and get some bipartisan things going. I believe there are many Democrats who want to join us.

It serves the wishes of the majority leader to close off debate, because even Democrats cannot join in amendments to do anything now, because the tree is filled—and it is not with Christmas presents. It is filled with amendments so we cannot offer any more amendments. In other words, we are dead in the water in trying to offer what Americans expected—amendments that will open the offshore to drilling.

Mr. President, as I understand it, I have how much time, 3 minutes?

The ACTING PRESIDENT pro tempore. Yes.

Mr. DOMENICI. I think Senators understand that this Senator from New Mexico, as part of the last 6 years while serving on the Energy Committee, has been party to producing three major energy bills that have all been good for the country. They all have ended up being bipartisan. They all required a lot of time on the floor. I could not come down here and put in an amendment and say it is done. It took some time. We wanted to use this time to thoroughly debate the appropriate options to opening the offshore for drilling.

We thought Americans, who are watching the price of crude oil come down since the President lifted the Executive closures that existed, would like to see the job finished. We thought they would like to see it opened totally, taking off all of the congressional hangups, the congressional moratorium.

I think Americans deserve that. They deserve something positive. They are very worried. The economy is suffering because of the $700 billion a year that goes to foreign countries. It is taken from us for the crude oil we buy. While that foreign country grows, America dwindles. We get poorer; the world gets richer. I don't know how much longer we can stand it. We didn't want to stand it too much longer. We wanted to put in our offsets offshore and let them join in this war we are in, instead of letting us die by attrition as we send our money overseas.

It doesn't seem anybody in America should get confused. Democrats can make laundry lists of things that happened and put up a sign in the Senate saying we are the ones blocking this. How could we be blocking this when we are not in control? The majority leader stood up and locked this bill up with his amendments, so we cannot offer amendments without his approval. We don't intend to do that. That is not the way to do business.

The American people expect us to have debates and up-or-down votes on this issue, with every Senator expressing his or her will on what happens to this big asset. That is what we want.

I thank the Chair.

I yield the floor.

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

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

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

Mrs. MCCASKILL. Mr. President, I thank my friend from New Mexico. I know his service in this body is one that every American should admire. He is a good Senator for his State. He has been a warm and friendly senior Senator to this very junior Senator from Missouri. I appreciate his friendship very much.

Mr. DOMENICI. Mr. President, I thank the Senator. I will not use her

time, I will use mine. It has been a pleasure since I first met the Senator. I don't always remember all of the new names, but the Senator has the same name as one of my daughters. We have become friends. I admire the Senator from Missouri too, and say I do believe she is learning to be a Senator very fast. I am proud to be her friend. I thank her for her kind words.

AUDIT REPORT

Mrs. MCCASKILL. Mr. President, yesterday there was an incredibly dark cloud that passed over Washington. I think the saddest thing about this very dark cloud is the fact that there wasn't an immediate outcry from every corner of this building and every office in the Pentagon. One of the most frustrating things about Washington is the attention span of so many in Washington and the search for the headline that is the most sensational. So it is no wonder that news about auditing doesn't bust out.

I come to the floor to try to emphasize the crisis we are facing right now in terms of the Pentagon and auditing of taxpayer dollars.

Let me briefly explain the two agencies involved. One is the Defense Contract Audit Agency. What is DCAA? That is part of the problem. Nobody knows what it is. Nobody knows what it does. DCAA is the auditing agency in the Department of Defense that is responsible for auditing the contractors. Think about that for a minute: 3,500 people are employed by this Agency, and they are our eyes and ears into contractor practices at the Department of Defense. We are talking serious money here. We are talking about hundreds and hundreds of billions—with a ''b''—of dollars.

One would think that if we have 3,500 people working full time to audit the contractors, we should all feel good about that and, frankly, before yesterday, I kind of felt good about it. As I learned about all of the auditors of the Department of Defense, I thought: I am glad we have an agency with the responsibility to get to the bottom of the prices that were charged by contractors, to get to the bottom of the money that comes out of our Treasury for contractors—until yesterday.

The other agency involved is the GAO. I know the initials ''GAO'' are thrown around all the time. Let me explain what GAO is. GAO is the Government Accountability Office. They are what I would call the papa bear of auditors in Government. They are the auditors who look at all parts of Government, many times in response to a request by Congress but many times in response to a hotline call they have gotten from people within Government.

They start getting hotline calls about the practices at DCAA. This is enough to worry an auditing agency, that they are getting hotline calls on an auditing agency. This is enough to get their attention. So GAO started this audit of the Defense Contract Audit Agency based on complaints to their fraud hotline.

Here is the allegation. Are you ready for this? Here is the allegation: that these audits were being changed with no factual basis at the direction of supervisors, without evidence to support the changes, to help the contractors. This is a wildly sensational claim within the world of auditing. This is the kind of claim that, frankly, most auditors would probably not take seriously because it is so outrageous. But because there had been so many calls to the hotline, GAO went to work, over 100 interviews, months and months of work, and yesterday they issued their report.

They looked at 13 different audits named in the complaints and found that in every single audit, favorable findings for the contractors had no backup in the workpapers. What does that mean? If you are an auditor, your job is to find the facts. Everything you put in an audit has to be backed up by what are called workpapers. That means that anybody at any time could go in and find the factual evidence to support every line in the audit. That is part of Government auditing standards.

What else did GAO find? You are not going to believe this. You are not going to believe how bad this is. They found that supervisors dropped findings and changed opinions without the evidence to support it. They found several instances where auditors were threatened if they did not change their findings to support what the supervisors wanted and if they did not change their findings to favor the contractors. GAO found this practice to be so pervasive at two of the three locations, they called it ''a pattern of frequent management actions that served to intimidate auditors and create an abusive environment.'' These auditors were intimidated by supervisors and made to tell them what they were telling GAO. So not only were the supervisors on the auditors to do findings favorable to the contractors, they got on them when they started talking to GAO. They intimidated them into telling them what they were telling the investigators, the auditors from GAO. Their supervisors made them feel their jobs were threatened.

At one location, auditors were sometimes given 20 days to finish an audit, and if it wasn't enough time to do the audit work, they said: Just do it; just do it with what you have.

Supervisors admitted to not reviewing the workpapers. That doesn't sound like a big deal, right? Who reviews workpapers? Let me tell you, in the world of auditing, it is a very big deal.

This is how an audit works. The field auditors gather the papers, the factual information, and then it goes through a series of reviews and checks. It is ultimate quality control in an audit. It is unheard of for an audit to be issued without review up the line. That review is how you cull the information that is incorrect and make sure everything in that audit is factual and objective.

Here is a very good example of how serious and systemic the problem is. DCAA actually agreed with a contractor, one of the five largest contractors in the country, ahead of time what items would be reviewed for the audit. It is like giving a kid the answers to the test. There is no point in doing an audit if you tell the auditee ahead of time: OK, we are going to test you on this.

Here is the amazing thing. Even with the inside information, the DCAA auditors found the process to be inadequate with the contractor. Did they issue an unfavorable opinion? Oh, no, they didn't issue an unfavorable opinion. Instead, the auditor was removed by a supervisor. The new auditor was threatened with personnel action if the audit was not changed to favor the contractor.

In every single one, all 13 audits that were reviewed, the GAO found that Government auditing standards were not followed.

There is a book in auditing called the Yellow Book. It is the bible of auditing. It is the generally accepted Government auditing standards, and every Government auditor is required to follow these standards. Once again, auditors have a lot of professional pride about the objectivity of their work and about the standards they follow. It would not be effective if you had auditors who were auditing the government in Michigan and auditors who were auditing the government in San Francisco and auditors who were auditing the Pentagon all using different methodology to do audits. So this standard is, in fact, revered within the Government auditing world.

Here is what is amazing. Thirteen audits were looked at. Did one of them not meet standards? No. Did two of them not meet standards? No. Every single audit failed Government auditing standards—13 of 13, 100 percent. This is mind-boggling, that we would have 3,500 people watching Defense Department contractors in this country and every audit that was looked at was failed by Government auditing standards. Nine of the thirteen had audit opinions changed without documentation and without workpapers to support the charges. Three had evidence that showed the DCAA auditor trying to perform his or her job and his independence impaired by his supervisors. Nine of the thirteen audits had conclusions that were not supported by the work performed by the auditors.

They got caught. They have gotten caught in what could be the biggest auditing scandal in the history of this town. And I am not exaggerating. I will guarantee you, as auditors around the country learn about this, they are going to have disbelief and raw anger that this agency has impugned the integrity of Government auditors everywhere by these kinds of irresponsible actions.

By the way, auditors are very conservative with other auditors. Every

auditing agency has peer review. By the way, GAO has always passed all of its peer review without any problem. But I know when we were getting peer reviewed when I was the State auditor in Missouri, it was a very nervous time because auditors come into your office from all over the country and they pore through your work. They go through your workpapers. They check all of your reviews. They, in fact, as an objective third party, look and make sure you are doing objective professional government auditing work. They are very conservative because it is peer to peer, right? It is hard to criticize your peers. It is hard to call out another auditor. That is why this is such a big deal. It is damning. This audit is damning of DCAA and the job it should be doing to protect Government taxpayers from the incredible waste and inefficiency in the contracting of the Department of Defense.

So when you get an audit, another part of the audit is you respond to the audit. The auditee gets an opportunity to speak in the audit. It is a very good thing because the auditee, if they firmly believe the audit is not justified, has an ability to give their side of the story. It also allows the opportunity to make sure you are exchanging information. So that response in the audit is also a part of Government auditing standards.

Let me tell you, when they got this audit, it was a dark day for them, and they had a choice. DCAA had a choice. They could have come forward and said: We have a big problem here and we have to clean house, and announced they were firing people in all of these offices and that supervisors were being fired and that they were going to clean up their act. That was one choice they had, to admit they had been caught in this scandal and to admit they would make it better. But what did they do? What did DCAA do as a result of this incredible audit report? They ''disagreed'' with the totality of the audit.

Here is what is so insulting about them disagreeing with the totality of the audit. They have no evidence to back it up. They have nothing to refute. The voluminous—this is not a small audit, this is page after page of documentation. They dispute the facts about the contractor being given prior notice that he would be audited in the above case even though there is clear evidence to support this conclusion in the DCAA workpapers.

They said, believe it or not—wait until you hear this:

> They are currently operating at a satisfactory level of compliance with Government auditing standards.

Satisfactory? Thirteen out of thirteen failing Government standards, and that is satisfactory? How dare they. How dare they say that is satisfactory. They flatly stated they don't believe any supervisors harassed or intimidated staff or willfully removed findings. The evidence is there. The fact they are denying the evidence is there shows the level of dysfunction in this auditing agency. They don't seem to be too concerned about zero percent of these audits meeting Government standards.

The Department of Defense has been on the high-risk list of this Government for more than a decade. Scandal after scandal has rolled out of the Department of Defense on contracting.

I took a trip to Iraq on contract oversight, and with an auditor's eye, meeting with the people who oversee the contracts in Iraq. And I will tell you conservatively—and auditors are very conservative—conservatively, I think we have burned up more than $150 billion in pure contracting abuse.

We have had hearings where weapon system after weapon system comes in 100 percent more expensive, 3 or 4 years off time. And all this time we have been wasting hundreds and billions of dollars, the fox was in the chicken coop. The Defense Contracting Auditing Agency has been indicted in the strongest terms by their peers at GAO.

This situation demands hearings. And if somebody doesn't lose their job at DCAA before nightfall, the problem is more serious than anybody in this Chamber can possibly imagine. Because they think they can sweat it out. They think we are not going to pay attention. They think we are going to move on to the next headline, the next campaign stop. They think we are so worried about all the other problems that no one is going to notice this auditing agency has been disclosed and exposed as being fundamentally corrupt in the way they issue audits.

It calls into question every single audit done by this agency. And if we don't take it seriously, if we don't give it our attention, if we don't demand that the fox get out of the chicken coop, and we start taking care of taxpayer dollars, ultimately it is our national security. All of the needs we have for our men and women who fight for us, all the needs of our active military, all the technology we need to stay secure and safe, all of it is so important to our Nation. Yet what we have found out in the last 24 hours is no one is paying attention to the way we are spending that money. It makes me sick to my stomach.

I am angry. And I will tell you, this Senator is not going away on this issue. If I have to stand on this floor every day for the next 6 months, I will do it, to get someone fired at that agency and to get them to clean up their act.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Washington.

ENERGY

Mrs. MURRAY. Mr. President, I come to the floor this morning to talk about the fact that the Senate is going to have an opportunity to vote on cloture to move us to an important bill that will address the issue most of my constituents in the State of Washington, as well as all those in the country, are facing, and that is the high price of gasoline today—$4.45 is what I paid last weekend when I went home to Washington State. This is having an impact on our families, on our communities, and on all of our businesses—on everyone.

It is important that we address this issue. The bill that is being offered, which we hope to get past cloture and filibuster from the other side, is not a silver bullet, but it is an attempt to get at what we believe is a fundamental part of the solution, and that is the manipulation of the oil marketers by a few greedy traders, thereby increasing the cost you and I pay at the pump. We are not asking for a large energy bill, but we are saying it is important that we address this issue in a way that will produce relief as quickly as possible in some way for our consumers as we head out a week from now for our August break.

I have been listening to this debate, and I have to say I am fairly surprised by all of those who come to the floor and say: Wait, wait, wait, wait, wait. Unless we get to offer amendment after amendment after amendment on drilling more, and drilling more, and drilling more, then we are not going to allow the Senate to deal with the issue of speculation, which Members on both sides agree is critical that we address. I think it is important that we step back for a minute and go back in history and talk about energy and this Senate's history over the last 8 years and this White House's history over the last 8 years.

Democrats understand there are short-term solutions for the crisis facing us, but we also need long-term solutions because we believe, at the end of the day, that we have to decrease our dependence on oil. We have to decrease our dependence on oil, otherwise this Senate body, 10 years from now, will again be debating whether to open up more drilling. Meanwhile, we are all supposed to ride our bikes until we have more oil out there again, and then the next generation gets to debate oil again. We want to break this cycle. We want to get to long-term energy independence. We want to create new alternatives for people. We want that new technology to be invested in so that consumers 10 years from now, and the next generation of Senators who are here and consumers out across the country, don't have to listen to this debate again. We can get there, but it is not easy.

Eight years ago, this country elected two oilmen to the White House. No surprise: Every energy debate since then has focused on how we can drill more for oil. Here we are today, a week before we leave for the August recess, and those on the other side want to take us right back to drilling again. Let me remind our colleagues what Senators on this side of the aisle have been doing for some time. When we got the majority a year and a half ago, we said: Okay, with the majority, we want to

begin making inroads on focusing on energy independence which, by the way, will reduce the cost to everybody as the consumption decreases. We looked at CAFE standards. We were successful, not in doing it quickly, but at least beginning to make progress on setting CAFE standards so our cars will be using less fuel. That is part of reducing the price of gas in the long term and our dependence on oil.

We also looked at an energy tax package. In fact, we brought an energy tax package to the floor of the Senate that would create incentives for alternative energy. It costs a lot to develop new technology for energy. We said it is time for the Government to put its backing there and provide tax credits for these companies so they can do the research that is necessary to get that alternative technology out there. What did the other side do? Filibustered. Blocked it. And today, those investors are not out there investing in new technology. Democrats said we need to move this bill. It is part of our plan in the long run to reduce the price of oil to create those alternatives. We were blocked on the other side from doing that.

A few months ago, Democrats said: It is important to look at how we can stop this increasing, spiraling cost as soon as possible. We put together an energy package, and one of the key components was focusing on the oil companies, who were reporting record profits at the time—and by the way, still are today—and we tried to repeal some of the oil companies' tax breaks they currently get so that those costs would go back to consumers and reduce our prices. What happened? We brought the bill up, and it was blocked by the other side. Why? Because they wanted to focus on drilling more oil.

We have tried many ways on this side to focus on the larger picture of energy and how we can reduce consumption, how we can get to energy independence, how we can focus on making sure those high gas prices that my constituents and others pay today—and by the way, when this administration took office 8 years ago, gas was $1.46 a gallon, but because of the energy bills that have been pushed by the other side that focus on drilling, it is now $4.45 a gallon in my home State. Yet here we are today, as we try to focus on speculation in the markets, and what does the other side say? Oh no, we need to drill for more for oil. Well, that hasn't worked in the past. We have already, several years ago, added an additional—and I see my colleague from Illinois here on the floor—I believe it was an additional 8 million acres to be leased in this country. We added that. Did it reduce the price of gas at the pump?

Mr. DURBIN. Will the Senator, through the Chair, yield for a question?

Mrs. MURRAY. I would be happy to yield to the Senator from Illinois.

Mr. DURBIN. Is it not only true that we have 68 million acres of land we have leased to the oil companies, which they are paying us money to lease in order to find oil and gas, but they are not doing anything with it—some 34 million offshore, on the Outer Continental Shelf and some 33 million onshore that they are now leasing?

The Republican side of the aisle has become a one-trick pony—keep drilling, keep drilling, keep drilling. We know if we decided today to drill on any acreage here, it would be 8 to 14 years before we would see any oil coming from it. So this notion not only flies in the face of the 68 million acres they currently have, but it doesn't solve the problem.

As the Senator from Washington said, it makes the problem worse because we don't face the realities of what we need to do to have a national energy policy.

Mrs. MURRAY. The Senator from Illinois is absolutely correct. Every time we have come out here to try to broaden the energy debate and to bring down the price of gasoline and get to energy independence, we have heard from the other side: Oh, no, there is only one answer, and that is drill more.

We have given them that. In fact, yes, the oil companies have 68 million acres of land today that can be drilled, but they are choosing not to. Why? Because if they increase the supply, the price is going to drop. So what good does it do for us to give them even more of our Federal lands, because their benefit is keeping the price high.

Mr. DURBIN. If the Senator from Washington will yield for another observation, she noted that when we elected President Bush and Vice President CHENEY we brought two people in from the oil industry, and coincidentally, during this two-term administration, profits of the oil companies in America have reached historic high levels at the expense of our economy and families. The Republicans, the President's party, want to end this administration by giving them the biggest farewell gift anyone could ever wish for in the oil industry—millions and millions more acres so that they can, at their pace and in their time, decide to drill on.

It would seem to me, if you are honest about the oil companies and what they have done to this economy, this is the last thing we should be doing. We should be holding them accountable for the prices they charge, the profits they are reporting, and what they have done to the American economy. So I ask the Senator from Washington: The alternatives we have talked about over the years—fuel efficiency for cars, more efficiency in the appliances we use, the buildings we build, all of this is part of the big energy picture, is it not? It isn't just about keeping oil companies happy.

Mrs. MURRAY. Well, I say to the Senator from Illinois, he is absolutely correct. In fact, in the past few days, a headline from Reuters read: ''ConocoPhillips' Earnings Rise With Record Oil Prices.''

The oil companies are making a lot of money, so what is the other side's answer to every energy debate we have? Give them more money.

I say to my colleague from Illinois, I know he goes to the President's State of the Union Addresses every January, as I do, and we sit in the House Chamber and listen to what the President is presenting to us. I wonder if the Senator from Illinois remembers 2½ years ago, the President's third State of the Union, I believe it was—and I rose with excitement when I heard the President say this to us:

> Keeping America competitive requires affordable energy. And here we have a serious problem:

Now, this is the President of the United States in his State of the Union speech.

> America is addicted to oil, which is often imported from unstable parts of the world. The best way to break an addiction is through technology.

These are not my words, but those of the President of the United States. Yet every time we have tried to bring a bill to the floor to break our addiction to oil, we are stopped because the other side wants to drill more oil.

So I say to my colleague from Illinois, does it feel to him as though we are trying to break our addiction to oil here?

Mr. DURBIN. I would respond to the Senator from Washington, through the Chair, and say that I think America understands this. Sure, we are going to be drilling oil in America—we need to, for exploration and for production—but we know we only have 3 percent of the world's supply of oil—3 percent—and we use 25 percent of the oil. So we can't drill our way out of this.

Whether it is T. Boone Pickens or some friend of mine in central Illinois, it is obvious: You have to look for other solutions, and those solutions mean the oil companies are not going to be the answer to every question. Unfortunately, the Republican side of the aisle, time and time and time again, all they have to suggest is drill more oil and make more money for the oil companies.

That isn't the answer to America's energy problem. If it were the answer, we would have seen, as the Senator said, gasoline prices coming down as we made more acreage available for drilling over the last several years. It has not happened. They have gone up dramatically.

Mrs. MURRAY. The Senator from Illinois is absolutely correct. I have listened to this debate, and it is not just the debate today on speculation, about whether we should do that. It is whether we should bring energy tax credits, whether we should repeal oil company tax breaks and whether we can invest in alternative energy. Every time, the only answer we get from the other side is, no, we are not going to do that. We want to drill more.

I would say to my colleague that drilling for oil is a false promise to the

American people that it will bring down their prices substantially as we head off to our August break. Even their own Presidential candidate has said drilling oil only brings psychological benefit. We don't need any mental health care. We need real reductions at the pump. Even President Bush's own energy experts say drilling more oil will not produce a significant decrease in the price at the pump.

As I truly believe and I think most people understand in this country, until we invest in long-term energy independence, all we are going to do is see the oil companies get more profits and our prices go up. The bill we are offering today and hope to move to will begin to deal with that and that addresses the issue of speculation. I hope we move to that.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The time of the majority has expired.

The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I rise today to speak about the extraordinary impact of rising gasoline prices, the extraordinary impact it is having on all Americans, and the parliamentary games of those on the other side of the aisle.

The airline industry, truckers, ranchers, families who must travel to and from work and school, families going to buy groceries, all of them are experiencing dramatic increases in the cost of energy. These soaring gasoline prices offer a glimpse at the effect home heating costs will have on the American family budget this coming winter.

Today's energy crisis is focused on prices at the pump. But the Nation's energy concerns stretch well beyond the pump. In the coming weeks and months, rising energy prices will be seen in the monthly bills for home heating, natural gas, electricity, and heating oil. In fact, this month, in Washington, DC, right here in this Capitol Building, we are operating our own Senate offices under an electric brownout advisory. This is recent evidence that our electric grid is stressed. When it comes to energy, we need it all.

We need to develop domestic supplies of oil and gas. We need to develop nuclear energy. We need to develop renewable energy, such as wind and solar. We need to develop America's most affordable, secure, and abundant energy supply, and that is coal. In fact, coal to liquid offers great promise in reducing America's reliance on foreign oil imports.

We must also develop concerted policies to promote increased efficiencies, to promote increased conservation, and to reduce waste. In summary, we must find more and use less.

On the subject of soaring gasoline prices, I must ask my colleagues: When is enough enough? When will this body be willing to address the underlying issue of both supply and demand. Many are calling for change. Few are offering meaningful solutions. Here are a few examples.

Some on the other side of the aisle want to tax their way to lower oil prices. Increased taxes will result in higher prices and less oil and gas production, not more. Taxes will stifle our economic security. Taxes will not encourage economic security.

Many on the other side of the aisle think litigation is the way to bring down prices at the pump. The proposals I am cosponsoring choose innovation over litigation.

Some on the other side of the aisle claim we can regulate our way to lower prices at the pump. They want to do it by penalizing oil and gas leaseholders. This approach shows very little understanding of the energy development process. This approach offers no help, no help at all with the bureaucratic maze and roadblocks to finding more energy.

Some propose restrictions on price gouging by gas station owners, but those same individuals fail to show any actual evidence of price gouging. In fact, the margins for the gas station retailers in this country are being squeezed. Rather than increased regulation, I support proposals that invest in inspiration, in ingenuity, and in productivity gains. I support technology gains that unleash the power of the private sector to develop short- and long-term energy solutions.

Some want to impose heavy-handed Government mandates to nationalize the speed limit. Some are suggesting 55 miles an hour. I bring along a copy of a newspaper that hardly ever makes it to the streets of Wyoming. It is the New York Times, and this is this morning's paper. While the people of Wyoming do not read it, reporters from that paper actually went to Wyoming and covered Sheridan, WY.

There are five wonderful colored pictures of Wyoming and there is a nice map and it talks about Wyoming. On the front page of today's New York Times, it talks about the Kerns family, a wonderful family in the Sheridan, WY, area. They were at a town meeting I recently had and they were talking about ranching. This summarizes it. When I hear people propose a 55-mile-an-hour limit, talk about ranch families such as the Kerns—conservative, self-sufficient, and wanting mostly to be left alone.

That is what it is all about in Wyoming—conservative, self-sufficient, and wanting to be left alone. We do not need Washington telling us how to drive and how fast. We can make those decisions for ourselves.

I have the belief in the ability of Americans to choose for themselves. I am confident the people of America, not Washington, will make the right decisions. History has proven that American's self-reliance is an effective tool against rising energy prices.

American families right now are conserving in record numbers. They are carpooling, they are cutting back on the miles they drive, and they are purchasing more fuel-efficient vehicles. Statistics show that this year the year-over-year gasoline use is down roughly 2 percent. It is the steepest drop in demand in the last 17 years. American families are responding and they are responding without being told by the Federal Government to inflate their tires. Yes, that is what I heard yesterday in an Energy Committee hearing from an official: It is time to inflate your tires.

American families are conserving. They are doing so without far-reaching Government mandates. American families are demanding and purchasing more fuel-efficient cars regardless of any timeline for energy efficiency standards Congress may impose.

In fact, American families have done much more than simply conserve on energy in the past several months. Some have dealt with serious job losses. Many have struggled with housing deflation. We are all facing inflation at the grocery store.

You say: Is that happening everywhere? Wyoming has been in the news today. First, a front-page story in the New York Times and now a large story in the Wall Street Journal today; the headline: ''Want to See Inflation's Pressures? Try Wyoming, and Its $1.14 Bagels.''

There is a nice picture of a friend of mine, a bakery owner, Marsha Asbury, in Casper, and first it talks about this city. It talks about ''this wind-raked city on the plains.'' It tells you we are committed to renewable sources of energy because we have a lot of wind in Wyoming. But they talk about gasoline prices.

> Gasoline prices, too, have risen sharply as they have across the country. But it is the price of—

Actually it is what Ms. Asbury puts into her bagels that is causing her the trouble because it is causing the inflation. It says:

> Most of her ingredients are shipped in from nearby states. The prices have jumped dramatically this past year, as suppliers struggle to recoup the high cost of trucking items to Wyoming.
>
> Heavy items have increased in price the most. The canned jalapenos and pumpkin that Ms. Asbury uses for her specialty bagels; the canned apples, for strudel; the sugar and flour—all are up 35 percent in the past year. Butter and milk are up 25 percent.

All because of the cost of energy and transportation fuels.

As it says:

> Still, the rising cost at the pump hits hard, because Wyoming drivers put an awful lot of miles on their pickups and sport utility vehicles as they traverse this sparsely populated state.

Yes, American families have moved beyond simply conserving. Now many are sacrificing. Despite the resilient response of the American people, there is still no meaningful action from this Congress to address the fundamental supply and demand for foreign oil. The Senate leadership on the other side of

the aisle will not allow a debate on bills that will actually increase American energy supplies. Each of the provisions to increase American energy offered by this side would be coupled with measures to improve conservation, to promote energy-efficient measures.

To be very clear, I agree with some of the components of the speculation bill before us. In fact, several of these provisions were included in legislation I have cosponsored. Yet, as a matter of principle, I believe the Senate must act on a set of solutions rather than pursue a piecemeal approach. It is not simply the soaring prices, but it is America's reliance, America's dependency on foreign imports. Congressional leadership is opposed to even debating increasing American exploration and production. With more American supply, there is a more secure energy future.

We have seen the same old responses from the other side of the aisle. They approach the current energy crisis, such as nearly every other policy challenge, with more taxation, with more regulation, and with more litigation. Rural States such as Wyoming are especially hit hard by soaring prices. Mass transit is not an option. Prices are high and the hundreds and hundreds of letters I received on this issue are a testament to the real pain. Wyoming does contribute greatly to America's energy needs. We are the largest producer of coal in the country; the largest producer of uranium; the second largest source of onshore natural gas; and we have world-class wind resources.

The citizens of Wyoming get it. We have been involved in domestic energy production and transmission for decades.

The other side of the aisle simply says no to domestic energy exploration; no to American energy. America faces an energy crisis and an economic crisis. Continuing to rely on increasing amounts of foreign oil leverages our country's future. It is time to focus on an American response: American energy efficiencies, American conservation, and, yes, American energy exploration. Our country deserves better and our children deserve better.

The massive transfer of wealth that is happening every day, from our country to overseas, is putting our children and our grandchildren's future at risk.

When is enough enough? I am asking those opposing American development, how much transfer of wealth is enough? How many hundreds of billions of American dollars must we send to foreign nations to buy their oil? How much of our Nation's great wealth must we transfer before it is acceptable to develop American resources? Is it $100 billion? Is it $200 billion? Is it $300 billion? Apparently not.

Some on the other side of the aisle do not want to allow American energy production through deep sea exploration, through oil shale development, through streamlined permitting. Their so-called responses leave America more and more reliant on foreign countries to provide for America's energy. We can do better and we can do so in an environmentally sensitive manner, as we have done for the 118 years we have been a State in Wyoming.

There have been extraordinary technological developments in oil and gas exploration and development. Provisions to address excess speculation must be coupled with added supply and added conservation. We must find more and use less. The rhetoric from the other side is all about change. I think those blocking American solutions to foreign energy dependence would do well to change their minds, change their policy prescriptions, and change their approach on energy policy; otherwise, this Congress will only be leaving American families with change in their pockets at the end of each month.

I believe Americans want meaningful solutions, not merely change.

There is a difference. American energy is the most important issue facing the American people today. American families are sacrificing. At a minimum, at an absolute minimum, those same families deserve real action from this Congress.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I congratulate my colleague from Wyoming for his comments. His State of Wyoming and my State of South Dakota share a border. We have a lot of very similar ways of making a living. We share a commonality when it comes to the people we represent, their values. And he is exactly on point when he talks about the importance of energy to a State like Wyoming and a State like South Dakota and its impact on the economy and how families in our States are struggling and sacrificing with this extraordinary challenge that faces our Nation today, and that is the high cost of energy.

I want to speak to that subject today as well because on Tuesday, July 22, the Interagency Task Force on Commodity Markets released its Interim Report on Crude Oil. I think it is important and it bears on the debate we are having in the Senate today because the primary purpose of the bill that is before us, as put forward by the Democratic leadership as a solution to energy, is to focus on the very narrow issue of speculation in the marketplace.

Well, the task force is chaired by the Commodity Futures Trading Commission and includes staff members from the Departments of Agriculture, Energy, and the Treasury, the Board of Governors of the Federal Reserve, the Federal Trade Commission, and the Securities and Exchange Commission.

Although its final report is not expected until September, I think the interim report provides some valuable insight on the energy markets and the record increase that we are seeing in oil prices. The report concludes that record oil prices are caused by the simple economic laws of supply and demand.

The report states:

Current oil prices and the increase in oil prices between January of 2003 and June of 2008 are largely due to fundamental supply and demand factors.

The report describes that worldwide demand for petroleum has greatly increased over recent years due to population growth and rising incomes.

Specifically, the report states:

World economic activity has expanded to close to 5 percent per year since the year 2004, marking the strongest performance in two decades. Between 2004 and 2007, global oil consumption grew by 3.9 percent, driven largely by rising demand in emerging markets that are both growing rapidly and shifting toward oil-intensive activities.

It continues to say:

China, India, and the Middle East are among the fastest growing in the world; together they have accounted for nearly two-thirds of the rise in world oil consumption since 2004.

The report also states:

Since 2003, world oil consumption growth has averaged 1.8 percent per year, representing an estimated 1 million barrels per day in 2008.

On the supply side, on the other side of the equation, the report also details how the worldwide supply of oil is inadequate. Both non-OPEC and OPEC supplies are failing to keep pace with increasing demand.

The report states:

In the past 3 years, non-OPEC production growth has slowed to levels well below historical averages, and world surplus capacity has fallen below historical norms. Preliminary inventory data also shows that the Organization for Economic Cooperation and Development (OECD) stocks have fallen below 1996–2002 levels.

The report continues:

World oil consumption growth has simply outpaced non-OPEC production growth every year since 2003. OPEC production is also falling behind.

The report describes the failure to meet what they call the ''call on OPEC,'' which is the difference between global demand for oil and oil produced by non-OPEC countries.

Since 2003, OPEC oil production has grown by only 2.4 million barrels per day while the ''call on OPEC'' has increased by 4.4 million barrels per day. As a result, the world oil market balance has tightened significantly.

Recently, the President's Working Group on Financial Markets reinforced the Interagency Task Force's conclusion. This working group consists of the Secretary of the Treasury, Board of Governors of the Federal Reserve System, U.S. Security and Exchange Commission, and the Commodity Futures Trading Commission.

In a recent letter to congressional leadership, the Working Group on Financial Markets stated:

Prices appear to be reflecting tight global supplies and the growing world demand for oil, particularly in emerging economies.

The Interagency Task Force and the President's Financial Working Group

have concluded what several Members of Congress and, I think, what the majority of the American people have known for a long time: we have a supply and demand problem. The solution to that problem is to find more energy, to produce more and to use less.

Now, with regard to the supply solution, we have lots of solutions that are out there. We have talked about the North Slope of Alaska. We know there are about 10 billion barrels of oil on the North Slope of Alaska. We have had numerous votes since I have been in the Senate, and prior to that in my service in the House, on opening the North Slope of Alaska to more production. Every time, it gets defeated by the opponents.

In fact, in 1995, it was actually passed by Congress, and it was at the time vetoed by President Clinton. If it had not been vetoed back then, we would have an additional 1 million barrels of oil in the United States each and every single day.

Ironically, we hear the same arguments against that today that we heard back then: that it will take 5 to 10 years to develop it. Well, that is exactly the argument that was used in the debate 10 years ago. If we had acted then, now, 10 years later, we would have that extra 1 million barrels of oil a day available to us, which is the equivalent of about what we get from Venezuela.

The Outer Continental Shelf is home to about 18 billion barrels of oil, and that, too, is off-limits. Some of the Outer Continental Shelf data is almost 30 years old. There are estimates that there are 86 billion barrels of undiscovered reserves that exist right off our very own coasts.

Oil shale—there are estimates of 2 trillion barrels of oil shale that is currently off-limits; 800 billion barrels of that, of the U.S. oil shale, could be economically recoverable.

Now, Saudi Arabia has the world's largest proven reserves of oil in the world; that is, 263 billion barrels. The next largest is Iran with 133 billion barrels, followed by Iraq with 115 billion barrels. Kuwait and Venezuela bring up the next, with 100 billion and 77 billion barrels, respectively.

But the point very simply is that Utah, Wyoming, and Colorado may have more oil than Saudi Arabia, Iran, Iraq, Kuwait, and Venezuela combined. Right now, U.S. energy companies are ready to invest billions of dollars in developing this domestic research. They are not asking for Government funding. They are not asking for Federal financing. They are not asking for environmental exemptions or any kind of special treatment.

All they are asking for is for the U.S. Government to govern. They simply want consistent regulation that will allow them to move forward with their research. Unfortunately, this Congress has said no—no to ANWR, no to the Outer Continental Shelf, no to oil shale, no to coal to liquid, no to nuclear, no to all of the things that could lessen our dependence on foreign sources of energy.

Meanwhile, I think the American family is asking, why? Why will Congress not work to lower gas prices? Why is Congress standing in the way of American ingenuity? Why is Congress limiting access to our resources while we send, Americans send, $1.6 billion each and every single day outside the United States for imported oil to petro dictators around the world, where we are propping up and enriching people in places such as Iran and Venezuela who have nothing but hostile intentions toward our country?

Well, it is past time for Congress to act on a supply solution. It is time for us to deal with this issue of our supply, and it is also important that we deal with the issue of demand because, as I mentioned earlier, when you are talking about impacting supply and demand, you can do one of two things. You can affect supply by increasing domestic production or you can affect the demand side by using less energy. I think the solution consists of both, but neither are getting a vote in the Senate.

Congress must invest in advanced technology, batteries and hydrogen fuel cells. Those are new technologies that we have to support, and we need to continue to invest in renewable fuels. There has not been a bigger advocate in the Senate than I am of renewable energy. It is already reducing domestic demand for traditional petroleum by about 130,000 gallons per day.

We also need to address America's fleet of vehicles. Last year, Congress raised the vehicle efficiency standards by 40 percent to 35 miles per gallon for cars and light trucks. I think we can and we must do more. We should extend the tax credits for fuel-efficient hybrid vehicles.

I believe Congress should create a new tax credit for next-generation electric plug-in hybrid vehicles which can go 20 to 40 miles before using an internal combustion engine.

In addition to tax credits, Congress should require the production of flex-fuel vehicles. This week, a tripartisan group of Senators, led by Senator BROWNBACK, introduced a bill that would dramatically change our transportation sector. Senators BROWNBACK, LIEBERMAN, SALAZAR, COLLINS, and I have introduced the Open Fuel Standard Act, which essentially requires that starting in 2012, 50 percent of new vehicles be flex-fuel vehicles that are warranted to operate on gasoline, on ethanol, on methanol, or on biodiesel.

This requirement increases 10 percent each year until 2015 when 80 percent of new vehicles would be required to operate on renewable fuel.

We will never break OPEC's monopoly over our fuel supply without enacting bold policies. And the one I just mentioned is an example of such a policy. That bill would give consumers a choice at the pump and give all consumers the option of purchasing cheaper, homegrown fuel such as ethanol and biodiesel when it comes to addressing their energy needs.

But the fact is, as I noted in the study that I cited, we cannot solve America's energy problem by simply dealing with a narrow solution, a minimalist solution such as that which has been put on the floor by the Democratic leadership in the Senate. What they have attempted to do is to block the consideration of amendments that would address those other issues that I think are so important to this debate. There is not anything in this bill that was put forward by the Democratic leadership that reduces the dangerous dependence that we have on foreign energy. Now 60 percent of our energy is coming from outside the United States. There is not one thing in this bill that affects that.

They can talk about lawsuits. They can talk about taxing oil companies. You can talk about regulating, further regulating the commodities markets. I am all for some of the things that are being proposed with regard to speculation and the commodities market. I, frankly, think there are things in the bill that are good.

But the bottom line is, it does nothing. It does nothing to affect the fundamental rule of supply and demand, which, as I just noted, is what is driving energy prices higher in this country. And if we try to do something in the Senate or in Congress to address energy in this country and the tremendous economic impact it is having on American families and businesses without going at this fundamental basic issue of increasing our domestic supply or domestic production and reducing our demand, we will not have done anything meaningful for the American people to address the issue that is impacting their pocketbooks more than anything else today; and that is, the high price of gasoline.

If you are serious about getting the commodities futures market to reflect or to bring down the futures price for energy stocks and all this trading that is going on, the way to do that is to send a clear, unequivocal signal to the energy markets that America is serious, that American ingenuity and hard work and our entrepreneurship in this country—that we are serious about increasing the domestic supply of energy that we have, about increasing domestic production because the market will interpret that.

The market looks down the road and says: OK, in the future, what is the price of oil going to be based upon the current supply of oil and the current demand?

If we are serious about increasing supply and reducing demand, the market will reflect that. We will see lower prices per barrel of oil, per gallon of gasoline, and some relief for hard-working American families and small businesses taking on tremendous water in their personal households and in the

needs they have to meet for families because they are spending all their money, literally, to fill their cars with gasoline and to pay for the high cost of energy. It is affecting literally every sector of the economy.

South Dakota, as my colleague from Wyoming spoke to earlier, is a vastly rural State and sparsely populated, heavily dependent upon transportation. The energy issue impacts in a dramatic way our ability to grow our economy and create jobs. I hope the debate today will include more than only a narrow issue and will get to the fundamental issue of supply and demand, that we can have an open debate in which we may offer amendments so this issue will be addressed.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I believe our side now has the next half hour. I yield myself 20 minutes and 10 minutes to the Senator from New Mexico, Mr. BINGAMAN.

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

Mr. SCHUMER. I request the Chair to alert me when I am halfway through.

The PRESIDING OFFICER. The Senator will be notified.

Mr. SCHUMER. Mr. President, I rise to speak on two issues, both pending before us, both vitally important to the economy. One is energy, one is housing.

We all know the pain Americans experience. We all know the price of gasoline. In New York, people are already anticipating, with fear in their hearts, the price of home heating oil to heat their homes in winter. Everywhere else the costs of energy are driving prices higher, creating a middle-class squeeze.

We had a hearing at the Joint Economic Committee yesterday. Elizabeth Warren, a professor at Harvard, outlined that squeeze. The average middle-class person is hurting. They have built up a good life for themselves. Now they are hurting because, on the one hand, their income is not going up—productivity is but income is not—and at the same time their costs are going much higher than the rate of inflation. So they are caught in a vise—income declining, prices increasing.

This Friday night, there will be millions of Americans who, after dinner, husband and wife, will be sitting around the table talking about the things they care about, their children and their futures, their health. But probably the No. 1 topic will be, how the heck are we going to pay the bills.

Democrats are here to try and finally, after 7½ years of being dominated on the energy debate by oil, oil companies, oilmen in the White House, change the debate. The other side has a simple solution. It gets modified every couple of years, but it is basically the same. Do what big oil wants. When the price is low, give them subsidies. When the price is high, make sure they don't pay much in taxes. All throughout, focus our energy economy on oil, because that is what the big oil companies want.

Rex Tillerson, the head of ExxonMobil, came before the Judiciary Committee a year and a half ago and said: ExxonMobil does not believe in alternative energy. I guess if I were ExxonMobil, I wouldn't either. Because as demand goes up and supply stays relatively flat, the price goes up and the profits go up. I have been asking, what do the big oil companies do with their profits. A huge percentage goes not into new exploration. They say they want to explore, but a majority of the money, in some cases, and a plurality, in most, goes to buying back their stock to raise the share price for themselves and their shareholders. This idea that oil companies are eager to explore is belied when we look at their financial statements. They are buying back their stock. It doesn't create one drop of oil. For the limited number of people who have ExxonMobil stock, that is a godsend. For the rest of us, it squeezes us even more. Chevron does it. BP does it. They all do it, with billions and billions of dollars. I believe last year ExxonMobil took $29 billion to buy back their stock.

I challenge my colleagues on the other side of the aisle, if they are so eager for exploration, why aren't they putting that $29 billion into exploration? But they are not. Again, we have the answer from the other side: Big oil today, big oil forever.

The American people know we are not going to drill our way out of this crisis. Even if the oil companies wanted to—and statistics show they do not—we don't have enough oil to prevent the price from going up, because demand worldwide is dramatically increasing, in China, in India, in the Middle East. The number of new cars in China and India in a short while will exceed the total number of cars in America, in 10 years, 15 years. Imagine that, new cars in China and India competing with us to buy gasoline. Obviously, the price will go up.

When our majority leader repeats over and over that we have 3 percent of the reserves and 25 percent of the consumption, there is no way to reduce prices significantly in the long term other than to get off our dependency on oil. So drilling is not the answer. Yes, in certain places, it may help. We are not opposed to that. I proudly went to the Republican majority, got Democrats to vote for drilling in the gulf. But it is not going to solve our problem. It will ameliorate it a tiny little bit in certain places, if you drill in the gulf and places near refineries.

The answer is to ween our dependence from foreign oil and tell OPEC and Chavez in Venezuela and Iran to take a hike because we don't need them anymore. They can't have their hands around our necks any longer—economically, politically, or geographically.

The good news is, we can do that. We can do that on both sides of supply and demand. That is what we Democrats are attempting to do. We are attempting to help get an electric car. Electric cars, no gasoline, will ride as smoothly and as well but much more cheaply than our present cars. They are not these little golf carts you drive around. You can have a big SUV with a battery that goes 250, 300 miles, same as a tank of gasoline, and drives with the same speed and the same power and the same torque. We are not too many years away from that, if we help create the battery. They have the battery. It just has to be mass produced. We need some research to get that done in a cheap enough way so that the price of cars stays the same while the price of fueling the cars goes down.

Senator BINGAMAN will be here shortly. He put one of my proposals in the Democratic proposal for housing conservation when you build. Forty percent of our energy is consumed not driving cars but cooling and heating homes, air conditioning and heating. If we were to adapt conservation measures, that could dramatically drop. One State has done it, California. California's energy consumption is lower than just about any other State, even though they are a car culture. Why? Because in 1978, under Governor Jerry Brown, whom many regarded as ''Governor Moonbeam,'' this was an excellent idea that has proven successful; they put conservation in building standards for homes and offices. Now, in terms of buildings, their per capita consumption of energy is about what Denmark's is. Why don't we do it nationwide?

Then there is alternative energy. There was an op-ed in the Washington Post by an oilman, someone I know named Jim Tisch, who said that now it is profitable to do wind power, solar power and other kinds of power and take our dependency off oil and gas.

We can both increase supply and decrease demand, reduce the price, if we embark now on a program of change. When we have tried to do this, our colleagues on the other side of the aisle have said no. Why? The big oil companies don't like it. Some of the big utilities don't like it. The big special interests don't like it. But they are doing great. It is the average middle-class person who needs the help.

The equation is simple. I will put it in stark terms, but I think it has to be put that way: Republicans, big oil, the past; Democrats, alternatives, the future. Let me repeat that. Republicans, big oil and the past; Democrats, alternatives and the future. Every American knows which side we want to be on.

I am sorry they have decided not to accept Majority Leader REID's generous offer and take their proposal and our proposal and debate them. We will do that any day of the week. I am sure Senator OBAMA is eager to debate Senator MCCAIN, who is following in the big oil footsteps of George Bush and DICK CHENEY.

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. SCHUMER. I thank the Chair.

I am sure he is eager to have that debate. When you ask people in polling, should we drill, they say sure. Then when you ask, can we drill our way of the problem, they know we can't. We are going to continue to push. I hope and pray we don't have to wait for the next President to do this. I would like to see it done now, because we have waited 7 years. We have had bills on the floor in the past: bills to raise mileage standards of cars, stopped by the auto companies; bills for alternative fuels, stopped by the oil companies; bills to make sure utilities are more efficient, stopped by the utilities. When the price was low, no one paid much attention. But now we are all paying the awful price. Let us change once and for all. There are short-term solutions, whether with the SPR or tamping down speculation. But the only long-term, real answer is to reduce our dependence on oil, move to alternatives and conserve more, consume more efficiently. I hope my colleagues will do that. I hope we will look forward to the future and not delay the future any longer and not look back at the past.

HOUSING

The other bill that is before us now and upon which we will vote shortly is the housing bill. I urge my colleagues to support it. Unlike the energy issue, I think we do have broad bipartisan support. I was delighted to hear yesterday that the President changed his view and will now support the bill Chairman DODD and Congressman FRANK have put together. I am very glad of that. It is a good bill. I have had some significant input into it, for which I thank both of them.

Housing is at the nub of the recession. Housing prices go down and people don't have the money to do other things. That hurts. Homes are foreclosed upon and neighborhoods suffer. Even if you keep your home and even if your housing price is flat, mortgage rates go up. Since so many people have adjustable rate mortgages, that hurts us as well. But housing has been the bull's-eye of the economic crisis. For too long, Washington has twiddled its thumbs, despite the efforts of those on our side who want to do something and who have smart, rational, and targeted plans. But now finally, because the crisis is screaming at us, the President has agreed to support our legislation, and many on the other side, hopefully, will vote for it, as they did last week.

The housing bill has many important components. It has a plan that will set a floor for some home prices. It is not a panacea, but it will help reduce the decline in home prices in many places, which is desperately needed, and reduce the rate of foreclosure for several hundred thousand homes, which is also desperately needed. I would have liked to have seen that part of the bill be stronger. I would have liked to have seen the bankruptcy provisions put in there which would have been a club and made them work a little better. They are not there, but this is still good.

We also have in the proposal CDBG money. We held a hearing of the Joint Economic Committee where, from the community in Slavik Village, people testified how empty and vacant homes were killing their neighborhood. I don't know what entity Slavik Village is in, what town, whether it is Cleveland or somewhere else, but no local community has the ability to deal with all these foreclosed homes. The only entity that can is the Federal Government.

The CDBG money, which, thank God, now the President has dropped his opposition to, will buy up those homes and prevent the market from getting worse and communities from deteriorating. Because when you have an abandoned house and some vandals come in and pull out the plumbing and electricity, and then it becomes a haven for drug dealers and criminals, it ruins the whole neighborhood. The person living down the street, who has paid his or her mortgage and does not even have a mortgage anymore, suffers as well.

So this CDBG money, as well as the whole program we are putting together, is not simply aimed at those who cannot pay their mortgages. It is actually aimed at the millions of homeowners who are hurt because even though they pay their mortgages, and even though they may have finished paying their entire mortgage, their home prices decline because there are foreclosures in the community.

Then there is the part about Fannie Mae and Freddie Mac. I think this is necessary. It is unfortunate we are at this stage but necessary. Fannie and Freddie are at the center of our housing market, and the housing market is at the center of our declining economy. If you are simply going to say: Well, let Fannie and Freddie fail, let's learn the moral hazard, you are hurting tens of millions of innocent people along the way as you teach that lesson. That is why I do not think we should do it.

Do we need tougher regulation for Fannie and Freddie? Yes. And in the bill is a much strengthened regulator. I supported that from the get-go. But to allow Fannie and Freddie to deteriorate, and deteriorate as dramatically as they might have without a possible Government backstop, would do far more damage than the Government backstop itself. The odds are, we will never have to use it. And when you add to that the odds that we will use it but it will not cost all that much, they are overwhelming. But the alternative, the risk of looking into the abyss and letting the economy roll down—because if Fannie and Freddie were to go under, Lord knows what would happen in this economy—is not worth it.

I have spoken at length to Secretary Paulson and Chairman Bernanke, both appointees of the President, and they believe this is desperately needed. I was surprised so few of our House colleagues voted for this proposal. Ideologs do not usually solve problems. They have a narrow way of looking at things. So if you say Government is always the answer, you are going to mess things up. But just as equally, if you say Government is never the answer, you will mess things up as badly. We have a whole lot of people, at least in the House, who said: Don't get the Government involved at all. Let people suffer. That is for their overall good.

It reminds me of the old days when the Adam Smith theory said: Well, let anyone sell any medicine they want, and if it is a bad medicine, and you die from it, your family will learn from it and you won't buy it again. It is an awfully harsh view of the world, and not a view most Americans agree with.

In a somewhat less serious but serious note, this is the same thing with housing. If you let the housing market go in the tank, so much suffering will occur that the risk is not worth it. So this is a good package. Is it what we would have done? No. Is it what Mr. PAULson would have done on his own? No. But it is a fair and workable compromise, and unlike the Energy bill, it is a place where we can all come together and do something for the good of the economy.

I also do want to mention there is more money for mortgage counselors. The Senator from Washington, you, I say to the Presiding Officer, the Senator from Pennsylvania, and I have been working hard to get more mortgage counselors in the bill, and there is $180 million more for that, as well as $10 billion in mortgage revenue bond authority, which will help States and localities to develop refinancing programs—very important in my State. It is something the Presiding Officer has supported, and I am glad it is in the bill.

In conclusion, Mr. President, on energy, let's look forward to the future. Let's hope some of our colleagues will join us and not cling to the answer: oil today, more oil tomorrow. We do not have it, given the increase in demand.

On housing, let us move this bill forward quickly. Both are vital to the future prosperity of our country, and both ought to become law without further delay.

Mr. President, I yield the floor.

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

ENERGY

Mr. BINGAMAN. Mr. President, I believe I have 10 minutes reserved to speak in relation to energy legislation.

The first point I want to make is that the legislation the majority leader, Senator REID, brought to the Senate floor addresses one of the three aspects of the problem we face with high gas prices. I think all of us recognize there are three main factors that are resulting in high gas prices.

One is the problem with the functioning of our oil and gas markets, and specifically the problem of speculation and excessive investment in these commodities. That is something Senator

REID has proposed to deal with in the legislation he brought to the floor, and we are going to have a cloture vote on that legislation, I believe, tomorrow. I hope Senators will vote for cloture.

I also hope we can add to it some amendments. There is one amendment I am filing today at noon, along with Senator REID and other Democratic Senators, that tries to address the other two factors that we know and all recognize impact the price of gas; that is, the supply: the supply of oil and, of course, a reduction in demand; how do we reduce the need to buy so much gasoline? This amendment talks about supply and demand, primarily.

Let me briefly summarize what this amendment will try to do.

First, it promotes diligent development of existing leases. As we have had many debates here on the Senate floor, I think most people are aware there is a lot of the Federal land that is currently leased. The question is, how do we get more of it in a producing state? How do we encourage the companies that have those leases to move ahead more quickly?

What we do is we authorize the Secretary to take several steps to encourage more diligent development. We authorize the Secretary to shorten lease terms where appropriate to increase rental fees in later years where appropriate, and generally to do a better job than we fear has been done in connection with encouraging rapid development of these leases.

Second, we are suggesting that areas that have not been leased but that could be leased should be looked at and, where possible, leasing should occur.

Let me put up a chart in the Chamber that makes the point. I know there has been a lot of talk about how the current moratoria on drilling in this country is locking up 80-some-odd percent of all of our opportunity for drilling. Those are not the facts, as I understand them.

As I understand it, there is 33 percent of the Outer Continental Shelf that is subject to a moratorium that therefore, by law, is not available for leasing.

There is 67 percent of the Outer Continental Shelf that is available for leasing. What we are saying is, in that area where we have not yet leased—we have leased some of that, but there are other parts of it, substantial parts that have not been leased—let's do several things to try to do more leasing.

First, we suggest that the Secretary go ahead and reoffer portions of this 181 lease sale area. The first lease sale in the 181 area occurred in March. There were about 300,000 acres that were not bid on by companies. We think those should be offered again sometime in the near future. That is one of the provisions in this legislation.

We call for a doubling of the number of lease sales in the Gulf of Mexico. Two-thirds of the Gulf of Mexico is not subject to moratoria, and we think in the areas that are not subject to moratoria we ought to have more frequent lease sales.

Third, in areas offshore Alaska, we think, again, that the Secretary ought to look and see if additional leasing can occur.

Let me put up another chart in the Chamber.

The current schedule for leasing carries us through 2012. This is the schedule of the Department of the Interior. They have 16 additional lease sales scheduled from now until the end of 2012, some of those offshore Alaska, some of those in the Gulf of Mexico. What we are saying is, let's look and see if there are other lease sales that we could have in the Outer Continental Shelf between now and 2012 to accelerate this.

We also propose there be an annual lease sale in the National Petroleum Reserve-Alaska. That is not in the Outer Continental Shelf. That is onshore. But there is a very substantial area there, and a very substantial resource, as best we can determine.

On the Roan Plateau leasing in Colorado, again we are proposing that 55,000 acres in that area be leased. This is estimated to contain 9 trillion cubic feet of natural gas.

We are also proposing that Renewable Energy Pilot Project Offices be established to help facilitate use of public lands for renewable energy resources. I am talking about wind farms, I am talking about solar, concentrating solar powerplants that are beginning to be built in the Southwest.

Then, on the demand reduction side, we also have a series of proposals in this amendment that I think are meritorious.

One is a provision that has been passed through the Senate several times calling for an interagency task force in the administration to develop an action plan to save 2.5 million barrels of oil by 2016, to save 7 million barrels of oil by 2026, and 10 million barrels of oil by 2030—per day in each case.

We are proposing to expand the effort at the Federal, State, and local levels to promote telework and telecommuting.

We are proposing to increase support for public transit—transport systems. Many of those systems, because of the high price of fuel, have cut back rather than being able to expand their capacity.

We are proposing a fuel economy indicator device be required on all vehicles that are sold in the country beginning in 2012. We believe that would help to focus people's minds on the fact they are using substantial amounts of fuel and encourage smart driving habits to reduce fuel consumption.

We have a proposal for an Advanced Technology Vehicles Manufacturing Incentive Program. This would provide help to the automobile manufacturing companies, but also to component companies, including those that are making batteries so they can get on with the construction of the plants needed and the modernization of the plants needed in that regard.

As far as advanced batteries are concerned, we believe we should have an interagency task force that develops a roadmap for advanced battery development.

We have a proposal with regard to tire efficiency labeling, since we are told by experts that tire efficiency labeling is one of the areas that would improve vehicle fuel efficiency.

We have a proposal to require more energy efficient building codes throughout the country. Again, we believe that would be a step in the right direction.

And, of course, we also have some provisions that the administration has asked for with regard to the management of our own royalty on Federal leases. They have recommended that we repeal the mandatory Deep Water and Deep Gas Royalty Relief Act for Outer Continental Shelf leases in the Gulf of Mexico. We are suggesting that should be done as part of this amendment, and various other royalty management reforms that have also been recommended by the administration.

To sum up, what we are trying to do in the amendment is, we are trying to add to the bill responsible provisions that would help us address the other two factors, in addition to speculation and in addition to problems with additional investment in commodity markets that we think are impacting the price of gas. Taken together—the proposal Senator REID has made that is going to be voted on tomorrow and these provisions related to supply and related to demand reduction—taken together, we believe we would be taking a positive step on behalf of the American people to begin to moderate the price of gas at the pump.

I hope the amendment receives strong support. I hope we have the opportunity to offer it.

Mr. President, I ask unanimous consent to have a summary of the amendment I have been talking about printed in the RECORD following my statement.

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

SECTION-BY-SECTION SUMMARY OF THE DEMOCRATIC AMENDMENT TO THE SPECULATION BILL

Amends S. 3268 to add at the end of the bill the following:

TITLE II—OIL SUPPLY AND MANAGEMENT

Subtitle A—Diligent Development of Federal Oil and Gas Leases

Sec. 201.—Diligent Development of Federal Oil and Gas Leases.—Clarifies the requirement of existing law that all federal oil and gas leases require the lease holder to diligently develop in order to ensure timely production. Requires the Secretary to issue regulations that set forth the requirements and benchmarks for oil and gas development that will ensure diligent development and production from the lease during the initial lease term (to the maximum extent practicable). Lessees are required to submit a diligent development plan to the Secretary.

Sec. 202.—Diligent Development in the National Petroleum Reserve-Alaska.—Provides that leases shall be for a primary term of not less than 8 and not more than 10 years with a 5-year extension if drilling is taking place and so long thereafter as production is occurring. The Secretary must seek to maximize the timely production of oil and gas in setting the lease term for new leases. Repeals the provisions of the Energy Policy Act of 2005 that allowed lessees to renew their leases for up to 30 years. Sets the royalty rate at not less than $3.00 per acre and requires the Secretary to increase the royalty by not less than $1.00 per acre per year for new leases.

Sec. 203.—Length of Lease Terms.—Provides that new federal onshore oil and gas leases issued pursuant to the Mineral Leasing Act shall be for a primary term of not less than 5 years and not more than 10 years. The Secretary must seek to maximize the timely production of oil and gas in setting the lease term.

Sec. 204.—Rentals.—Sets rentals for nonproducing Federal onshore oil and gas leases issued after the date of enactment at $1.50 per acre and requires the Secretary to increase the rental by not less than $1.00 per acre per year. Requires the Secretary to set rentals for OCS leases at a rate determined by the Secretary to maximize the timely production of oil and gas and to increase the rents annually. The rents may be set at a rate that takes into account differences in development conditions.

Subtitle B—Acceleration of Leasing of Offshore Areas Not Subject to Moratoria

Sec. 211. Offshore Oil and Gas Leasing in Portion of the 181 Area Authorized to be Leased Under the Gulf of Mexico Energy Security Act.—Provides that the Secretary should offer for lease within 1 year after the date of enactment that portion of the 181 Area offered for lease in March 2008 pursuant to the Gulf of Mexico Energy Security Act but not leased.

Sec. 212. Acceleration of Lease Sales in Western and Central Gulf of Mexico.—Provides that the Secretary conduct an OCS lease sale every 6 months in the Western and Central Gulf of Mexico. Allows the Secretary to conduct sales less frequently if the Secretary determines it is not practicable to conduct the lease sale every 6 months and provides a report to Congress describing the reasons for holding the sales less frequently and certifying that holding the sales less frequently will not adversely affect production.

Sec. 213. Lease Sales for Areas Offshore Alaska.—Not later than 1 year after the date of enactment, the Secretary shall conduct a survey of oil and gas industry interest in oil and gas leasing and development in planning areas offshore Alaska that are not included in the 5-Year Plan for 2007–2012. In any such planning area where there is a high level of interest, the Secretary shall evaluate the oil and gas potential of the area, the environmental and natural values of the area, and the importance of the area for subsistence use. The Secretary shall provide a report to Congress within 2 years after the date of enactment containing the results of the survey and the evaluation. If the Secretary concludes that leasing should be pursued further in the planning area, the report shall describe the additional steps required by law and the timeframe for conducting a lease sale. The Secretary shall consult with the Governor of Alaska and provide an opportunity for public comment in preparing the report. The section does not modify any environmental or other law applicable to leasing and development on the OCS.

Subtitle C—Acceleration of Leasing and Development in the National Petroleum Reserve in Alaska.

Sec. 221. Acceleration of Lease Sales for National Petroleum Reserve in Alaska.—Provides that the Secretary accelerate environmentally responsible competitive leasing in the NPR-A to the maximum extent practicable, and conduct at least 1 lease sale each year. The Secretary shall comply with all applicable environmental laws.

Subtitle D—Strategic Petroleum Reserve

Sec. 231. Definitions.

Sec. 232. Modernization of the Strategic Petroleum Reserve.—Directs the Secretary to exchange 70 million barrels of light crude oil held in the SPR for 70 million barrels of heavy crude oil. The sale of light crude is to be completed within 180 days of enactment. The purchase of heavy oil is to begin more than 365 days after enactment, but within 5 years of enactment. The net proceeds generated by the exchange are to be dispersed to the Secretary of Health and Human Services to carry out the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981.

Sec. 233. Deferrals.—Encourages the Secretary to use his existing authority to grant any request to defer a scheduled delivery of petroleum to the SPR, if the deferral will result in a reduced cost for the oil acquisition, or increase the volume of oil delivered to the SPR.

Subtitle E—Resource Estimates

Sec. 241. Resource Estimates.—Requires Secretary of the Interior to collect and annually report to Congress information regarding resource estimates and federal acreage under oil and gas lease and available for leasing.

Subtitle F—Sense of Senate on Alaska Natural Gas Pipeline

Sec. 251. Sense of Senate on Alaska Natural Gas Pipeline.—Encourages all parties to work together to allow the Alaska Natural Gas Pipeline to move forward and to negotiate a project labor agreement.

Subtitle G—Roan Plateau Oil and Gas Leasing

Sec. 261. Short title.

Sec. 262. Findings and purpose.—Calls for the balanced development of energy resources on the Roan Plateau in a manner that minimizes environmental impact while increasing leasing revenues.

Sec. 263. Definitions.

Sec. 264. Special Protection Areas.—Designates certain special protection areas and requires the Secretary of the Interior to manage them in a manner that prevents irreparable damage.

Sec. 265. Phased Mineral Leasing.—Authorizes the Secretary to issue mineral leases, except for the exploration or development of oil shale, within the Roan Plateau Planning Area. Provides for phased development of the Planning Area by prohibiting the Secretary from issuing mineral leases within more than one phased development area at a time.

Sec. 266. Selection of Subsequent Leasing Areas.—Provides for the selection of subsequent phased development areas once at least 90 percent of the recoverable natural gas has been recovered from previously selected areas and 99 percent of the ground disturbed in each previously selected area has been reclaimed.

Sec. 267. Federal Unitization Agreements.—Requires each lessee within the Planning Area to enter into a unitization agreement.

Sec. 268. Record of Decision.—Preserves the June 2007 and March 2008 records of decision.

Sec. 269. Conforming Amendments.—Makes leasing of Oil Shale Reserves 1 and 3 discretionary rather than mandatory and provides that leasing receipts will be deposited in the Treasury for use in accordance with the Mineral Leasing Act.

Subtitle H—Export of Refined Petroleum Products

Sec. 271. Export of Refined Petroleum Products.—Requires the President to report to Congress if net petroleum product exports to any country outside of North America exceed 1 percent of the total United States consumption of refined products for more than 7 days.

TITLE III—OIL DEMAND REDUCTION

Subtitle A—Oil Savings

Sec. 301. Findings.—Finds that dependence on foreign oil is one of the gravest threats to the national security and economy, and that the United States needs to wean itself from its addiction to oil.

Sec. 302. Policy on Reducing Oil Dependence.—Establishes the policy to reduce our dependence on oil.

Sec. 303. Oil Savings Plan.—Establishes an interagency task force to publish an action plan to reduce oil consumption by—2.5 million barrels per day during 2016; 7 million barrels per day during 2026; and 10 million barrels per day during 2030.

Subtitle B—Telework

Part I—Sec. 306. Incentive Programs for Reducing Petroleum Consumption.—Requires each federal agency to promote incentive programs to encourage federal employees and contractors to reduce petroleum usage through telecommuting, public transit, carpooling, and bicycling. Directs the Secretary of Energy to make grants to state and local governments to pay half the cost of carrying out state and local incentive programs to reduce petroleum usage. Authorizes the Secretary to pay the entire cost of local government incentive programs serving rural areas.

Part II—Telework Enhancement.—Requires the head of each executive federal agency to establish a telework policy and to provide an interactive telework training program for eligible employees. Requires the Office of Personnel Management to submit an annual report on telework programs. Extends the authority for travel expenses test programs.

Subtitle C—Public Transportation

Sec. 331. Energy Efficient Transit Grant Program.—Directs the Secretary of Transportation to establish a program for making grants to public transportation agencies to assist in reducing energy consumption or greenhouse gas emissions of their public transportation systems.

Sec. 332. Transit-Oriented Development Corridors Grant Program.—Directs the Secretary of Transportation to establish a program for making grants to public transportation agencies, metropolitan planning organizations, and other State or local government authorities to support planning and design of Transit-Oriented Development Corridors.

Sec. 333. Enhanced Transit Options.—Authorizes the Secretary of Transportation to make transit enhancement grants to public transit agencies to expedite construction of new transit projects, address maintenance backlogs, purchase rolling stock or buses, and continue or expand service to accommodate increased ridership.

Subtitle D—Sec. 336. Fuel Consumption Indicator Devices.—Requires the Secretary of Transportation to require, by model year 2012, that cars and light trucks be equipped with onboard electronic devices that provide

real-time and cumulative fuel economy data and signals drivers when inadequate tire pressure may be affecting fuel economy.

Subtitle E—Sec. 341. Vehicle-to-Grid Demonstration Program.—Directs the Secretary of Energy to carry out a demonstration program on integrating plug-in hybrids into the electricity grid.

Subtitle F—Sec. 346. Advanced Technology Vehicles Manufacturing Incentive Program.—Amends section 136 of the Energy Independence and Security Act of 2007 by directing the Secretary of the Treasury to transfer to the Secretary of Energy, without further appropriation, $200 million for each fiscal year from fiscal year 2009 through 2013 to pay for the cost of loans to automobile manufacturers and component suppliers for reequipping, expanding, or establishing manufacturing facilities in the United States to produce advanced technology vehicles and components.

Subtitle G—Advanced Batteries

Sec. 351. Definition of Advanced Battery.

Sec. 352. Advanced Battery Research and Development.—Directs the Secretary of Energy to expand and accelerate research and development efforts for advanced batteries and doubles the authorization levels in the energy competitiveness storage programs established under section 641 of the Energy Independence and Security Act of 2007.

Sec. 353. Advanced Battery Manufacturing and Technology Roadmap.—Directs the Director of the Office of Science and Technology Policy (in coordination with the Secretaries of Energy, Defense, and Commerce and the heads of other appropriate federal agencies) to develop a multiyear roadmap to develop advanced battery technologies and sustain domestic advanced battery manufacturing capabilities and supply chain.

Sec. 354. Sense of the Senate on Purchase of Plug-in Electric Drive Vehicles.—Expresses the Sense of the Senate that the Federal Government should increase the purchase of plug-in electric drive vehicles.

Subtitle H—Sec. 361. National Energy Efficient Driver Education Program.—Directs the Secretary of Transportation to develop and promote educational materials on optimizing fuel economy through driving and maintenance practices.

Subtitle I—Sec. 366. Oil and Gas Reserves Reporting Requirements.—Expresses the sense of the Senate that the Securities and Exchange Commission should accelerate the rulemaking process on oil and gas reserves reporting.

Subtitle J—Sec. 371. Tire Efficiency Consumer Information.—Accelerates from December 19, 2009 to March 19, 2009, the deadline for the Secretary of Transportation to publish rules establishing a consumer information program on the effect of tires on automobile fuel efficiency, safety, and durability.

Subtitle K—Sec. 376. Petroleum Use Reduction Technology Deployment.—Authorizes $50 million for each of 5 years for grants to local Clean Cities participants to promote the adoption and use of reduction technologies and practices.

Subtitle L—Sec. 381. Energy Efficient Building Codes.—Directs the Secretary of Energy to update national model building energy codes and standards at least every 3 years to achieve overall energy savings for commercial and residential buildings of at least 30 percent by 2015 and 50 percent by 2022.

Subtitle M—Sec. 386. Renewable Energy Pilot Project Offices.—Directs the Secretary of the Interior to designate one Bureau of Land Management field office in Arizona, California, New Mexico, Nevada, and Montana to serve as a Renewable Energy Pilot Project Office.

TITLE IV—ROYALTY REFORMS

Subtitle A—Royalty Relief Repeal.

Sec. 401. Repeals mandatory deep water and deep gas royalty relief for Outer Continental Shelf leases in the Gulf of Mexico.

Subtitle B—Royalty Reforms.

Sec. 411. Definitions. Makes conforming amendments to definitions contained in FOGRMA.

Sec. 412. Liability for Royalty Payments. Makes both lessees and their payor/designees liable for royalty payments, amending existing provisions that have made it difficult for the Secretary to collect royalties from all responsible parties.

Sec. 413. Interest. Eliminates the requirement that the Federal government pay interest on royalty over-payments submitted by industry.

Sec. 414. Obligation Period. Amends existing law to start the seven-year statute of limitations at the time any adjustment to royalty payments is made by responsible parties rather than when the payor submits its initial royalty report.

Sec. 415. Tolling Agreements and Subpoenas. Makes changes related to FOGRMA's existing tolling and subpoena provisions, to conform with section 412.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I wish to speak on the bill.

We are in an energy crisis. Don't let a 10 percent drop in oil prices fool you. We are in for a long battle with energy costs and America will need to step up if we want to keep driving our cars, flying our jets, and fueling our economy.

But this bill before us today isn't about lowering prices. it is about finding someone to blame so Americans don't blame the Democrats for failing to act in Congress.

Democrats need a scapegoat because under their watch America has become more addicted to oil than ever and gas prices have more than doubled. They don't want to solve your problems. They don't want to face the environmental lobbyists who don't care how much Americans pay for energy as long as it doesn't come from oil and coal. They want to find someone to blame. They have blamed oil companies, Republicans, the Middle East, and the military. Today it is energy speculators.

I say the time for scapegoats and politics is over. Americans don't want excuses or even someone to blame—Americans want solutions.

They want to be able to afford to drive their truck to work every day. They don't want to worry about turning on the air conditioner or how much it is going to cost to heat their homes this winter.

Back home in my State of Kentucky I have seen how much these prices are hurting families. I know many people who moved farther out into the suburbs to get a bigger yard and more for their real estate investment. Now those same people are stuck using $4.50 gasoline for their workday commute. Another community in eastern Kentucky is fighting to keep local bus service running to their senior center.

Many older Americans rely on bus and shuttle services to get out of their homes and are being cut off from their community services because of high prices. There are even places that have gone to a four-day school week to cut back on the cost of busing students.

These people want solutions for energy prices, not more politics.

The best way to address high prices is to get more fuel on the market. America has domestic energy resources that we only need to open up.

I have supported bills and amendments that would expand offshore drilling, start coal-to-liquid fuel production, encourage alternative sources of jet fuel, expand cellulosic biomass fuels, and many other issues. Facing these issues is what Congress should be working on.

For example, I think one part of our solution should be more offshore drilling. More domestic oil means less we have to buy from the Middle East, lower transportation costs, a more stable supply, and therefore lower prices. So why have the Democrats in Congress stopped us from acting on this one issue?

If it is because of the environment, I say we will make sure any new drilling is the cleanest and safest in the world. If it is because we are not sure what to do with the Federal revenue, I am ready to discuss it and develop a compromise. What is the problem with letting individual States choose whether or not to drill offshore? Even if it takes a decade to get to full production, we have to start somewhere.

Congress should at least have the debate and vote on the issue. But every time we try to address even one energy production issue, we are stopped in our tracks and blocked from offering amendments.

I am tired of watching this Democrat-led Congress do nothing. The energy crisis has gone on long enough. We can talk all day about who to blame and make up excuses, but that won't bring down energy prices.

Instead, we find ourselves discussing another bill that tries to blame someone rather than address the problems of domestic production and supply.

The other side is selling you a bill of goods when they say this legislation would impact energy prices. I hear they have a great deal for you on a bridge in Brooklyn too.

This bill will undermine legitimate hedging activities and threatens the liquidity of the commodities marketplace. Futures markets make it possible to buy and sell things at a specific price and date in the future. These markets allow participants to offset risk of price changes to those willing to take risks.

This legislation would also make us citizens subject to foreign rules and regulations related to energy trading. Understanding U.S. laws will not be enough, as energy traders will be required to consult with foreign boards of trade and will be subject to the regulations made by foreign governments.

This bill would also encourage traders to use foreign markets that do not

have as many regulations and take American jobs and business activity with them. But my principal concern with this bill is that it asks a Federal regulator, the CFTC, to wade into the marketplace and make a determination of what is and what is not legitimate trading activity.

Let me explain how this works. How many Americans stock up on an item when they see a good sale at the grocery store? I know I do. Or maybe some people wait to buy in bulk with buy one get one free coupons.

While we don't resell our groceries to someone else, this simple act of timing our purchases or varying how much and when we buy is similar to what traders do in the commodities markets.

Now imagine the Government used this same legislation to regulate grocery shopping that has been proposed for the energy markets. It would mean the Government would keep track of all your purchases and determine whether you were a legitimate or non legitimate grocery shopper. Do you want the government penalizing you if they feel you are overbuying a certain product?

Buy too many hot dogs in 1 month and the Government could impose limits on your purchases or keep you out of grocery stores altogether.

While this legislation isn't going to regulate grocery stores, this bill is the beginning of more government regulations that will limit your options. Maybe next Congress will regulate the precious metals market and determine that buying gold jewelry is a non legitimate purchase, penalizing Americans who want to buy jewelry. Or will the government say that collecting shotguns is a non legitimate purchase that increases the cost of shotguns, allowing it to limit sales to gun collectors?

Allowing the Government to over regulate any market is a recipe for disaster that puts Americans' freedom at risk.

In America, we are proud of our open markets and lack of government interference. We need the already established rules to stop illegal activities such as price manipulation and cornering markets, but we do not need new regulations that prohibit normal market activities, such as buying and selling commodities as an investment or as a price hedge.

I will support efforts to make the markets as transparent as possible. Information allows traders to most efficiently allocate resources and make sure prices actually reflect supply and demand. But I find it unreasonable to on the one hand say the market needs to be more transparent so it can work efficiently, and then on the other mandate new requirements and regulations that will clog the market and prevent it from working normally.

The bottom line is that this legislation will not bring down energy prices.

However, there is something Congress and America can do about prices—we can produce more of own energy. I strongly believe that America should use every resource it has to produce energy. Our dependence on Middle Eastern oil is worse than simply paying too much at the pump; it is a threat to national security. Every gallon of fuel we make from biomass, domestic oil and gas, and coal is a gallon of fuel we don't have to buy from the Middle East. It is just that simple.

We need a Manhattan Project for energy in America.

The greatest minds we have should be working on ways to produce alternative fuel, capture and use carbon emissions, produce clean electricity, and improve oil and gas production.

We should agree to take politics out of clean energy and ensure that government programs are technology and feedstock neutral. Too often I see tax incentives and programs that pick and choose what technology or process America should use.

To support all these alternative technologies, we need to change the way government spends money.

I think we should pick performance-based goals—like zero emission alternatives to oil—and let the marketplace decide the most efficient way to achieve it. If you can produce an environmentally sound transportation fuel, we should not care whether it comes from coal or switch grass.

If you can produce a megawatt of clean energy, we should not care if it comes from waste heat on a paper mill or from underground geothermal. By opening up our options, we will get more for the Government dollar and America will see results faster.

I believe the most important alternative fuel technology is coal-to-liquids. We are sitting on a huge coal reserve that we can turn into diesel for our trucks and aviation fuel for our planes. And our military can no longer rely on imported oil from the Middle East. The Air Force has tested this fuel, and it burns cooler and cleaner than conventional fuel. It has less pollution as well. And I know that with the right government incentives and carbon capture technology, we can make coal-to-liquid fuel with less greenhouse gases than oil-based fuels.

Kentucky coal can help bring down the price of oil, provide a secure fuel for our military, reduce pollution, and create jobs.

While new domestic production will go a long way to bring down prices, we should also think about conservation efforts. There are the simple things like turning off lights we don't use and more important measures like the increased fuel economy standards Congress passed. But there are other ways to reduce fuel use using technology. For example, we have a company in Kentucky that produces retrofit kits to reduce diesel fuel use while trucks are idling.

The answer to America's energy problems is more domestic production, clean technologies, and conservation. We have the resources and know-how to make clean energy, but for the last few decades our government regulations have held us back. We should not find more ways to over regulate our markets—we should vote now to open up domestic production and pursue promising alternative fuel technologies that will actually bring down the prices of oil and gas at the pump for the American people.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Florida is recognized.

Mr. MARTINEZ. Madam President, no issue at the present time is hitting Americans any harder than the high price of gasoline at the pump. American families are hurting.

For a variety of reasons, we are paying more for a gallon of gas and more to heat and cool our homes than ever before. There are a number of factors contributing to rising energy costs, such as a weak dollar and an incredible surge in demand from the developing world.

It is not entirely clear what the magnitude of the role is that speculators might be playing in this situation. For certain, speculation is not the major contributing factor for $4-a-gallon gas. Even so, we have a responsibility to ensure that speculators aren't doing something illegal or profiting at taxpayers' expense.

That is why I have joined 43 of my colleagues in introducing the Gas Price Reduction Act, which will put more cops on the beat at the CFTC to ensure there is no foul play occurring between those participating in the oil futures market and those investing in the oil market itself. This regulatory body needs more help so they can be more effective at their job and give the American people the kind of assurance and transparency they should have about the work of this trading environment.

This act also commissions a study to better examine and understand the influence these speculators have on the cost of oil.

We have heard much lately concerning speculators and what they may or may not be doing to influence the price of gas.

On July 21, Treasury Secretary Henry Paulson, Fed Chairman Ben Bernanke, SEC Chairman Chris Cox, and the Chairman of the CFTC stated in a signed letter:

> To date, the President's Working Group has not found valid evidence to suggest that high crude prices over the long term are a direct result of the speculation or systemic manipulation by traders.

That is a pretty strong statement coming from the people we trust in overseeing major parts of our economy—the Secretary of the Treasury, Chairman of the Fed, Chairman of the Securities and Exchange Commission, and Chairman of the Commodities Futures Trading Commission.

While I believe speculators are an area of concern, the bigger problem

stems from simple economics and the law of supply and demand. Our efforts should be focused on getting right to the heart of the matter by working to increase our Nation's energy supplies and reducing our demand. It is not enough to do one or just the other; we must do both. According to the International Energy Agency, global demand is 86 million barrels of oil per day and global supply is about 85.5 million barrels per day.

While Congress's record in increasing energy supplies has been scant as of late, we have made progress in recent years.

In 2006, I helped negotiate, with Senator NELSON, the opening of 8.3 million acres in the eastern Gulf of Mexico. This area is estimated to contain 5.8 trillion cubic feet of natural gas and 1.25 billion barrels of oil, and it is currently open and available for exploration. This area was denied until 2006. It is now open and available for exploration.

The Gas Price Reduction Act honors the compromise that was reached in 2006, protecting Florida's gulf coast, while empowering other States to explore for oil and gas if it is supported by the Governors and State legislature.

I believe increasing our Nation's domestic energy supply is perhaps the most critical component to lowering gas prices, and to overlook it would be grossly unwise. In addition to increasing our Nation's domestic supplies, I also believe we should have access to affordable alternatives.

Currently, Americans are paying a premium on Brazilian ethanol because we have a 50-cent-a-gallon tariff on Brazilian ethanol. If we mean what we say about offering cleaner, renewable alternatives to gasoline, I propose we eliminate this tariff. I plan to introduce an amendment that does just that.

The amendment I am proposing would repeal the 54-cent-a-gallon tariff on foreign ethanol that was extended for 2 years—December 31, 2010—under the recently passed 2008 farm bill.

The 2008 farm bill also extended the blenders credit for ethanol producers for 45 cents a gallon, which creates a trade barrier of 9 cents per gallon. Ethanol producers can also receive a small blenders tax credit of 10 cents a gallon if they produce less than 60 million gallons of ethanol per year.

My amendment helps to stop these protectionist policies and offers alternatives to hard-working Americans who are paying too much for gas.

On the other side of the equation, more must be done to reduce demand and promote conservation.

This Congress took a significant step by mandating CAFE energy standards in the Energy bill we passed in 2007, which was the largest increase in fuel economy standards in nearly 30 years. According to the Department of Transportation, these new fuel standards will save over 55 billion gallons of fuel and save American motorists more than $100 billion over time.

But that is not enough. These standards will go a long way in helping to increase fuel economy, but more must be done to foster the market for efficient energy alternatives and other breakthrough technologies.

One of the more promising technologies in this area is advanced batteries for plug-in hybrids. The Gas Price Reduction Act contains $500 million in research and development for advancements in plug-in technology and $250 million in direct loans for manufacturers who retool factories to produce plug-in batteries. It will help to make batteries in many of the current hybrids more affordable and longer lasting.

In the long term, I envision a market where renewable fuels are viable and available and drivers will have affordable alternatives to fossil fuels such as gasoline. My State of Florida has been a leader in helping to make this vision a reality. The State recently created the Florida Energy Systems Consortium, which brings together researchers and resources from State universities to develop renewable energies.

The University of Central Florida—a member of the consortium—recently announced it is receiving $8.75 million in grants to focus on how technology can make new and existing construction projects more energy efficient. In addition, with the help of $20 million from the State of Florida, the University of Florida is currently building the State's first biorefinery, which could produce clean cellulosic ethanol to power our cars.

As we continue to discuss the ongoing energy crisis, I urge my colleagues to consider the consequences of failing to offer viable solutions to the American people as they grow increasingly worried over dwindling energy supplies in America. Now is not the time for the politics of energy. It is not the time for us to look for one-upsmanship in the political game. It is time for us to act on a problem that is hurting American families throughout the State of Florida and throughout the United States.

We need to address this problem. We need to put us on a track of finding more and using less—a track that, where possible, is environmentally safe, where we can produce more domestic energy, while at the same time turning loose the energies of this Nation, the technology, to look for future opportunities for different blends of fuels, different types of automobiles, and other ways we can improve the efficiency of our fleet so that we can increase the opportunity for the American people to live in a world that is cleaner and in which they can afford to drive their kids to school and go to work. When we have alternative fuels available, they may not have to be totally dependent upon fossil fuels or imported oil.

I believe this is imperative, and it is an issue of national security proportions. We cannot continue to transfer our wealth overseas. We are transferring, year after year, $750 billion to countries that are not particularly our friends. Some of them, in fact, would be considered hostile to us. Nonetheless, we purchase oil from them because of our necessity; our need is too great.

The fact is, we know there is plenty of political opportunity on both sides of the aisle on this issue. The American people are focused on this, and the American people are saying: Please do something about this. Hear our cry for help.

I say that this is the time for bipartisan cooperation, for us to come together, Republicans and Democrats, put partisan interests aside, put American interests first, and look for ways to cooperate, work together, and do what is doable, do what can be done.

On five occasions, I have voted to open ANWR to oil exploration. Whether that is acceptable or not, let's come together and decide. I would be prepared to support that once again. If that is a deal-breaker, let's not go there. Let's look for those common-ground areas where we can agree and move forward with a comprehensive energy plan.

Let's not say we have done our job by simply looking at speculation as a scapegoat. We can deal with that and add transparency to it, but that is not an answer in and of itself.

We have to have a comprehensive approach that tackles the issue of supply, that tackles the issue of demand, where we have more oil available, where the supply is increased from domestic production, American production on America's lands and shores, and where we can also reduce our consumption, utilize less. That will make America a safer place. Then we can go home for this August break and face our citizens and let them know we did a job they sent us here to do; not to play politics but to get the job done for the American people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROWN. Madam President, I was in the House of Representatives for 14 years and have been in the Senate for a year and a half, as has the Presiding Officer. During that time, all of us have noticed when there is a spike in oil prices, as there has been obviously intermittently for decades in this country, we can always ascribe a spike in oil prices to one of several factors: either a major fire in a refinery or there might have been an outage on a pipeline somewhere in our country. It might have come from something such as Hurricane Katrina, some major natural disaster in our country that

caused a disruption of oil supplies, or it may have come from an international incident where there would be, again, a disruption in oil getting to our country, some major international incident. So it has either been a refinery fire, pipeline outage, a Katrina-type disaster or some interruption in foreign oil supplies coming to this country.

That is what it used to be. The huge increase in oil prices, the fact that since George Bush and DICK CHENEY came to the White House, two oilmen in the White House, oil has gone from $30 a barrel to quadruple that number, that gasoline prices have gone from roughly, I believe, no more than a couple dollars a gallon—less than that back then—to about double that now, that has been for different reasons. It is pretty clear, because there has not been a major outage of a pipeline, a refinery fire or a disruption because of a natural disaster or because of a foreign international incident, that something else has happened. That is why Senator REID's legislation is on the floor today because we know part of the reason for prices doing what they have done is certainly there has been more demand from China and India, but that does not account for the doubling and tripling of prices when, in fact, so much of this is about the issues of gaming the system by the oil industry, whether it is price fixing in some sort of way that the Justice Department should go after or mostly what this bill is about, speculation.

It is clear that kind of hanky-panky has gone on in the oil market. You don't have to look very far to figure that out, that it is not just a question of supply and demand.

The other factor compounding this—even though I hear my friends on the Republican side of the aisle talk about we need to do more drilling, and I am fine with that. But the fact is there are 68 million acres out there—2½ times the size of my State, the State of Ohio, 2½ times the number of acres of the State of Ohio—there are 68 million acres on which the oil companies have leases. Yet they are not drilling in most of those 68 million acres. If they are committed to producing more oil to bring prices down, they would begin drilling in far more of those acres than they talk about drilling in.

So why should we, again, in this institution, the Senate, and as I saw for years in the House, buckle to the oil industry? Why should big oil always have its way here? Why should Wall Street always have its way here? That is why Senator REID's bill on speculation is so important, empowering the Commodity Futures Trading Commission, empowering the Justice Department to go after the oil industry on price gouging.

It is clear we need a more aggressive Federal Government, a more aggressive administration. Again, we have had two oilmen in the White House. Look what happened in these 8 years to oil prices.

I beseech my colleagues to support Senator REID's speculation bill, and I beseech the President to be more aggressive with his Justice Department to go after the oil companies that are price gouging and to empower the Commodity Futures Trading Commission to go after Wall Street on some of this speculation. It is pretty clear that is the biggest reason for these price increases, and it is important the Federal Government get behind efforts to do all we can to rein in the cost of oil for truckers, for motorists, people who are getting squeezed and hurt so badly by these increasing oil prices.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HOUSING AND ECONOMIC RECOVERY ACT OF 2008

Mr. DODD. Madam President, I rise this afternoon to share with my colleagues the good news: that we are about to pass, I believe, after many weeks and months, numerous votes on countless amendments on the floor of this body, as well as efforts in the other Chamber, the Housing and Economic Recovery Act of 2008.

I am going to share some thoughts on where this is and what is included in this bill that passed the House yesterday and is pending as one of the matters that will be considered in the next 24 to 48 hours by this Chamber.

My first expression of gratitude goes to the majority leader, his staff, and others, along with the minority leader's staff, particularly those on the floor who have been very patient.

In the case of the majority leader, he has been far more patient but tremendously supportive of this effort. This has taken a long time and has gone through a lot of different processes over the last number of months to get to the point where we are today: on the brink of passing the most sweeping housing legislation in more than a generation, that will particularly focus on trying to keep people in their homes.

There are literally thousands every day who face the prospect of foreclosure. This legislation will not protect everyone, but it will make a difference in the case of thousands, as well as many of the provisions which I will address in a minute or so. But I begin by expressing my gratitude to those who made it possible for us to get to this point.

Again, the majority leader and his staff played a critical role. Senator SHELBY of Alabama, former chairman of the Banking Committee, today the ranking Republican of that committee—we would never have been able to succeed at what we achieved without him and his staff and the work he has done on the committee. We were able to mark up this bill several weeks ago and bring it to the floor of the Senate on a vote of 19 to 2, and that was because of the work of Senator SHELBY and others, along with, of course, the wonderful staff I have as part of the Democratic majority of that committee and as chairman of the committee. They worked well together. They spent countless hours. Last weekend alone, they were up until 2 o'clock, 3:30 in the morning trying to iron out details with ourselves and with the leaders in the House of Representatives. There are a lot of people who can claim credit for helping us get to this point. I wish to recognize them and I will continuously over the coming days as we move beyond this legislation.

But it is very important to know that people who never get a chance to speak in this Chamber but who put in the countless hours, the staff who work on these bills, work in our respective offices, work for the committees, do tremendous work on behalf of the American people. I, for one, am very grateful to all who made such a difference in bringing us to the point of stepping up and doing something about this economic crisis, which at its heart, of course, is the housing crisis, and behind all that is the foreclosure crisis.

I wish to share some views on what the bill does and why this moment is important beyond the specifics of this bill.

In my view, we should have and could have acted months ago on this legislation. Regrettably, there are still one or two Senators who are doing everything and anything they can to block this bipartisan legislation from going forward, delaying the kind of relief American homeowners, and so many others, desperately need to get our economy moving in the right direction.

Yesterday, the President of the United States agreed to sign this legislation. That was a reversal. Only a few days earlier they announced they would veto the bill. But yesterday they made the announcement they are going to accept this legislation and they are going to sign it into law.

Let me say how grateful I am to the President of the United States. We are of different political parties. We have different views on many issues. But I thank him. It takes a big person to recognize a mistake, in this case announcing a veto and then changing your mind and saying, in fact, this legislation deserves passage. I appreciate President Bush's willingness to come to that point of view and to make that announcement and to virtually, I hope, guarantee the adoption of this legislation and to begin working to make a difference in people's lives.

As many of my colleagues know, we are in the midst of the most serious economic crisis to face our Nation in many years. Certainly, the American people live it every day. They don't need to read the data; they live the data, whether they are losing their

jobs, losing their homes, watching the value of their stocks, their pensions, their 401(k)s. All are worth less today than they were even a few weeks ago. So the American people do not need a tutorial on whether things are tough out there. They are living it and their families are and they want to know whether their Government is doing anything about it to make a difference.

Income is stagnant, and for many people it is falling at precisely the time Americans are experiencing increasing costs in their daily lives. The source of wealth creation in this country has been damaged badly. Housing, which is a source of great wealth creation for many people, is losing value. Stocks, we know, have lost value. Bonds are losing value. These are the items upon which many Americans, through mutual funds and other vehicles, are able to increase their wealth, increase their security, prepare for their retirement, assist their children to achieve a higher education and to lead decent lives with a degree of happiness and hope that Americans ought to expect, living in this great country of ours. But all these items have been badly damaged over the last number of weeks and compound that loss of wealth creation with the fact that gasoline prices are going up, food costs are going up, health care costs are going up, and the cost of an education is going up. At the very time the source of wealth creation is going down, the cost of living is rising.

Unemployment numbers are also worrisome. In the month of May, we saw a one-half of 1 percent increase in unemployment. That is the largest single monthly increase in unemployment in 22 years in our Nation.

The root cause of all this—again, you don't need to know all this because you have been feeling it—the root cause of all this is the virtual collapse of the housing market that, in my view, did not have to happen. This did not have to occur. This is not a natural disaster. It is not a hurricane or a cyclone or a snowstorm. This is a problem that was created because the people responsible for being the cops over these institutions were not doing their job. As a result, we are in the mess we are in today.

I do not want to oversimplify it, but virtually that is what happened. The collapse was caused by what the Secretary of the Treasury has described as ''bad lending practices'' that were at best ignored and, in crucial respects, knowingly tolerated, if not encouraged, by Government officials over the last number of years. As a result, every single day in this country, Madam President, 8,000 to 9,000 of our fellow countrymen are entering into foreclosure. Home prices nationwide have dropped by the largest and most precipitous amounts since the Great Depression back in the 1930s. Tens of millions of Americans have watched their retirement savings, their pension funds, and the value of their homes fall by alarming amounts.

Madam President, I want to remind my colleagues that this legislation has proven time and time again to enjoy strong bipartisan support. Again, without the work of my partner in all of this, Senator SHELBY, we wouldn't have arrived at that remarkable result. But my colleagues who have been with us on all of this, those who have added their ideas to this legislation, who have brought thoughtful proposals and added comments as well as specific ideas, deserve a great deal of credit for this as well.

Shortly before we left for our July recess, this piece of legislation passed this Chamber by a vote of 79 to 16. Yesterday, in the House, the bill received a bipartisan vote of 272 to 152. It is time to take up this bill one last time and send it to the President for his signature.

Let me review for my colleagues, if I may, exactly what it is we are working so hard to achieve. The bill we are about to adopt, and that we have worked on for weeks and months, has a number of key elements, all of which have been supported by the strong bipartisan votes in this body. First, we have the HOPE for Homeowners Act, which we are told will help somewhere between 400,000 to in excess of 500,000 Americans keep their homes and avoid going into foreclosure.

My hope, Madam President, is that number will actually be larger than that. That is a low estimate but certainly an important one. These families were simply seeking the American dream of home ownership. Sadly, in case after case after case, they were led astray. They were steered into mortgages they couldn't afford, and the people who steered them into those mortgages knew it because they were going to make their money quickly, and then they were going to sell the mortgage, move on, and never be accountable. In my view, these people should be going to prison for what they did.

I know people say that is a harsh conclusion, but to knowingly lure someone into a financial arrangement you know they could never afford, and to know full well they would end up defaulting on or falling behind, to me, that behavior is reprehensible and people ought to be held accountable. I am speaking of those who knowingly engaged in a practice that caused so much harm in our country. These are cases where often the mortgage brokers and loan officers pretended to be trusted financial advisers but were exactly the opposite. They had no intention and were doing nothing when it came to advising and providing help to these borrowers at all.

In fact, we now know, according to the Wall Street Journal, over 60 percent of the people who were talked into subprime loans actually could have qualified for a conventional mortgage at far lower cost to them than what a subprime mortgage cost. Sixty percent of these people were lured into that category by people who knew they had an opportunity to qualify for something that would have cost them far less than they ended up paying.

Anyway, this part of our HOPE for Homeowners Act is a voluntary program that will help save these homes by forcing the lenders who chose to participate to take some losses. These are not bailouts. The borrowers will have to pledge at least 50 percent of all new equity and future appreciation in order to get the benefit of a new reduced mortgage at a fixed rate that they can afford to pay. So the lender takes a haircut. They are not going to get what they thought they were going to get, but they are not going to get zero; and the borrower gets to stay in his or her home. They are going to end up paying that insurance and also contributing a part of the equity that will increase over the years to compensate for this program.

There are many protections built into this program. Only homeowners will qualify; no speculators, only homeowners. No investors or speculators will be allowed to participate. Borrowers will have to show they cannot afford their current mortgages, and all loans will be underwritten at a level the borrower can afford to pay. New loans will be at 30-year fixed rate mortgages.

All of this is done at no cost to the taxpayer. In fact, over the next 10 years, the Congressional Budget Office tells us that the program will actually raise some $250 million for the Treasury of the United States. This provision, combined with the government-sponsored enterprises—Fannie Mae, Freddie Mac, the home loan banks—regulatory reform of this bill, passed the Banking Committee 19 to 2, as I mentioned earlier.

Now, let me put to rest, if I can, an issue that has been raised. I have just described what this will do for that borrower who is with that very distressed mortgage. I can hear someone out there listening to these remarks and saying: Well, Senator, I live next door, and I have a mortgage I would like to get reduced as well. Now, I am not at risk of losing my home because I have my job and, frankly, I got a mortgage at a time when my broker and my banker worked out an arrangement that I could afford to pay. But why is that neighbor of mine getting this deal and I am not? Is that fair?

That is a good question. Let me say to you, as a borrower, first of all, I want to keep that borrower, if I can, in a home. If you are in a similar problem, we want to do what we can to help you. But you don't want that neighbor of yours to go into foreclosure. If your neighbor goes into foreclosure, then the value of your home that day begins to decline dramatically. The last thing any neighbors want on a block is foreclosed properties. So for every 8,000 or 9,000 people who go into foreclosure today, as they will, there are 16,000 people who live next door to that foreclosed property. And when the value of

properties go down in a neighborhood, crime rates go up, and it just spirals further and further down.

So I hear what you are saying. But if you think carefully about how this actually helps you as well, by keeping that homeowner in that house, keeping up the value of your property, then everyone benefits. So to those out there who wonder why everyone is not going to get a new mortgage at a rate they can afford, the value of this program is to try to put a tourniquet, if you will, on the hemorrhaging that is going on. There are 1.5 million people who have lost their homes in the last year. It is predicted by some—Credit Suisse being one—that one out of every eight homes, if we don't act, will end up in foreclosure in the next 5 years. Obviously, that is an intolerable situation in our country.

So this legislation is designed to provide hope not only for the homeowners but hope for the neighborhoods and communities being so adversely affected by this present problem. We desperately need this legislation. And as I have said repeatedly, every day we wait, some 8,000 to 9,000 foreclosures are filed. In fact, the delays we have suffered over the last number of days have caused an awful lot of people whom we might have been able to help to find themselves without a home.

Remember, these aren't just numbers. I have been citing numbers to you—a million and a half, 8,000 to 9,000, and how this program would work. But for every one of these numbers there is a family. Just imagine tonight that you had to go home and tell your husband or your wife or your children: We are no longer going to live here. We can't afford to stay here. This has been our home, but we have to find some other place to live. I don't know of anyone who would like to come home carrying that message because someone lured them into a mortgage knowing full well they could never afford to pay the fully indexed price.

These numbers don't speak about the human tragedy and the cost beyond the financial implications. So the importance of this legislation goes to the heart of who we are as a people, that sense of optimism and confidence. That fulfillment of a dream—of owning a home and raising a family, living in a quiet, safe neighborhood—for many people is no longer going to be there because these foreclosures are occurring at such a rapid rate around our country.

In late June of this year, Census reported that the home ownership rate, after reaching an all-time high in 2005, has fallen to a little over 67 percent, the sharpest annual decline in 20 years. According to the New York Times, minorities, who are disproportionately likely to get subprime loans, are suffering especially badly. That is why this legislation is widely supported by community and civil rights groups, financial institutions, and others. They see a generation of wealth being lost as a result of this foreclosure crisis.

The Senate expressed its strong bipartisan support of the HOPE for Homeowners Act when it defeated an amendment that was offered to strip out this program entirely. To the credit of my colleagues, Democrats and Republicans, we voted 69 to 21 to keep this program a part of this bill.

I want to make people understand something. There is no miracle here. I am not suggesting to you that this is going to work perfectly. It is our best judgment that this voluntary program could make a difference, and my hope is it will.

The second part of the bill, Madam President, includes the FHA Modernization Act. This passed early in April of this year as part of the Foreclosure Prevention Act by a vote of 84 to 12. The provisions in the current bill are identical to that legislation that I authored earlier this year, with the exception that the loan limits have been increased in high-cost areas to a maximum of $625,000.

As the administration has repeatedly said, the modernization of the Federal Housing Administration will put it in a better position to keep future borrowers away from abusive subprime loans.

Thirdly, this legislation creates a strong, effective, world-class regulator for the housing government-sponsored enterprises—Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. These entities have kept the housing and conforming mortgage markets going while other capital markets have literally frozen. We need to make sure these crucial market players are appropriately capitalized, well regulated, and properly supervised so the American people can continue to depend on them to ensure that affordable mortgages will always be available. Recent losses at Fannie Mae and Freddie Mac speak to the urgency of this need, and the legislation before us accomplishes that goal.

In addition to the government-sponsored enterprise portion of this bill, we have created a new permanent affordable housing fund that will help finance the construction and preservation of affordable homes and apartments across this Nation. Again, the need for this is growing, especially as the foreclosure crisis is pushing more and more families into rental housing. Again, the Senate spoke forcefully in support of this program when an amendment was offered by a Senator in this body to strike that entire program. My colleagues, again Democrats and Republicans, voted 77 to 11 to keep this permanent affordable housing program.

The bill also includes $3.9 billion for community development block grant funds to help communities across the Nation revitalize neighborhoods that have been devastated by foreclosures. This provision has strong support from the Nation's mayors, community groups, religious organizations, housing groups, and civil rights organizations as well. Unfortunately, we can't stop every foreclosure, but these funds will help our communities deal with the fallout of this terrible problem and help stabilize and renew our hardest hit communities.

There are important sections of the legislation that help our Nation's veterans find and keep housing and provide them with housing counseling. We increase housing counseling money in this bill so we can help people avoid the scourge and trauma of losing their homes to foreclosure.

There are a number of important tax provisions, and I want to commend my friend and colleague from Montana, MAX BAUCUS, and Senator GRASSLEY of Iowa. The Finance Committee did a terrific job with this bill. They got rid of some onerous, and I think wrong, tax provisions that had been adopted earlier and included some wonderful provisions to help first-time home buyers, as well as to provide some assistance in the area of encouraging additional investments in our housing areas.

So I want to commend MAX BAUCUS and CHUCK GRASSLEY and members of the Finance Committee for the additions they have added to this bill that are going to make a significant difference.

Finally, the legislation includes important standby authority, which was requested by the Secretary of the Treasury, Hank Paulson. He worked all weekend, two weekends ago, with various other people to do what they could to figure out how not to lose the major investments in our government-sponsored enterprises, and he came up with this idea of standby authority. Now, it is unprecedented the authority he is asking for, but Hank Paulson impresses me as someone who has thought about this. He has spent a lifetime in the private sector and knows and understands these issues pretty well. And I know for a fact that he reached out to a lot of other people in the country as well, not of his own political persuasion but people he respects, and listened to them as they crafted this standby authority.

My colleagues have raised some very good questions about it. We had a long, almost 5-hour hearing on the Banking Committee last week where Hank Paulson and Ben Bernanke, the chairman of the Federal Reserve, and Christopher Cox of the SEC, sat there for 4½ hours and answered questions from 22 members of the Banking Committee about this proposal. And there are legitimate issues about it.

I see my friend from New Mexico here, the former chairman of the Budget Committee, and we asked questions that he would have asked in that committee, and I think we answered them as well as we could.

But I think Hank Paulson has it about right. This authority is going to be critical if we are going to encourage people to stay involved in this critically important area of liquidity to the

housing market. So I know my colleagues are concerned about this 18-month proposal, and that is how long it will last, but we will watch it carefully. Any authority that he would seek would be subject, of course, to the debt ceiling limit, which the Congress can impose at any point to slow this down. But the idea that the authority is there will give us, I think, the needed security that many global investors—and I want to point out they are global investors these institutions need in order to stabilize them at a critical time when there are significant jitters about whether these institutions can survive.

So, Madam President, this provision is one that was added by the Secretary of the Treasury, added by the administration, but Senator SHELBY and I believed it was worthy of inclusion in this bill, and that is why we included it.

In short, this is a good, balanced bill. In many ways it is almost landmark legislation. It has taken a long time to get here and unfortunately it took some bad news for us to build the support this bill needed. But we are where we are.

This bill is going to make a difference almost immediately. In fact, we are seeing a difference already in the markets around the country—and around the world, for that matter. This bill has very broad support, including from the Conference of Mayors, the League of Cities, the Mortgage Insurance Companies of America, the Leadership Conference on Civil Rights, the Mortgage Bankers Association of America, the Consumer Federation of America, the National Association of Homebuilders, NAACP, ACORN, the Financial Services Roundtable, and numerous other business, consumer, and civil rights organizations. In fact, I ask unanimous consent that a long list of these organizations be printed in the RECORD for my colleagues.

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

American Financial Services Association; National Governors Association; U.S. Conference of Mayors; Mayors Newsom (San Fran), Menino (Boston), Daley (Chicago); National Assoc of Counties; National Assoc of Local Housing Finance Agencies; National Assoc for County Community and Economic Development; National Community Development Association; National Council of State Housing Agencies; Manufactured Housing Institute; National Housing Trust Fund; Mortgage Insurance Companies of America and National Assoc of Mortgage Brokers.

National Association of Realtors; AARP; FM Policy Focus; NAACP; Mortgage Bankers Association; Conference of State Bank Supervisors; ACORN; Homeownership Preservation Foundation; Mission of Peace National Corp; Mon Valley Initiative; National Council of La Raza; National NeighborWorks Association and Council of State Community Development Agencies.

Mr. DODD. Madam President, I point this out because, as my colleagues will tell you, oftentimes we have one group of people for something and not another. But when you get the Financial Services Roundtable, the NAACP, the Consumer Federation of America, the League of Cities—you get some idea of what we have been able to put together, Senator SHELBY and I have, with this bill.

Is this a bill RICHARD SHELBY would write on his own? No. Is this one I would write on my own? Absolutely not. We do not do business like that here. There are 100 of us here, and we try to work together to fashion ideas that make sense, and that is what we have done with this critically important legislation.

I thank Senator SHELBY. I thank my colleagues, my Democratic colleagues on the Banking Committee—JACK REED, CHUCK SCHUMER, TIM JOHNSON, a long list of people who made a significant contribution to this bill. I thank my Republican colleagues on the committee as well; 8 out of 10 of my Republican colleagues on that committee have supported this effort and stayed with us through this long, arduous process, a process that did not have to last this long and should not have to last this long over the next several days. We could pass this bill in the next hour and send it to the President for his signature this afternoon. That is the kind of news I think the world is waiting for, both at home and around the globe—that the American Congress, Democrats and Republicans, contrary to the opinion people have of us, can actually sit down and work together and produce something for the American people.

That is what we have done with this bill. I thank my colleagues for it and I urge the adoption of this legislation when the moment occurs.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent that during the 30-minute block of time for our side 5 minutes be allocated to me, 12½ to Senator VITTER, and 12½ to Senator ENZI.

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

Mr. DOMENICI. Madam President, let me first ask that I be permitted to use 1 minute upfront that is not allocated to my 5 minutes.

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

Mr. DOMENICI. I say to my good friend before he leaves the floor how good it is to see you in action again. I think you probably feel you are back being a Senator. Remember the days when we, together, passed that one piece of legislation where we overrode the veto of President Clinton, when you were the chairman of the Democratic Party and we had a bill going here? It was the right bill; class action. Do you remember that one? It started us moving where that whole process was cleaned up. I regret to say, with the lawyers we were fighting with in our committees, one of them ended up in jail, I noticed recently. That was the fate he had. I saw that coming as he was conducting his law practice in the days we were investigating class action litigation.

I wanted to say what a pleasure it was then. I know from what you are saying that you have had a lot of opportunity to debate, share ideas, work with other Senators, and I think that is what makes the Senate great. I compliment you for it.

Mr. DODD. I thank the Senator very much.

Mr. DOMENICI. Madam President, it is obvious I just finished telling the good Senator how we work together to make good laws when we have important issues. I also want to say, in the year 2005 we passed an Energy Policy Act. The Senate took 19 rollcall votes on amendments and agreed to 57 of them. Last year on the Energy Independence and Security Act we took 16 rollcall votes on amendments and agreed to 49.

We can look back further, if you would like to, to the successful legislation on the Clean Air Act of 1990. I was here. I was working on it. The Senate acted upon 131 amendments and took well over 3 weeks here on the floor of the Senate.

Let me say to my fellow Senators, that is not what is happening today. Today an issue just as important, as I view it, as important as any of the legislation I talked about—any legislation that my good friend from Connecticut talked about here on the floor, any legislation that we have considered in the field of energy—is before us today during a critical time, a time more critical than at any other time we were considering energy legislation that I have alluded to, and a couple of other times that are similar.

What did we do then? We had time for important legislation and we must have time for this, for the one who is saying: What are you going to do to the offshore inventories of American oil and gas that are locked up that we cannot use and have not used for 20 to 27 years and now they are there, ready to help the American people? The price of gasoline must come down and that is one way to do it. We have to open the reserves that belong to the people.

It is interesting the distinguished Senator from Connecticut could talk about working together and how that has taken place in this important housing bill. It is important that we understand how we did the previous Energy bills. But here today, let it be known that bill which the American people have been wanting us to vote on, wanting us to do something about—that is to open up these reserves that belong to the people and see how much that might affect the price of gasoline—we cannot get a vote unless we do what the majority leader wants us to do. One person, the majority leader, decides whether we can have an amendment, what it will say, what it will be about.

It is completely different than the way we have discussed here for the last

5 minutes, the way legislation takes place here in the Senate. Remember what has happened in this bill. You can throw away all the words and look at where are we today.

There is a bill pending that the Democratic leader brought to the floor on the subject matter of whether there is speculation going on that affects the price of crude oil in a bad way, with bad conduct on the part of those who are participating. He brought a bill down to cure that. We have been told that is a small part of the problem. But the big part of the problem is supply and demand. We, the Republicans—joined by some Democrats, I am sure, if we ever had a chance to do it—are addressing the issue of supply and demand. That is the big issue. That is the issue that might indeed make some Americans smile instead of being so worried about their future because of the price of gasoline and what it is doing to them and to the American economy. We must have the right to freely amend that bill until we come to a consensus. That is how we get things done. But, remember, plain and simple, no matter what is said, we cannot do that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. That is because the majority leader has precluded us procedurally from doing anything other than what he wants, what he will let us do. We cannot act the way the Senate should act on important issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I too rise to talk about the single most important issue, bar none, facing American families—gasoline prices, energy. Again let me restate the obvious. This is the single most important issue facing all Louisiana families I represent, facing American families across the country. In that context, for families who struggle every week, particularly when they go to the gas station to fill up, particularly as they try to take family vacations in the summers or they struggle with their basic needs of commuting to work—those folks in ag, or transportation, doubly hit with diesel costs—we need to act, not talk but act in a meaningful way on this issue.

Let me first congratulate the majority leader. He has finally allowed a bill on the floor which at least touches on this issue. He has a bill before the Senate right now, the issue on the floor, that deals with speculation in energy, particularly oil and gas. That is an issue we should address head on and I applaud that.

But there is a big problem with how he has gone about running the Senate in this instance; that is, he has not allowed any meaningful amendment to that bill so that we can have an open debate and open amendment process about gasoline and energy.

Again, I am happy to look at the speculation issue and act on the speculation issue. I support provisions that do that. But I do not know a single American who thinks that is nearly enough, that it addresses the bulk of the issue, that we should not move on to other crucial issues revolving around supply and demand.

Like virtually every Member of this body, I have introduced significant amendments that go to the heart of the matter, that impact supply and demand, that try to make us use less, bring down demand, conserve more, have greater fuel efficiency standards, new technology. But that would also have us find more right here at home. We have those resources here. Yet because of the ground rules laid down by the distinguished majority leader, we are not being allowed to call up any of those amendments, have that open debate, consider my ideas or the ideas of the 99 other Senators on both sides of the aisle. I urge the majority leader to abandon that approach and to get back to the best traditions of the Senate—open debate and an open amendment process. Specifically, in that vein:

I ask unanimous consent that the Senate consider S. 3268 in the following manner: that the bill be subject to energy-related amendments only and that amendments be considered in an alternating manner between the two sides of the aisle. I further ask unanimous consent that the bill remaining be the pending business to the exclusion of all other business other than privileged matters or items agreed to jointly by the two leaders.

I ask unanimous consent that the first seven amendments to be offered on the Republican side of the aisle by either the Republican leader or his designee be the following: an Outer Continental Shelf amendment, including a conservation provision; an oil shale amendment, including a conservation provision; an Alaska energy production amendment, including a conservation provision; the Gas Price Reduction Act, which has 44 cosponsors, myself included; a clean nuclear energy amendment; a coal-to-liquid fuel amendment, including a conservation provision; and a LIHEAP amendment.

The PRESIDING OFFICER. In my capacity as Senator, I object.

Mr. VITTER. Madam President, I am obviously not surprised, but I continue to be disappointed. Gasoline prices—energy—are the single greatest challenge facing every Louisiana family. I know they are the greatest challenge facing Missouri families and families all across this country. Yet we are not acting on what most concerns folks about our collective future, our economic future, the future for our families. We must act.

The American people have a lot of sound common sense and they know there is no single answer, there is no silver bullet, there is not one thing that does everything, there is not one thing that can stabilize and immediately lower gasoline prices.

They know we need to do a number of things. Most of the American people, like me, are perfectly willing to look at speculation and act on that issue. I support provisions to do that. But the American people also want to look at supply and demand. They want to decrease demand through conservation, through greater efficiency, through new technology, but they also want to increase supply, including finding more energy right here at home.

That includes a lot of oil and gas resources we have right here at home that we need for the short term and medium term. We need to do a number of these different things.

As I mentioned, I have introduced seven specific amendments. My amendments do a number of different things, both on the demand side and on the supply side, because we need to act on both sides of the equation. But, again, the ground rules the majority leader has established shut all that out so far. I certainly hope he reconsiders and changes those ground rules.

Those ground rules are offensive, quite frankly, to the traditions of the Senate. I came from the House. When I did, I heard the Senate was fundamentally different from the House; that the Senate was about open debate and open amendments and not controlled with limited debate and limited amendments such as the House.

Well, I found out the Senate, under this leadership, is different from the House. In the House we had a handful of amendments on every bill. In the Senate, we are even denied that. That is not the tradition of the Senate, and it is not how we have acted in the Senate on energy legislation in the recent past.

The last two times we considered energy legislation were in 2007 and in 2O05. In 2007, when the price at the pump, by the way, was about $3 a gallon, we spent 3 whole weeks on the bill, on the issue on the floor of the Senate, 3 weeks, nothing but that.

We had rollcall votes on 16 amendments. We had 22 rollcall votes total. We adopted a total of 49 amendments because several of those amendments were accepted without a vote. There were a total of 331 amendments proposed. That is when gas was $3 a gallon.

A little further back, 2005, we also considered energy. By the way, at that time, gas was $2.26 a gallon. We spent 2 whole weeks on the Senate floor, 2 entire weeks focused on nothing other than that, even though the price was almost $2 per gallon less than it is now.

We had 19 rollcall votes on amendments; 23 total rollcall votes on the bill. We adopted 57 amendments and 235 were proposed. That is serious legislating on a serious issue.

Yet has energy gotten less serious since then or more? Well, you can track that with the price at the pump. It has gone from $2.26 during that first debate, to $3.06 during the second debate, to $4, at least, now. The issue is more important than ever and merits our attention more than ever and merits a serious response more than ever.

That means real time on the floor and—more than time obviously—the ability to have an open amendment process and to consider serious, substantive legislative proposals.

Again, I have seven amendments offered. They attack both the demand side, to lower demand, and also the supply side, to increase supply, including in the short and medium term.

We need to attack both sides of the equation. We need to do both those things. But, fundamentally, we need to act. The American people are sick and tired of our never acting on issues that are important to their lives, never taking up what hits them in the pocketbook, what their families are concerned about, what threatens their future.

UNANIMOUS-CONSENT REQUEST S. 3248

So we need to act. So in that vein, I again urge us to act. I ask unanimous consent that the Senate consider S. 3248, in the following manner: that the bill be subject to energy-related amendments only; that amendments be considered in an alternating fair manner between the two sides of the aisle.

I ask further unanimous consent that the bill remain the pending business, to the exclusion of all other business other than privileged matters or items agreed to jointly by the two leaders.

I ask further unanimous consent that the first seven amendments to be offered on the Republican side of the aisle by either the Republican leader or his designee be the following:

An Outer Continental Shelf amendment, including a conservation provision; an oil shale amendment, including a conservation provision; an Alaska energy production amendment, including a conservation provision; the Gas Price Reduction Act, which has 44 cosponsors, including myself; a clean nuclear energy amendment; a coal-to-liquid fuel amendment, including a conservation provision; and a LIHEAP amendment.

The PRESIDING OFFICER. In my capacity as a Senator, I object.

The Senator's time has expired.

Mr. VITTER. I ask unanimous consent for an additional 30 seconds.

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

Mr. VITTER. Again, I am very disappointed—not surprised, very disappointed. The American people want action. The American people deserve action on what is the single greatest threat and issue in their lives right now.

I urge all of us to come together, not as Democrats or Republicans but as Americans, to act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I am disappointed to be here and to have to give this speech today. I am disappointed because I am, once again, on the Senate floor discussing the fact that the majority leader has decided to use the Senate parliamentary tactic to stop members from offering amendments and to close off debate.

We are going to spend until tomorrow morning or whatever time tomorrow we decide to have another vote on another cloture motion doing nothing. While we can raise issues, we cannot get any votes on any issues. This is all valuable time that we could be voting on issues for the American people, issues that would actually solve some of the gas price problems I hear about all over Wyoming and all over the country. It is the No. 1 concern in this country right now.

The majority leader has a rain delay that has put a halt to this match, but this game will get played. We will debate alternative energy, finding more oil on American soil, deep sea exploration, nuclear energy, oil shale. You cannot stop us forever because the American people have told us the most important issue on their mind is the issue of energy.

The majority leader has told the world's most deliberative body we cannot have a real debate about this issue. But the American people are telling him something else. Hopefully, soon he will listen. It is no wonder Congress has an approval rating that is less than 10 percent.

Rather than working on the issues that are important to our constituents, we continue to play ''gotcha'' politics. It is not getting us anywhere. It is certainly not improving our Nation's energy situation. This brand of nonlegislating that the majority continues to peddle is not making a gallon of gas cheaper.

When will the leaders let us put real proposals on the table? This body will take some and this body will leave some, but we should be taking action. What we have now is not action, it is acting, acting in the dramatic sense. We evidently think that if we can place blame on speculators and get a vote on that and be done, we can check that box off and say that we took care of energy for America. Americans are smarter than that.

The majority leader is preventing a vote on an amendment that would increase production on the Outer Continental Shelf. We cannot vote on an amendment that will allow for more production of diesel fuel from our Nation's most abundant energy source, coal. We cannot vote on extending the wind production tax credit. We cannot vote on extending tax credits for solar energy.

The majority leader has said we need to get an agreement on amendments. Our side has agreed we need to work on energy amendments because this is an energy debate. We have been willing to put aside all the other kinds of amendments. But, no, that is not enough. We want to be able to read each of them and decide whether they are meritorious before they are put on the table.

I am not sure why that is the case. It does not match up with our historical energy debates or, for that matter, any of our debates.

The Senate considered the Energy Independence and Security Act last year. At that time, gas was $3.06 a gallon. I talked a little bit about that bill because I called it the anti-energy bill and said there was not anything in that that was going to bring down the price of gas. Obviously, I was right. The price is up another dollar from that. But even on that one, there were 331 amendments that were filed. Of those, 49 amendments were agreed to, and 16 amendments received rollcall votes.

The Senate considered the Energy Policy Act of 2005, that is the previous bill to the anti-energy bill. Gas was $2.26 a gallon then. There were 235 amendments that were filed and, of those, 57 amendments were agreed to and 19 amendments received rollcall votes.

The crisis is even greater now. So there ought to be amendments being debated, considered. We should not have the parliamentary tactic that keeps us from doing amendments.

Anytime a bill comes in here, and it is a take-it-or-leave-it proposition, this body leaves it. So if you want to get something done, want to be able to check off the box, we need to be able to do some amendments.

Now, not only were both those bills fully amendable but both received significant floor consideration. We spent 15 days on the floor on one of them and 10 days on the other. Why? Because they are serious issues that deserve serious debate. We wanted to make sure ideas from both sides were considered.

As I recall, both sides lost some. But that is how it works. I have an amendment that relates to State mineral royalties. That amendment would encourage States to allow for energy production on their land by giving them their fair share of mineral royalties. We are not going to get to consider that. There are a number of other amendments that I would support relating to energy development on the Outer Continental Shelf in the States that want energy production and only those States that want it.

I would support an amendment to improve our Nation's energy situation by accelerating the development of coal-to-liquid fuels. That could be coal to diesel and coal to jet fuel. Those are the most expensive fuels in the United States right now. Those are the ones that have some great potential for decreased costs using our most abundant energy source.

We have more Btu's in coal—in fact, we have more Btu's in the clean coal in northeastern Wyoming than Saudi Arabia has in oil. It is an old technique from World War II, from converting that to, say, diesel, and also to convert it to jet fuel. Our military needs jet fuel. It can be done from coal.

Unfortunately, the majority leader has stopped me from doing so by using parliamentarian tactics to cut off the debate. He has also stopped me from

voting against a number of bad ideas I am sure we would see. I will not have a chance to vote against lowering the speed limit to 55 miles an hour. Why is that a bad idea? It actually led to higher traffic fatalities.

When we were talking about eliminating the 55-mile-speed limit, the argument was, if we do that, the number of fatalities in the United States would go up. Well, we raised the speed limit. We went back to where it was before.

Do you know what. Traffic fatalities went down. In Wyoming, the reason they went down is we eliminated a lot of those single-car accidents from driving the huge distances across our State at very slow speeds.

My dad traveled on the road. He said: At 55 miles an hour, you could watch a flower come up, grow, bloom, and wither before you got by it. So he started reading while he drove. But it kept him awake. So he did not have one of those single-car accidents where you roll your car.

Now, believe it or not, I agree with the majority party on some steps we could make to help this country be more energy independent. Wind tax credits are one example. By restricting Senators' participation, stopping them from representing those who put them in office is not going to get us any further than an empty gas tank, and that is what this bill in its current form is.

The bill before us blames speculators for our energy situation. It might be worth taking a moment to discuss exactly what speculators do. We have turned that into a cuss word. Oil speculation is two people or companies or organizations guessing what the price will be in the months to come. One of those entities thinks the price will be higher in the months to come, and so they buy the commodity now. Another entity thinks the price will be lower, so they sell the commodity now. The one who is right will make money; the one who is wrong will not. You can't have this kind of a transaction without two people who believe the exact opposite. Both are speculators. Both think they can make money based on their knowledge of the world and the gas supply at the current time.

What kind of entities do this? An airline might think the price of oil will be higher in the months to come, and, to stabilize their fuel costs, they will purchase oil futures for the next couple of months. If the prices go up, they will have stabilized their fuel costs and saved money. If they go down, of course, it will cost them what they bid it at, and they will lose money compared to what they could have gotten it for. But in order for them to have that market, there has to be somebody willing to bet against them, willing to say: Yes, I think the price is going to go down, and I am going to make that differential. Those are speculators. Without the speculator part of the deal, the airline doesn't have a deal. The airline cannot lock in a price for what they are willing to pay to make sure they will know in the future what their costs are going to be. That is speculation.

The market is a place where you anticipate what the cost will be in the months to come so that you can have certainty for what you are going to pay. Sometimes you guess right and you are paying below market value. Sometimes your guess is wrong, and you end up paying more than market value. What is commonly ignored in the debate about oil speculators is that for every dollar made, a dollar is lost by someone who would be called a speculator but without whom the market doesn't work.

Oil is not the only commodity that is traded. We speculate on the price of wheat, pork bellies, gold and silver, cattle—a number of other things. Speculation allows producers and consumers of these products the opportunity to manage the risk they have on buying and selling products that don't have a set price. This helps prevent wild fluctuations of price each and every day. That keeps major market failures from happening.

Earlier this week, I spoke about how the majority leader's energy speculation bill could have significant unintended consequences for institutional investors accessing commodities, futures, and capital markets. Today, America's largest pension funds wrote to me stating their concern.

The American Benefits Council wrote:

The Council is very concerned that the serious implications of S. 3268 on retirement plan participants have not been sufficiently evaluated. We are concerned that legislation relating to energy policy could unintentionally harm the long-term security of American workers and families.

I ask unanimous consent to have the letter printed in the RECORD.

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

AMERICAN BENEFITS COUNCIL,
July 24, 2008.

Re: Adverse Retirement Plan Implications of Energy Speculation Legislation (S. 3268)

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

Hon. MICHAEL B. ENZI,
Ranking Minority Member, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

Hon. MAX BAUCUS,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

Hon. CHARLES E. GRASSLEY,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR CHAIRMEN KENNEDY AND BAUCUS AND RANKING MEMBERS ENZI AND GRASSLEY: I am writing today on behalf of the American Benefits Council to express concerns about the implications of S. 3268, the Stop Excessive Energy Speculation Act of 2008, on employer-sponsored retirement plans and the tens of millions of American workers and retirees who rely on these plans for their retirement security. The American Benefits Council (the ''Council'') is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

The Council is very concerned that the serious implications of S. 3268 on retirement plans and retirement plan participants have not been sufficiently evaluated. We are concerned that legislation relating to energy policy could unintentionally harm the long-term financial security of American workers and families.

Employer-sponsored retirement plans are long-term investors that invest in a wide range of asset classes in order to diversify plan investments and minimize the risk of large losses, both of which are central to employers' fiduciary obligations to act prudently and solely in the interest of plan participants. As you know, fiduciaries are subject to extremely demanding legal obligations under the Employee Retirement Income Security Act (ERISA) but have flexibility to select the investments that will allow them to carry out their mission of providing retirement benefits to employees. Commodities are one of the broad range of asset classes upon which fiduciaries rely. Specifically, commodities serve as a modest but important element of the investments held by employer-sponsored defined benefit pensions because commodity returns are uncorrelated with stocks and bonds and because they provide an important hedge against inflation. For the same reasons, commodities are used in many of the diversified ''single fund'' solutions (lifecycle funds, target retirement date funds) that have been developed to simplify investing for the tens of millions of Americans participating in defined contribution plans such as 401(k)s. These single fund solutions, which policymakers have encouraged through legislation and regulation, make investing easier while giving workers access to professionally managed, diversified portfolios.

The restrictions imposed on commodities investing under S. 3268 would greatly restrict the ability of employer-sponsored defined benefit and defined contribution plans to use this important asset class. The result will be less ability to diversify investments, manage investment volatility and be a buffer against inflation. Unfortunately, it is the employees and retirees who depend on employer retirement plans for their income in retirement who will ultimately suffer. We hope, with this in mind, that the implications for retirement plans and plan participants will be examined more fully before S. 3268 is considered further.

We sincerely appreciate your consideration of our views on this important matter. Please let us know if we can provide additional information or address any questions you may have.

Sincerely,

JAMES A. KLEIN,
President.

Mr. ENZI. I also ask unanimous consent to have an article on statistics on the 55-mile-an-hour speed limit printed in the RECORD.

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

[From the Wall Street Journal, July 24, 2008]

THE INSANITY OF DRIVE-55 LAWS

(By Stephen Moore)

It didn't seem possible that politicians could think up a sillier energy proposal than Barack Obama's windfall profits tax on oil companies, but Republican Sen. John Warner of Virginia has done just that.

Earlier this month, Mr. Warner suggested a return to the federal 55-mile-per-hour speed limit on America's highways, as a way to save on national gasoline consumption. ''I drive over 55 miles an hour, . . . sometimes 65,'' he said on the Senate floor. ''But I am willing to give up whatever advantage to me to drive at those speeds with the fervent hope that modest sacrifice on my part will help those people across this land . . . dealing with this financial crisis.''

Meanwhile, environmental groups across the country are also pushing a lower national speed limit to reduce greenhouse gas emissions. The notion here is that if people simply lift the pedal off the metal on the highways, they will help avert an environmental apocalypse.

Mr. Warner may be willing to drive slower to save gas. The vast majority of Americans surely are not. The original 55 mph speed-limit law, enacted in October 1974 after the OPEC oil embargo as a way to save energy, was probably the most despised and universally disobeyed law in America since Prohibition. In wide-open western states, driving at 70 mph or even 80 mph on miles upon miles of straight, flat, uncongested freeways is regarded as a God-given right. In the 1970s and '80s, the federal speed limit was a daily reminder of the intrusiveness of nanny-state regulation.

States were bullied into complying. If they didn't, they risked losing federal highway money—which came from the gas taxes paid in part by their own residents. The law—''double nickel,'' as it was called—was so hated in Montana that the state legislature passed a law capping speeding tickets at $5. In Wyoming, the highway patrol told speeders to hold on to the tickets they issued because they were good for the whole day.

In 1995, the newly ascendant Republican Congress repealed the 55 mph limit. Most states acted quickly to allow speeds of up to 65 mph or even 75 mph on their interstates, and for good reason. As an energy saving policy, the double nickel was a bust. The National Motorists Association reports that about 95% of American drivers regularly exceeded the federal speed limit. Does it make sense to resurrect a law that 19 out of every 20 Americans disobeyed?

In the first few years when the law was strictly enforced, according to the Congressional Research Service, gasoline consumption was reduced by about 167,000 barrels a day. But over time the law was increasingly ignored, and average speeds on the highway fell by only a few miles per hour. The National Research Council estimated in 1984 that Americans spent one billion additional hours a year in their cars because of the speed limit law.

Mr. Warner repeats the myth that a lower federal speed limit will increase traffic safety. Back in 1995, Naderite groups argued that repealing the 55 mph limit would lead to ''6,400 more deaths and millions more injuries'' each year. In reality, National Highway Traffic Safety Administration data reveal that in the decade after speed limits went up (1995-2005), traffic fatalities fell by 17%, injuries by 33%, and crashes by 38%. That's especially significant because in 1995 far fewer drivers were gabbing on their cell phones or text messaging while driving.

In a study for the Cato Institute in 1999, I compared the fatality rates in states that raised their speed limits to 70 mph or more (mostly in the South or West) with those that didn't (mostly in the Northeast). There was little difference in safety. Of the 31 states that raised their speed limits to 70 mph or more, only two (the Dakotas) experienced a slight increase in highway deaths. The evidence is overwhelming that traffic safety is based less on how fast the traffic is going than on the variability in speeds that people are driving. The granny who drives 20 mph below the pace of traffic on the freeway is often as much a safety menace as the 20-year-old hot rodder.

Retail gasoline stores report that Americans have already reduced their gas purchases by about 5% this year—presumably by driving less and buying more fuel-efficient cars. At $4.59 a gallon, motorists don't need to be lectured by politicians on the financial savings from cutting back. Those who want to stretch their dollars can drive 55 mph on their own (though they are well advised to stay in the right lane).

But many liberal and green do-gooders want the double nickel precisely because they want to force everyone to share in the sacrifice required. As an egalitarian friend once told me, he loves traffic jams because they are the ultimate form of democracy.

To the left, fairness means we all suffer equally together. In light of this alleged moral imperative, it doesn't matter if a lower speed limit means Americans would spend two billion extra hours on the road, or that, according to the Labor Department, assuming a $15 per hour average wage means the speed limit could cost the economy between $20 billion and $30 billion a year in lost output.

Calls for a 55 mph speed limit—and for that matter most other government energy conservation plans, such as urging people to ride a bus or a bicycle rather than driving a car—reflect a mindset that oil and gasoline are more valuable than human time.

But America is not running out of energy. We have potentially hundreds of years of oil and natural gas and coal supplies in America alone, if Congress would only let us drill for it. What is in short supply—the only truly finite resource, as the late economist Julian Simon taught us—is the time each of us spends on this earth. And most of us don't want to spend it sitting longer than we have to in traffic.

Mr. ENZI. I also have heard from other pension fund and institutional investor representatives that the provisions in the majority leader's bill have not been sufficiently vetted. Rather than pass a flawed bill on energy speculation, we should wait until we read the Commodity Futures Trading Commission's and the Interagency Task Force on Commodity Markets' report due out later this year. This issue is too important for us to act without all of the facts.

Few serious economists believe that this bill will do anything substantial to decrease energy prices. Warren Buffett, the Nation's wealthiest Democrat, doesn't think that it will make a difference. Neither does oilman T. Boone Pickens. Even the Federal Reserve Chairman, Ben Bernanke, believes that this bill will have little impact on the price of gasoline. And yet we are still prohibited from offering amendments. We are still prohibited from voting on amendments that will have a real impact on the price of gasoline.

It is unfortunate that the debate is turning out this way, because I agree that there should be more transparency in the market. That is why I am the cosponsor of a bill that allows for more oversight by the Commodities Futures Trading Commission. But in addition to that, the bill does something more. The Gas Price Reduction Act includes a provision to open up coastal waters in States where they want energy production. It ends the ban on the development of promising oil shale in Wyoming, Colorado, and Utah. At the same time it encourages increases in supply, it promotes the development of better technology so that we use less energy.

We should have the opportunity to vote on these proposals. We should have the opportunity to have a real debate on energy. Instead, we are going wrap up this debate and begin playing the blame game. It is disappointing that the Senate is working this way, and I hope we can stop playing politics and have a real debate in the near future. This issue is too important for the Senate to ignore.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. TESTER. Mr. President, I rise today to call on the Senate to pass commonsense legislation to lower gas prices. This week, possibly even today, the Senate will vote on legislation that would create more oversight on the financial markets that are helping to drive up the cost of oil. I hope my colleagues will join me in voting to pass it. It is the first step toward energy independence but certainly not the last.

In my State of Montana, folks are hurting. The average price of a gallon of gas is about $4.20. Diesel now costs on average $4.67 a gallon in the Big Sky State. My constituents need and deserve effective action from their national leaders to provide them with relief from this energy crisis.

Across Montana, desperate times are producing desperate measures. Driving to go to work or between cities is not a choice; it is a necessity. Snow is on the ground for a good part of the year. You need wheels to get around. Folks are paying with credit cards at the pump or getting second or third jobs to get by. They are canceling vacations, driving less, and buying smaller cars. But that is not enough.

The Senate must provide relief at the pump, and there is no silver bullet. It is going to take a few commonsense ideas and a lot of hard work to diversify our portfolio. I support a three-pronged plan: Crack down on energy speculators manipulating the marketplace for a quick buck; produce more fuel by drilling for oil where it makes sense and invest in renewable energy for the long term; also, encourage energy conservation—that is the low-hanging fruit—for long-term energy sustainability.

The Senate will soon vote on a commonsense plan to crack down on oil market speculators and hedgers who break the rules. We have seen these guys before with Enron and the housing bust, folks on Wall Street who manipulate the market and give themselves raises while gas prices are choking regular folks. It is time to put a stop to this unfair manipulation.

Let me be clear about two points. First, not all speculation is bad. Well-

regulated speculation can help markets set a fair price for a commodity. Unfortunately, under this administration, speculation and hedging have gotten way out of hand, driving up the price of oil to record heights and squeezing the American consumer as never before. When the price of oil skyrocketed this summer, it was not because of a sudden increase in demand, nor because OPEC suddenly decided to pump less. It was because of trading on Wall Street by folks who never intended to own a barrel of oil.

We owe to it every family struggling to meet rising gas bills, every farmer filling up his tractor, every trucker buying fuel to move product to make sure this trading is fair and on the level. Folks in Montana don't have a problem with anyone making a buck, but we do believe in the American dream. We will not put up with folks who game the system.

I call on my Senate colleagues, Democrats and Republicans alike, to join together and pass the Stop Excessive Energy Speculation Act. This bill will strengthen the Commodity Futures Trading Commission to crack down on Wall Street speculators in the oil market. More watchdogs, more transparency will stop people from gaming the system and artificially and unnecessarily driving up prices at the pump. We need this bill.

When it comes to getting control of high gas prices, this is only the beginning. Beyond speculation, we need to drill for oil in places that make sense right here in America, and production of renewable fuels must go hand in hand with drilling for more oil.

One of the places it makes sense to drill for oil is in the Bakken Formation in eastern Montana and North Dakota. The Bakken field is a place we will hear about again and again. New technology is allowing smaller producers to extract more oil. There is more than 4 billion barrels of oil in the Bakken field. It is hard work, but these are good jobs, and the salaries are good too. And they are right here at home. All you need is a strong back, a cattle stand, a good work ethic, and a clean record, and you can find jobs that start for as much as $25 an hour.

The Bakken field isn't the only place where drilling makes sense. Last week, the Interior Department finally opened 2 million acres in the Alaska National Petroleum Reserve, and it is about time. It is all part of the puzzle to free America from the grip of foreign oil and lower the price of gas at the pump.

However, anybody who tells you we can drill our way out of this problem is not shooting straight. Congress has been debating whether to extend tax credits for wind, solar, and other renewable energy sources, and we ought to stop extending the production tax credit on an annual basis. A long-term extension of these tax credits will really make a difference.

Over the long haul, we know we cannot simply drill our way out of this problem. We must invest in conservation and sustainable energy such as biofuels. It is all part of the puzzle to free America from the grip of foreign oil and lower prices of gas at the pump.

Earlier this summer, Congress passed the farm bill over the President's veto. That bill included hundreds of millions of dollars for advanced biofuels. The farm bill also contained a provision I was able to offer to encourage the production of camelina. Camelina is a crop that can be grown in Montana and other places and can be processed into biodiesel to run tractors, combines, farm equipment, and diesel engines. The byproduct of camelina makes a nutritious feed for livestock. Camelina truly is a win-win solution for renewable energy. We need to encourage more of these commonsense answers to our energy crisis.

Finally, conservation must play a significant role in solving our Nation's energy crisis. If we are ever going to free America from the grip of foreign oil, we must find real ways for consumers to use less fuel.

Last year, Congress increased auto fuel-efficiency standards for the first time in a generation. But it took 20 years of fighting, and eventually a Democratic Congress got it passed. Those new standards will save about 1.1 million barrels of oil a day by 2020, or about as much as produced by the State of Texas.

One hundred years ago, the Model T got 25 miles per gallon. Now a car gets 28 miles per gallon. Since that time, we have split the atom, sent a man to the Moon, developed computers, and mapped out the human genome. Yet we get the same fuel efficiency? Come on. That is not right. Conservation is the easiest and cheapest thing we can do to keep energy costs down.

Part of the energy tax package will help homeowners and businesses make those savings themselves. A partisan majority of the Senate supports this bill, but a small minority keeps us from getting it done.

The State of Montana recently announced an initiative to help citizens increase insulation in preparation for next winter's high heating bills.

These are all steps in the right direction, but we have more work to do to reduce energy consumption. The United States is the single largest consumer of energy in the world. We cannot continue on this unsustainable path. To do so would forfeit our national security to countries such as Russia, Venezuela, Nigeria, and Saudi Arabia. That would be a tragic legacy to leave to our children. We need a comprehensive approach to bring down the price of gas and address this energy crisis in the long term. We need to crack down on speculation and greedy hedging to manipulate the oil markets. We need to increase production of fossil fuels where it makes sense and develop renewables for the long haul, and we need innovative solutions to reduce our overall energy consumption.

Some people think the economic pressure on the middle class is all in their heads. We know better. Folks in Montana know this energy crisis is real and it is bad. The Senate must act now to pass constructive legislation to bring down the price of energy at the pump. It all starts with passage of the Stop Excessive Energy Speculation Act.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, as the Senate debates a bill that will stop out-of-control speculation in the energy commodity markets, I would like to make a brief statement on this legislation and why it is essential that we act on it.

For weeks now, the Senate has heard testimony from experts, even oil executives, who attribute the shocking increase in oil prices to the influence of oil speculators.

Here are a few examples:

The [oil] fundamentals are no problem. They are the same as they were when oil was selling for $60 a barrel, which is in itself quite a unique phenomenon.

That was from Jeroen van der Veer, Chief Executive Officer, Royal Dutch Shell, Washington Post Apr. 11, 2008.

$100 oil isn't justified by the physical demand in the market. It has to be speculation on the futures market that is fueling this.

That was from Clarence Cazalot Jr., Chief Executive Officer, Marathon Oil, October 2007.

The price of oil should be about $50–$55 per barrel.

That is from Stephen Simon, Exxon Mobil Senior Vice President, Senate Judiciary Committee April 1, 2008.

What has happened in our markets? Clearly, we are not suffering from a supply and demand problem. Something else is happening.

In 2000, about 37 percent of the oil futures market was comprised of speculators who include investment companies and investment banks as well as institutional investors, like pension funds. Eight years ago, 63 percent of the oil futures market was represented by companies that were hedging the price of oil because they need oil to function, for example, the airlines.

How has the market changed in the past 8 years? Seventy-one percent of the oil futures market is in the hands of speculators who rarely take control of the oil they are bidding on, and only 29 percent represent companies that use it for the purpose that most of us would agree it should be intended.

So we know speculation is growing when it comes to oil, and we know the transactions have gone up 600 percent in the last 8 or 10 years.

What allowed this to happen? The infamous ''Enron Loophole,'' which was slipped into must-pass legislation in late December of 2000.

This loophole allowed energy futures to be traded without Federal oversight. Various investigations of the Enron collapse have pointed to this loophole

as crucial to Enron's manipulation of the California energy market which provoked an energy crisis in the State in 2000 and 2001.

Last month, with passage of the farm bill, the Congress finally succeeded in bringing a measure of oversight and transparency to this market, requiring the Commodities Future Trading Commission, CFTC, to review all contracts to determine which ones should be regulated as though traded on a major public exchange.

While this was a step in the right direction, and the result of much thoughtful discussion and debate, the farm bill provision can be improved upon and strengthened. That is why I introduced a bill to shut down the unregulated oil futures markets created by the now-infamous ''Enron loophole.'' It also removes energy from the list of exempt commodities; requires energy to be traded on a regulated market; and creates a new definition of what constitutes an energy commodity.

Senator REID has introduced a leadership bill that reins in speculation by imposing position limits ensure that legitimate speculation doesn't get out of hand. It is a more complicated approach that leaves the door open for unregulated trading, but if it is done right, the approach taken by Senator REID can get us where we need to be. And I am interested in working with Senator REID to ensure that his bill gets at the problem.

I believe that some small but significant changes can significantly improve the bill. If our approach to dealing with excessive speculation is to impose speculation limits, then we must ensure that those limits actually operate as limits, not as loopholes.

U.S. speculators should not be able to circumvent speculation limits by trading on foreign exchanges, by setting up a subsidiary that would not be subject to the limits, or by trading both on and off regulated exchanges without aggregating the number of contracts so they count against the overall speculation limit set by the CFTC.

If we pass a bill that allows speculators to evade these limits, the bill's promise will remain unfulfilled, and we will have the worst of all worlds—a bill that purports to tamp down on speculation but fails to do so, and a bill that lets those who would dismiss the effect of excessive speculation on the price of oil say ''I told you so.''

My friends on the other side of the aisle, the editorial page of the Wall Street Journal and Wall Street financiers, call the effort to shut down excessive speculation misguided and say that the spiking price of the barrel of oil is just the market telling us that demand exceeds supply.

But ask yourself whether this makes sense. When the Saudis agreed to increase production, there was no drop in the price of oil. But the price of oil keeps spiraling, and while there is no evidence of dramatically increased demand, there is plenty of evidence that speculative money is pouring into the energy futures market.

The airlines, which hedge against increases in the price of jet fuel by participating in the energy futures market, are suffering. They are the legitimate hedgers who actually use the futures, and they are calling on us to take action against excessive speculation.

Meantime, the oil companies loudly will be claiming they need to drill in new areas off the coasts of Florida and California. They have a well financed campaign that says: Drill here; drill now; pay less. This is cruelly misleading and deceitful. Drilling everything we have in the waters below our coasts will do nothing to lower the price of gas.

If we open all our shores and give away billions in tourism, fishing, and all the economies of all the coastal States to boost oil production, the first drop of oil wouldn't be seen until the year 2017, and oil production would peak in the year 2030.

What could we get in the year 2030? We would get 200,000 barrels a day.

To put that number another way, as expressed by my colleague, Senator MENENDEZ yesterday, ''the amount of gas we could get from offshore drilling is equivalent to a few tablespoons per car per day.''

It is simply wrong to think that opening offshore drilling will lower gas prices.

Yet the public relations machine of big oil continues to churn out falsehoods. They insist they are trying to find new oil that might help bring down gas prices, but the money they spend on exploration is nothing compared with what they spend on stock buybacks and dividends.

This is good news for shareholders but offers no help to drivers to offset the high cost of fuel.

Yesterday the Associated Press reported the 5 biggest international oil companies plowed about 55 percent of the cash they made from their businesses into stock buybacks and dividends last year, up from 30 percent in 2000 and just 1 percent in 1993, according to Rice University's James A. Baker III Institute for Public Policy.

The percentage they spend to find new deposits of fossil fuels has remained flat for years, in the mid-single digits.

In the first 3 months of this year, ExxonMobil Corp., the world's biggest publicly traded oil company, shelled out $8.8 billion on stock buybacks alone, compared with $5.5 billion on exploration and other capital projects.

ConocoPhillips has already told investors that its stock buybacks for April to June of this year will come to about $2.5 billion, 9 times what it spent on exploration.

This leads me to the conclusion of one oil expert who said, ''If you're not spending your money finding and developing new oil, then there's no new oil.''

Senator REID has introduced a leadership bill that will rein in speculation. Over and over, the Congress has heard testimony that the question of supply and demand is not what is causing oil to be up at $130 a barrel, as I referred to earlier, statements by oil company executives that the price of a barrel of oil would be much less, given the normal vagaries of the market of supply and demand, even though there is a lot of demand out there in the world market. But as Senator REID pointed out, in the underlying bill that is before the Senate, it is the speculators, unregulated after the law was changed to deregulate the markets, where there are no controls on how much oil they can buy on futures contracts or whether they have to use that oil, who continue to speculate and drive up the price. That is what this underlying bill is trying to address. They should not be able to circumvent speculation limits by trading, for example, on foreign exchanges if those oil contracts are for America.

I see my colleague from Pennsylvania is here, and I want him to have the time to which he is entitled.

What is confronting us is an effort to get us off focusing on the problem with this mindless statement that is out there, put out by the oil companies—look at who is sponsoring the advertisements on TV and in the newspapers; it is the only companies—and it is that statement: Drill here, drill now, pay less.

Now, if we are going to solve this problem, we have to do a bunch of things. But just drilling is not going to solve it because if you do just that, it is going to be years and years before the fruits of that effort come in. In fact, it has been said over and over, there are 68 million acres under lease that have not been drilled. There are plenty more acres out in the Gulf of Mexico, without getting close to Florida, without getting over the line into the military mission area, where the largest testing and training area of the U.S. military in the world is, off the coast of Florida in the Gulf of Mexico. There is plenty. So we ought to drill.

But at the same time, let's go after what is causing these prices to go through the roof. Speculation is a big part of it. If you want to get down to it, let's strengthen the U.S. dollar against the world's other currencies, by getting our fiscal house in order and starting to balance the Federal budget. That would help a lot too.

So it is an extremely complicated issue that a simple slogan is not going to solve. That is what this debate is trying to bring into focus. The American people can see through the simplified slogans of ''drill here, drill now.'' We need to get to a real solution.

Mr. President, I see my colleague from Pennsylvania is in the Chamber, and I wish to yield the floor so we can hear from him.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I thank the Senator from Florida for making the important points he made on the question of energy and how difficult this challenge is for the country and that the sloganeering will not do it. He made a very compelling argument about that, which we need to hear in the Senate.

I wish to talk today for a few moments about the Low-Income Home Energy Assistance Program, known by the acronym LIHEAP—L-I-H-E-A-P.

For those who follow the Senate and watch or listen, you know we use a lot of acronyms. I know they can get a little tiresome. But this particular acronym stands for a program that works. There is no debate about that. There is no question about whether this program works. It has worked for years. It has support in both parties—not enough support, I don't think, on the other side of the aisle. I will get to that in a moment.

But when we talk about that acronym LIHEAP, the Low-Income Home Energy Assistance Program, we are talking about a program which this winter can literally mean—and will literally mean—life or death for some Americans. There is no drama and overstatement in that whatsoever because unless we do the right thing on LIHEAP this year, people are going to freeze to death. It is as simple as that.

I commend a lot of my colleagues: Senator SANDERS has been a stalwart on this issue, who has spoken on the floor and been a leading advocate; Senator JACK REED of Rhode Island, and so many other colleagues from the Northeast-Midwest coalition who have fought for increased energy assistance funding every year.

I am proud to be a cosponsor of the bill. It has a very simple title but very important: Warm in Winter and Cool in Summer Act. That is what the act is. The bill meets a critical and fundamental need by providing an additional $2.53 billion in Low-Income Home Energy Assistance Program assistance for this fiscal year.

It raises the funding to the fully authorized level of $5.1 billion. For Pennsylvania, that means that if this bill is passed, our State will get an additional—an additional—$210 million. If there is ever a time the people of our State will need it, it will be this winter. Similar to a lot of States in the Northeast, we have long winters. We have a lot of vulnerable people: the second highest population over the age of 65, a very large rural population that will be adversely impacted if we do not get help and extra money for LIHEAP.

We have in our State home energy assistance grants that help vulnerable people, the needy. Almost 33.5 percent of the grants help older citizens. Almost 30 percent of the grants help disabled Pennsylvanians. And 18.5 percent of the grants help young children.

These are people who need the help the most. They are vulnerable in the cold months that are just around the corner for all of America and for Pennsylvania. These are the people who made up the 1,000 who died of hypothermia in their homes between 1999 and 2002—1,000 people dying of hypothermia in just about 3 to 4 years. All of those deaths—every one of them—was preventable. LIHEAP is the cornerstone to providing assistance that keeps people healthy and safe.

LIHEAP is widely recognized as effective and successful, which is why the bill we are considering, and that I am a cosponsor of, is cosponsored by 49 Senators in total from both sides of the aisle. We still have some problems, which we will talk about later.

The bill is necessary because LIHEAP has been chronically underfunded—historically, at a rate of less than half the amount authorized.

For people out there who watch our discussions, we know it is easy to authorize. It is harder to make sure you appropriate what you authorize. This is one of those examples where the authorization looked real good, but the appropriation does not meet the authorization part of our legislation.

So the need has never been greater. We have all talked a lot about the struggle of working families who are forced to choose between the need for heat and the need to eat. But the situation has gotten much worse. This is not news to people who are living through this and struggling in the nightmare of foreclosure, the difficulty with watching wages flatten out, even as you are working harder, and your food prices are going up, your gasoline prices are going up, college tuition is going up, health care payments are going up. I could add more to that. Families are being forced to choose between heating and air-conditioning, food, medicine, gasoline, and mortgage payments—all those difficult choices that our families are making.

Today, 15.6 million American families are at least 30 days behind on paying their utility bills. In Pennsylvania, terminations of home utility services are up over 51 percent.

According to a USA Today article, one of our energy companies in Pennsylvania has disconnected 168 percent more—168 percent more—homes than at this time last year.

So we have a major challenge in our State. The good news is that in Pennsylvania we have had over 400,000 families—households, I should say, in Pennsylvania—that have received assistance from LIHEAP this year. But that is less than half of the 800,000 that are eligible. There are 800,000 households in our State that are eligible. So we are happy LIHEAP has done such a good job of helping 400,000 households, but we have a doubling of that to 800,000 that are, in fact, eligible.

For those receiving assistance in Pennsylvania, the average grant was $239, and it covered much less than a quarter of their need. So when people hear these big numbers, they will say: Oh, my goodness, the Federal Government wants to increase the Low-Income Home Energy Assistance Program by $2.5 billion. That sounds like a lot of money, doesn't it? Spread that out person by person. When it comes down to Pennsylvania, we are talking about assistance, at last count—this number is a few years old, but it is not much higher than this—of $239. So if we increase it by several billion nationally, that means individual Pennsylvanians will get some help, but they are not going to be getting hundreds and hundreds of dollars more. They are going to be getting more than that $239 or $250 or $260 in help. So it is not a lot when it comes to that person. But it means a lot to that individual person and their family.

Here is the scenario: In the dark of night, in the cold of winter, I do not want to have a Pennsylvanian or an American in their home freezing to death because a couple people in Washington did not think that $2.53 billion was the right way to spend money—when we have an administration which sent a budget here for 2009 which had $51 billion in tax cuts for people making over $1 million and up. So for anyone listening, if you are a millionaire, a multimillionaire or a billionaire or beyond that, this administration sent us a budget this year that gave that tiny sliver of America a $51 billion tax break.

Don't tell me we cannot afford a little bit of an increase for low-income home energy assistance, especially when older citizens are faced with the—''squeeze'' does not even begin to describe it—vice grip on their head, the nightmare of trying to pay for gasoline and food and oil in their tank, literally, to heat their homes. So we can afford this. Ten times over we can afford it.

I wish to conclude. When we have the situation of an older citizen or a young child who is living in a home that is not heated, or living without adequate nutrition, that child, as well as that older citizen, is harmed. The rate of growth and development are jeopardized. A child is sicker, they miss more school, and they do not do as well in class. A large percentage of LIHEAP energy assistance goes to not only older citizens but those with a disability. This is important because someone who is frail is more likely to be impacted by exposure if they are unable to pay to heat or cool their home.

So I hope we pass this legislation before we leave in August. Why should we wait? No one needs to have a crystal ball to know that in the cold months ahead of us, a lot of vulnerable people are going to be put at risk. So this is our chance to do something—not just to talk about it but to do something—that will provide immediate assistance to the most vulnerable in our society.

So I ask my colleagues to support the Warm in Winter and Cool in Summer Act, which will help our families.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, might I inquire of the Chair: It is my understanding now that the Republicans will have 30 minutes; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. INHOFE. All right. Mr. President, I am going to go ahead and take the first 15 minutes. Then, it is my understanding that the Senator from Georgia, Mr. CHAMBLISS, wants 5 minutes, and Senator CRAIG wants 10 minutes after that. I would like to lock that in with a UC.

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

ENERGY

Mr. INHOFE. Mr. President, I would like to draw the Senate's attention to an editorial in today's Wall Street Journal and particularly the first sentence. It says:

Nancy Pelosi, Harry Reid, and other liberal leaders on Capitol Hill are gripped by cold-sweat terror. If they permit a vote on offshore drilling, they know they will lose. . . .

The editorial goes on to point out what the Democrats' plan of action is for this problem: to cut off debate. We have been in session this week. We have held one vote. We are considering a bill relating to energy, but the Democrats are not allowing us to offer any amendments to find new sources of energy, when the editorial points out that at least 65 percent of America's recoverable oil and 40 percent of America's natural gas is under moratorium.

Mr. President, I ask unanimous consent that at the end of my remarks the editorial be printed in its entirety in the RECORD.

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

(See exhibit 1.)

Mr. INHOFE. What they are talking about are those areas where we have huge supplies that we can access, except we cannot do it because there are moratoria, such as exists right now in terms of the Rocky Mountain oil shale, with 2 trillion barrels; the Outer Continental Shelf, for which 85 percent of the Outer Continental Shelf is under an order that the Democrats have on there, so we are not able to explore, to produce, to drill in those areas. You hear the argument quite often that there are 68 million acres that could be explored right now and they are not doing it. They are not doing it for one reason, and that is because there is no oil there.

Throughout this week I have heard a number of my Democratic colleagues come to the floor and express their support for increased drilling. Apparently, this has all been some kind of misunderstanding. I have taken their consistent votes against increasing domestic production as being against new drilling. If we all agreed that new domestic production is part of what we need to do, then let's get on with some votes and get them underway.

My Web site is epw.senate.gov. EPW stands for Environment and Public Works. What I have done is gone back and gotten all of the votes we have had that would cause us—allow us to expand our supply in America in areas such as this. Right now on party lines they have been killed—killed by the Democratic Party. This is a problem. Somehow, the Democrats are trying to convince the American people that supply and demand is not alive and well in America. It is interesting that the other day in the newspaper, it was either an op-ed piece or it might have been on the editorial page of the Washington Post, they said even Congress is not going to be able to repeal the law of supply and demand.

The American people understand the need for new domestic production. Recent polling has shown 67 percent of the American people now support offshore drilling with only 18 percent opposed. Sixty-four percent believe that if offshore drilling is allowed, gas prices will go down. Well, that is a natural conclusion you can come to.

Another poll found that 81 percent of Americans support greater use of domestic energy sources. Both papers in my home State of Oklahoma have weighed in on this issue with recent editorials. The Tulsa World and the Oklahoman have weighed in, pointing to how new production can be done in an environmental manner. The Tulsa World wrote:

President George W. Bush made the correct decision when he lifted the White House's 18-year ban on offshore drilling . . . No one wants the environment damaged. This work could be done safely. It could be done over the long term only if Congress had the good sense to act.

The Oklahoman wrote—this is in Oklahoma City:

Democrats reacted to President Bush's lifting of an executive ban on offshore drilling by vowing to keep in place congressional prohibitions dating to the 1980s. The debate over energy policy just keeps getting better and better. For years the Democratic Party has blocked efforts to significantly increase production of America's sources of offshore oil and natural gas, citing potential dangers to beaches in California and Florida and dismissing any new oil finds as too far in the future to help U.S. energy needs. Both arguments have less persuasive steam with the current oil prices. Certainly, if drilling offshore had gotten underway a decade ago or more—instead of being stymied—Americans know it would be online now and helping to absorb some of the current price increase.

This is the interesting thing about it. We know what is happening in Prudhoe Bay. We know what the reserves are in ANWR. We know we have a pipeline. If we had a pipeline filled and if the President—at that time Bill Clinton—had not vetoed the bill that would have allowed us to go into ANWR.

New domestic production should happen and can be done in an environmentally appropriate way. No country on Earth has exploration technology as advanced and environmentally sound as ours. I have to say also that we are the only country—I can't think of another country, and I hope if someone has the name of a country that would be an exception—there is not another country in the world that doesn't exploit their own resources. Certainly, these resources alone are enough to make us totally independent of any foreign importation of oil and the prices would come down.

I have highlighted some of the amounts of domestic reserves previously, but I think it is important to continue to point to the amount of reserves in the United States. There they are, right there, and we have actually enumerated them for the purposes of the RECORD.

The potential energy development from the Rocky Mountain oil shale is truly massive with reports estimating up to 2 trillion barrels, but once again, Democrats are blocking development. The Consolidated Appropriations Act last year established a 1-year moratorium on the necessary funding to complete the final regulations for commercial leasing of oil shale.

Look at the size of this. We are talking about not 10 billion barrels we would find in ANWR, not 14 billion barrels as we see on the Outer Continental Shelf, but 2 trillion barrels. Without congressional action, a 1-year delay could end up lasting much longer and, like the Outer Continental Shelf appropriations moratorium, continue year after year.

The RAND Corporation estimates that as many as 1.1 trillion barrels are recoverable and at prices as low as $35 to $48 a barrel within the first 12 years of commercial scale production. At current rates of consumption, 1.1 trillion barrels equals more than 145 years of domestic supply. This number would nearly double assuming the Department of Energy's estimate of nearly 2 trillion potentially recoverable barrels. Finally, development is ongoing in the Canadian oil sands where proven reserves are about 179 billion barrels. We need to continue to do that. Right now, they are in jeopardy. Congressman WAXMAN has put on a prohibition in the Department of Defense using oil from those oil sands. If anyone were tempted to try to expand that so that no one else in the country could use it, that would be devastating. So that effort could be underway as we speak.

In an effort to hide their true record of blocking access to America's own resources, the Democrats are engaged in a campaign of shifting blame, claiming there are 68 million acres in America where oil and gas companies have the right to drill but are not drilling. Some 44 percent of the leases that have been

issued are already producing oil and gas, and energy companies are in the process of exploring the remaining leases to determine the energy potential of those lands. Unfortunately, when you get out there and you explore and you try to determine how much potential production is there, there are some places in the United States and anywhere in the world where there simply isn't any oil. This is the problem they have. We need to open the other 85 percent that currently we are unable to access to allow us to go after it. Again, we are talking about some 14 billion barrels that are out there.

We are presently considering a bill to impose new rules on speculating, claiming that speculators have been driving the price of oil to record highs. Even if speculators are having a negative effect on the price of fuels, I am concerned that the wrong congressional action could actually exacerbate the problem. Rhetoric on the impact of speculators simply lays the groundwork to once again implement price controls. Looking back to the 1970s, we now know that price controls lead to shortages, rationing, and long lines at gas stations. Over the last few days, the name of Boone Pickens has been invoked many times. When asked what he thought about the speculation, he recently said that:

Speculation doesn't have anything to do with it. You have 85 million barrels of oil available in the world and the demand is at 86.4. I don't think that guy over in China paying $140 for oil is blaming Wall Street speculators for what is happening to him. Everybody tries to place the blame. And the blame is our own lack of leadership over the last 40 years on energy.

Now, I have a list of quotes I am going to actually, if there is a little bit of time—I don't have time to read them, but a list of quotes from people who are the knowledgeable people in this country such as Walter Williams, the economist for George Mason University:

Congressional attacks on speculation do not alter the oil market's fundamental demand and supply conditions. What would lower the long-term price of oil is for Congress to permit exploration for the estimated billions upon billions of barrels.

The International Energy Agency says that:

Blaming speculation is an easy solution which avoids taking the necessary steps to improve supply-side access and investment.

So I ask unanimous consent that this list of economists be listed, along with their statements concerning speculation, at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. INHOFE. Republicans have consistently tried to do something about the high prices. One of the things that people don't think about is if we had all of the production, all of the crude oil, we would still have to refine it to use it. We have a real refinery crisis in this country. Right now we are looking at a situation where we would not be able to refine it with the refining capability we have.

I introduced 3 years ago the Gas Price Act which is something that would work very well. It actually took these closed military installations that were BRAC closed—Base Realignment and Closing Commission-closed installations—and allowed the surrounding communities to apply for EDA grants so they would be able to attract refineries. This would be a good idea because for one thing, those closed bases, you would not have to actually have a cleanup to playground standards, so the Federal Government has saved a lot of money by doing this. I don't think there is any justification in the world for people to oppose such an effort.

I have also introduced my Drive America On Natural Gas Act. This is something that is very significant, because this is something that is part of T. Boone Pickens' ideas. Let's keep in mind Boone Pickens said we need to drill everywhere. We have to drill and we have to keep on drilling, but we also need to explore all kinds of renewables. His idea is to release some of the natural gas so we can use it for compressed natural gas. The price today in my State of Oklahoma for compressed natural gas is 90 cents a gallon. Ninety cents a gallon. In some places it is as high as $2. Nonetheless, it does show that it is out there.

There are certain obstacles to being able to do what needs to be done in allowing the conversions. One is we have to effect the regulations of the EPA and the other one is we have to give the same benefit to natural gas as we do to other renewables. If we were able to do that, it would open it up very rapidly. In fact, yesterday, the Republican leader offered a unanimous consent request that seven Republican energy amendments be considered in order for consideration in this legislation, and this was one of those.

I don't want to take up more time right now because I want to yield 5 minutes to the Senator from Georgia, but I will only say this: You can stand on the floor and say over and over and over to the American people that supply and demand doesn't work; you can say that Democrats are not opposed to increasing the supply. Yet if you go to the Web site I suggested—epw.senate.gov—we have looked at every vote that has taken place since the middle 1990s, and in every case, every time we tried to increase the supply of petroleum products for America, whether it is drilling on the Outer Continental Shelf, ANWR, Rocky Mountain oil shales, or preserving Canadian oil sands, the Democrats, to the very last one, have voted against it.

We have to increase supply. We have to keep saying it. People understand it. Even some people with basic educations know that supply and demand is alive and well in America. It is just that we have too much demand and not enough supply. We have to open it.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, July 24, 2008]

DEMOCRATS AGAINST DRILLING

Nancy Pelosi, Harry Reid and other liberal leaders on Capitol Hill are gripped by cold-sweat terror. If they permit a vote on offshore drilling, they know they will lose when Blue Dogs and oil-patch Democrats defect to the GOP position of increasing domestic energy production. So the last failsafe is to shut down Congress.

Majority Leader Reid has decided that deliberation is too taxing for ''the world's greatest deliberative body.'' This week he cut off serious energy amendments to his antispeculation bill. Then Senate Appropriations baron Robert Byrd abruptly canceled a bill markup planned for today where Republicans intended to press the issue. Mr. Byrd's counterpart in the House, David Obey, is enforcing a similar lockdown. Speaker Pelosi says she won't allow even a debate before Congress's August recess begins in eight days.

She and Mr. Reid are cornered by substance. The upward pressure on oil prices is caused by rising world-wide consumption and limited growth in supplies. Yet at least 65% of America's undiscovered, recoverable oil, and 40% of its natural gas, is hostage to the Congressional drilling moratorium.

The Democratic leadership is trying to smother any awareness of their responsibility for high prices. They are also trying to quash a revolt among Democrats who realize that the country is still dependent on fossil fuels, no matter how loudly quasimystical environmentalists like Al Gore claim otherwise.

EXHIBIT 2

DEMS CITE SPECULATION STATS THAT DON'T MATCH THE FACTS

Sen. Harry Reid (D–NV): ''Academics, economists say that the costs of oil is 20% to 50% speculation.'' (Sen. Harry Reid, Remarks on the Senate Floor, 07/22/08

''ACADEMICS AND ECONOMISTS'' ACTUALLY SAY ''IT'S NOT SPECULATION, IT IS SUPPLY AND DEMAND''

Warren Buffett: ''It's not speculation, it is supply and demand. . . . We don't have excess capacity in the world anymore, and that's what you're seeing in oil prices.'' (Warren Buffett, Chairman & CEO, Berkshire Hathaway, 6/25/08)

Walter Lukken, Chairman of the Commodity Futures Trading Commission: ''We haven't evidence that speculators are broadly driving these prices.'' (''Hitting Rock: Dems Oblivious on Oil,'' Union Leader, 7/13/08)

Chairman Ben Bernanke: ''If financial speculation were pushing all prices above the level consistent with the fundamentals of supply and demand, we would expect inventories of crude oil and petroleum products to increase as supply rose and demand fell. But, in fact, available data on oil inventories shows notable declines over the past year.'' (Ben Bernanke, Chairman of the Federal Reserve, 7/15/2008)

Craig Pirrong, Member of the CFTC Energy Markets Advisory Committee: ''There's no evidence of speculative influence. Speculators are not contributing to the demand for physical oil as they almost always roll positions prior to delivery.'' (Craig Pirrong, Professor of Finance at the University Of Houston, Member, CFTC Energy Markets Advisory Committee, 6/24/08)

Walter Williams, Economist George Mason University: ''Congressional attacks on speculation do not alter the oil market's fundamental demand and supply conditions. What

would lower the long-term price of oil is for Congress to permit exploration for the estimated billions upon billions of barrels of oil domestically available, not to mention the estimated trillion-plus barrels of shale oil in Wyoming, Colorado and Utah.'' (Williams, Walter E. ''Scapegoating Speculators.'' The Washington Times 9 July 2008.) http://www.washingtontimes.com/news/2008/jul/10/scapegoating-speculators/

Paul Krugman, New York Times Columnist: ''On any given day, expectations determine the price; but the spot market also has to clear, and the way this happens is that excess supply must be added to physical stocks. Even with fairly inelastic supply and demand, any large speculative deviation from the ''fundamental'' price should show up in a noticeable increase in inventories.'' (Paul Krugman, New York Times columnist, 6/28/08)

International Energy Agency: ''There is little evidence that large investment flows into the futures market are causing an imbalance between supply and demand, and are therefore contributing to high oil prices . . . Blaming speculation is an easy solution which avoids taking the necessary steps to improve supply-side access and investment or to implement measures to improve energy efficiency.'' (International Energy Agency, Medium-Term Oil Market Report, July 2008)

Daniel Yergin, Chairman of Cambridge Energy Research Associates: ''When an issue is this hot, it would be so much easier if there was a single reason to blame . . . But calling it speculation is way too simplistic.'' (Daniel Yergin, Chairman, Cambridge Energy Research Associates)

John Chapman, American Enterprise Institute: ''The truth is that increased speculation in oil futures is not a cause of rising oil prices, but rather an effect of those prices, which have skyrocketed due to growth in global demand, geopolitical instability, and constricted supply in several producing countries. (John Chapman, Researcher at the American Enterprise Institute, 7/16/08)

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

Mr. CHAMBLISS. Mr. President, I thank my colleague from Oklahoma for yielding me part of his time. He certainly makes a very convincing case.

I rise to discuss the actions taken today by the Commodity Futures Trading Commission to combat manipulation in the futures market specifically relating to energy activity. At 11 o'clock this morning, the Acting Chairman of the Commodity Futures Trading Commission at a news conference announced that it was bringing an action against a hedge fund for manipulating and attempting to manipulate the crude oil, heating oil, and gasoline markets.

This proves that the CFTC is policing the market for suspicious activity. They are not sitting back and allowing traders to run wild, as some in Congress have suggested.

While this particular case is specific to manipulation, it only makes sense that the surveillance efforts used to identify this activity are also providing much needed additional data to the Commissioners for ongoing monitoring efforts to detect excessive speculation—the subject of much debate on the Senate floor. Unfortunately, some have even confused these two terms. I want to clarify this. Manipulation is illegal, while speculation is a normal occurrence in all of our futures markets. That said, the Commission has recognized that more information is necessary to ensure that speculation has not become excessive. I happen to agree with them. We do need more information in order to make an accurate assessment of the situation.

There have been many assertions made in the Senate not based on factual information. It is never a good idea to propose a solution for market conditions without carefully analyzing all of the facts. An uninformed solution, no matter how well-intentioned it is, can easily result in unintended counterproductive outcomes.

Many in this body have accused CFTC of timidly utilizing their regulatory enforcement authorities or only utilizing these authorities after extreme prompting from Congress. To the contrary, this particular civil enforcement action that was filed today in the U.S. District Court for the Southern District of New York was uncovered as part of an investigation initiated by the CFTC for offenses that took place in March 2007—long before some began blaming CFTC for the $4 gasoline.

Working proactively with the New York Mercantile Exchange, or NYMEX, the CFTC was able to uncover wrongdoing and ensure that violators of the Commodity Exchange Act are identified and brought to justice.

This particular case took place over an 11-day period. The New York Mercantile Exchange—as they have the authority to do and the information to carry out that authority—saw exactly what was happening in the early part of what was happening, and they followed it and immediately shut this hedge fund operator down. So this 11-day period in March 2007 occurred over a year ago. The ongoing investigation has taken a year to get it to where it is ready for prosecution.

Fortunately, the CFTC has been able to fulfill its regulatory oversight responsibilities in spite of being horribly underfunded. Today's announcement affirms the dedication and hard work exhibited by the CFTC.

Furthermore, we should not continue to hold up the confirmation of those—both Democrat and Republican—whom the President has nominated to carry out this very important regulatory task. The American people would be much better served with a fully seated Commission, a Senate-confirmed Chairman, and more regulatory oversight staff than by the baseless allegations made by some. If we are truly interested in a fully functioning regulatory body, let's provide the agency with these tools rather than wrongly condemning them for lack of enforcement.

I will close by simply saying that during the process of the passage of the recent farm bill, which passed overwhelmingly in this body, we took action relative to market regulation by closing the so-called Enron loophole, which allowed for some sales on the market to take place without the ability on the part of the regulators to get all of the information relative to those particular trades. In addition to allowing the market regulators to get the information, we also increased the penalty for a manipulation—just like the CFTC has filed this suit on today—from $100,000 per incident to $1 million per incident.

So we are in the process of giving the CFTC the tools it needs. We need to continue down that road. Let's don't destroy the markets. Here we are seeing a good example of how the tools in the hands of the regulators are being used in the appropriate way. When someone tries to take advantage of a system, the CFTC, as well as NYMEX, CME—all of the boards of trade—has the ability to stop this type of manipulation and prosecute wrongdoing.

With that, I yield the floor.

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

Mr. CRAIG. Mr. President, for the last 36 hours now, we in the Senate have been attempting to move forward on substantive policy that would produce more oil and bring it into our systems to offset and, hopefully, lower the price our consumers are paying at the pump. But nothing has happened. It is interesting, the majority leader says we don't have time to do it, and yet we have been here 36 hours doing nothing but talking when amendments could have been offered that might have been substantive as it relates to taking down the Federal moratorium that exists over many of these properties where we know there are known oil reserves.

I find it fascinating that this morning in the Wall Street Journal, an editorial speaks about Speaker PELOSI of the House and HARRY REID, our majority leader, and other liberal leaders on Capitol Hill being ''gripped by cold-sweat terror. If they permit a vote on offshore drilling, they know they will lose when Blue Dogs [Democrats that are more conservative over in the House] and oil-patch Democrats defect to the [Republican] position of increasing domestic energy production.''

What would be wrong with that? It would be an admission on the part of Democratic leaders that their position of the last 20 years to deny increased production, all in the name of environment and conservation, hasn't worked. They simply cannot let that dirty little secret out. Except there is one real problem: The American people are beginning to figure out that it didn't work. Why have we gone from 30 percent dependency in 1980 to 70 percent dependency today on someone other than a U.S. producer, something other than a U.S. reserve? The reason is because we quit producing.

The debate today, while it is embodied in S. 3268, called a speculation bill, is really about production. Republicans have simply said: Allow us to

amend that. Allow us to bring to the floor amendments that would, by potential of opportunity, produce increased production.

I wish to talk about one of those amendments that deal with offshore drilling.

Several years ago, I introduced a term that is now being used by many, called the ''no zone.'' By that, I simply meant that of these areas around the coast, shown on this map here of the United States, where we have geographical authority—meaning our territorial water—in which we are denied the right to go and explore because of a political decision, because of policy made out of politics, not substance, we believe that within those areas there are literally billions of barrels of oil. We don't know that for sure. We only know that, based on old geological surveys, there is a great potential. We do know that where we were allowed to drill down in the gulf, that is where a majority of our current oil supplies are coming from, even in the deep water. But on the coast of California, Oregon, and Washington, and off the coast of Florida, the Carolinas, Georgia, North Carolina, and Virginia, it is: No, heck no. The politics won't let us go there. So we would like to offer a few of those amendments. We would like to change the character of the ''no zone.''

Let me tell you about an amendment I would offer if I were given the chance to come to the floor on this bill and offer an amendment for full debate. We think it is a constructive amendment. It is an amendment we would call the Domestic Offshore Energy Security Act of 2008. It would take all of this yellow area on the map and allow it to go out to bid for the purpose of production.

Just a year and a half ago, the Congress—when gas was at $2-plus a gallon—decided we would let this little piece go into exploration and development. It was called lease sale 181. We debated it for weeks, negotiated for weeks. Finally, we brought all of us together to agree. Well, we believe there is a substantial amount of product out there. We don't know for sure, but the leases are going forward. It is believed that there are 1.2 trillion cubic feet of gas and maybe between 185 million and 200 million barrels of oil. The advantage of this sale is that it is very close to all of the known refineries and the infrastructure that can bring it to the market very quickly.

My amendment would bring this whole area into play, where there literally could be billions of barrels of oil and multitrillions of cubic feet of gas. But the answer is no. The Democrat leader says: No, can't do that, won't do that; politically, we are not going to go there. The American consumer is asking: Why? In fact, I am told that the polls in Florida, by a majority, are saying: Drill it. Do it right, do it responsibly, do it cleanly, but drill it. We want the royalties that would come to the State of Florida that would pay for our education, but more importantly, we want to bring down the price of gas because it is really breaking the family budget.

What happened when the President announced a few weeks ago he would lift an Executive order on a moratorium, when the market began to show that this year the American consumer was consuming less than last year because of prices? Oil prices began to fall, from the high of $140 a barrel down to, today, about $122 or $123 a barrel—nearly a $20 drop per barrel—on the reality that the marketplace was working, demand was going down.

If you keep allowing demand to slide but you work on bringing up production, you bring the price down. You save the American family's budget. But here on the floor of the Senate, it is: Oh, no, we can't go there. The leader of the majority party will not admit that his policy—their policy over the last 20 years of denying production has now brought this crisis on. That is exactly what the editorial of the Wall Street Journal basically said.

Why not let the debate go forward? Why not allow amendments to be offered by anyone, for that matter? Why not allow those debates to go forward?

There is another interesting article from this morning. I ask unanimous consent to have the Wall Street Journal editorial and this U.S. Geological Survey Report printed in the RECORD.

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

DEMOCRATS AGAINST DRILLING

Nancy Pelosi, Harry Reid and other liberal leaders on Capitol Hill are gripped by cold-sweat terror. If they permit a vote on offshore drilling, they know they will lose when Blue Dogs and oil-patch Democrats defect to the GOP position of increasing domestic energy production. So the last failsafe is to shut down Congress.

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She and Mr. Reid are cornered by substance. The upward pressure on oil prices is caused by rising world-wide consumption and limited growth in supplies. Yet at least 65% of America's undiscovered, recoverable oil, and 40% of its natural gas, is hostage to the Congressional drilling moratorium.

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90 BILLION BARRELS OF OIL AND 1,670 TRILLION CUBIC FEET OF NATURAL GAS ASSESSED IN THE ARCTIC

The area north of the Arctic Circle has an estimated 90 billion barrels of undiscovered, technically recoverable oil, 1,670 trillion cubic feet of technically recoverable natural gas, and 44 billion barrels of technically recoverable natural gas liquids in 25 geologically defined areas thought to have potential for petroleum.

The U.S. Geological Survey assessment released today is the first publicly available petroleum resource estimate of the entire area north of the Arctic Circle.

These resources account for about 22 percent of the undiscovered, technically recoverable resources in the world. The Arctic accounts for about 13 percent of the undiscovered oil, 30 percent of the undiscovered natural gas, and 20 percent of the undiscovered natural gas liquids in the world. About 84 percent of the estimated resources are expected to occur offshore.

''Before we can make decisions about our future use of oil and gas and related decisions about protecting endangered species, native communities and the health of our planet, we need to know what's out there,'' said USGS Director Mark Myers. ''With this assessment, we're providing the same information to everyone in the world so that the global community can make those difficult decisions.''

Of the estimated totals, more than half of the undiscovered oil resources are estimated to occur in just three geologic provinces—Arctic Alaska, the Amerasia Basin, and the East Greenland Rift Basins. On an oil-equivalency basis, undiscovered natural gas is estimated to be three times more abundant than oil in the Arctic. More than 70 percent of the undiscovered natural gas is estimated to occur in three provinces—the West Siberian Basin, the East Barents Basins, and Arctic Alaska.

The USGS Circum-Arctic Resource Appraisal is part of a project to assess the global petroleum basins using standardized and consistent methodology and protocol. This approach allows for an area's petroleum potential to be compared to other petroleum basins in the world. The USGS worked with a number of international organizations to conduct the geologic analyses of these Artic provinces.

Technically recoverable resources are those producible using currently available technology and industry practices. For the purposes of this study, the USGS did not consider economic factors such as the effects of permanent sea ice or oceanic water depth in its assessment of undiscovered oil and gas resources. The USGS is the only provider of publicly available estimates of undiscovered, technically recoverable oil and gas resources.

Exploration for petroleum has already resulted in the discovery of more than 400 oil and gas fields north of the Arctic Circle. These fields account for approximately 40 billion barrels of oil, more than 1,100 trillion cubic feet of gas, and 8.5 billion barrels of natural gas liquids. Nevertheless, the Arctic, especially offshore, is essentially unexplored with respect to petroleum.

Mr. CRAIG. Here is the headline: ''90 Billion Barrels of Oil and 1,670 Trillion Cubic Feet of Natural Gas Accessed in the Arctic.'' That is called ANWR, folks, and other areas in the Arctic. Once again, it is politically off limits. The oil is there, but the law says you cannot go there.

It is really quite that simple. Who are lawmakers? We are. We are the policymakers. Why aren't we on the floor today debating the amendments? Why aren't we offering those amendments in a responsible fashion? Why don't we deal with what the American public

needs at this moment; that is, to see their Congress being responsive to their greatest problem, the single greatest problem at this time, which is the price of oil and the price of gas at the pump. It will create greater problems if we don't deal with it quickly. It is permeating the economy and shoving up the price of nearly everything we touch. Energy is the underlying force of this economy. If energy prices continue to go higher, the economy itself is weakened. Why isn't the Congress and the leadership of the Senate moving forward? Why are we stalled out and wringing our hands and saying there is no time? There is no time to fix the American family's budget. There is only time to divert our attention to terms like ''speculation.''

Let me tell you, here is the bill. Here is S. 1368. There is not one drop of oil in it. See that. Not one drop of oil is in this legislation. But in the amendment I would offer, there could be millions, if not billions, of barrels of oil and trillions of cubic feet of gas. That is the reality of what we are talking about.

Why, why, why, Mr. Leader, are you denying the Senate, the greatest deliberative body in the world, the right to offer these amendments and vote on them? We are stalled out because of the leadership. We are stalled out and told we cannot go there. I don't think the American public in any way understands the politics of this one.

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

Mr. CRAIG. Politics is quite simple: If you for 20 years were wrong and the market now shows it, how can you admit you were wrong? That is the issue at hand.

Mr. Leader, it is time you admitted it and we got on with the business of becoming once again a great and productive nation.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have listened for the past 20 minutes or so to the narrative on the floor of the Senate. My colleague from Idaho and I have introduced legislation last year dealing with expanding production in the Eastern Gulf of Mexico and in Cuban waters. We do not disagree on the issue of whether we should expand production in this region. In fact, we agree on that issue. But I have heard several of my colleagues come to the floor to create false choices this afternoon, and I want to talk about those false choices.

We are witnessing a time when it is very hard for people to figure out how to scrape enough money together to put $70 worth of gas in their tank when it is near ''e'' on the gauge. It is fascinating and very disappointing to me how it's possible to fill your farm tank in order to harvest your crop, how an airliner is going to be able to afford fuel, or how is a family going to be able to afford enough money to put gas in their tank to go to work. These decisions are being made at a time when we face oil prices bouncing between $120 and $140 a barrel and gasoline at $4, $4.50 a gallon. When that ought to invoke and spark cooperation on the floor of the Senate, there is none.

My colleagues come to the floor of the Senate and say: Let's open up the entire Outer Continental Shelf. The Energy Information Administration carried out an assessment that shows what production would look like without lifting the moratorium and with lifting the moratorium. What it shows is that we get some extra production in the year 2020. I understand talking about next week, next decade. What is the impact going to be to families, to truckers, to farmers, to airlines, and others if someone comes out here and says: You know what, we have a real serious problem right now, but here is a solution for 2020.

Sign me up for the solution in the long term, although I might have a different approach to it. I hope by 2020 we are not quite as addicted to oil, particularly foreign oil from the Saudis, the Kuwaitis, Iraqis, or Venezuelans. Maybe we can shed the some of that addiction in 10 years. Maybe that ought to be our strategy. Maybe we ought to do game changing. The way to do away with our addiction is not to do more of the same so that we are still addicted. That makes precious little sense to me.

Mr. DURBIN. Mr. President, I ask the Senator from North Dakota to yield.

Mr. DORGAN. I will be happy to yield.

Mr. DURBIN. I wish to ask him a question because he has been a leader in the Senate on the question of speculation. I want to say that many of our Republican colleagues have come to the floor over the last several days saying virtually speculation is not the problem, not speculation. I know the Senator from North Dakota has ample evidence and many experts behind his position. He and I have joined with the leadership in coming up with an approach which will try to dampen the fires of speculation which may be driving up oil prices and creating volatility not reflected in the market.

I want to make sure the Senator from North Dakota is aware of what happened today with the Commodity Futures Trading Commission. They have charged an oil trading firm with manipulating oil prices, the first complaint to be announced since regulators began a new investigation into wrongdoing.

The CFTC accused Optiver Holding, two of its subsidiaries, and three employees with manipulation and attempted manipulation of crude oil, heating oil, and gasoline futures of the New York Mercantile Exchange, which is a regulated exchange, I might add.

''Optiver traders amassed large trading positions, then conducted trades in such a way to bully and hammer the markets,'' CFTC Acting Chairman Walter Lukken said at a press conference. ''These charges go to the heart of the CFTC's core mission of detecting and rooting out illegal manipulation of the markets.''

I say to the Senator from North Dakota that his leadership on this issue and coming to the floor repeatedly to tell us about the possibility this was occurring I think has sparked this commission to come to life, at least today in terms of making these charges.

I am going to leave this story with the Senator because I want him to be able to put it in the RECORD every time our Republican colleagues come to the floor and say speculation is not an issue. It is enough of an issue that there was a civil action filed today against a company for hammering and bullying the market.

I know this is not in the nature of a question, but I wish to ask the Senator if he feels this action by the CFTC is an indication of what he has been saying over the last several months.

Mr. DORGAN. Mr. President, it appears a Federal agency has arisen from the dead. Good for the CFTC. I have been talking a long while about the CFTC being dead from the neck up. This is, after all, the regulatory agency that is supposed to wear the striped shirts, blow the whistle, and call the fouls.

This apparently is manipulation of the market. We are talking about manipulation. Good for them, if they have risen from the dead, if they are taking action against someone manipulating the marketplace.

The acting CFTC Chairman, whom the Senator from Illinois described, spent the last seven months saying there is no problem with the marketplace, it is working fine. The doubling of the price of oil and gas in the past 12 to 14 months has been because of supply and demand, he says. About a month ago, the acting Chairman had an epiphany. He must have had a good night's sleep, woke up from his dream saying: OK, I have been saying supply and demand justifies the doubling in price, but, in fact, we have been doing an investigation for seven months.

So which is it? Here is what it is. In the year 2000, 37 percent of the trades in the oil futures market were speculation trades, having nothing to do with hedging a physical product between consumers and producers; 37 percent of the trades by speculators. Today 71 percent of the trades are by speculators. They don't have any interest in buying oil, taking delivery of oil, carrying a 5-gallon can of oil, or putting a quart of oil in their car. They don't have the foggiest interest in oil. They have interest in buying and selling contracts and making big profits. They have taken over this marketplace and broken the market.

The proposition on the floor of the Senate is to try to wring out this excessive, relentless speculation in this market. My colleagues come to the floor of the Senate, and they have developed another narrative of more

drilling because they don't want to tackle this issue of speculation. I said before, 47 Members of the Senate in the minority have all indicated, in one form or another, that speculation is a problem. If you believe that, help us get this bill to the President. Yet, they come to the floor of the Senate and say we need more drilling.

As I described in the year 2020, we will have more to bring on more supply. I don't disagree with that point. Let's talk about it; offer some amendments. In fact, the majority leader has offered to the minority to bring your amendment to the floor. We will have a vote on it.

But what about next month? What about 6 months from now? How about let's do some things that are game changing in this country? How about the next decade? Between now and then, let's work to change the game.

I said two days ago that, in the 1960s, John F. Kennedy did not say: I would like to have us try to go to the Moon. I think we should think about going to the Moon. I think we should make an effort to go to the Moon. He didn't say that. He said by the end of the decade, we are going to put a man on the Moon, and we did just that.

The plan of all of those who have come to the floor of the Senate diminishing this legislation, degrading this legislation, saying we shouldn't deal with speculation and getting this market right. We shouldn't spend time on that. Let's instead focus on drilling. If that is the only thing they focus on, then that is what I call a yesterday forever strategy. If you want to wake up 10 years from now and keep the same position, good for you. I don't.

I think what we ought to do is this: Let's at least address something that has broken the marketplace and has doubled the price of oil and gas in the last year, something that experts have come to the Congress to testify about and some have said up to 40 percent of the current price of oil is not and cannot be justified by the fundamentals of supply and demand. It is because speculators have taken over this marketplace.

Don't take it from me. Take it from the CEO of Royal Dutch Shell. Here is what he said in April:

> The [oil] fundamentals are no problem. They are the same as they were when oil was selling for $60 a barrel.

If that is the case, what is the problem? The problem is, as I described in the chart, this market has been taken over by the speculators.

My colleague comes and says: NYMEX and ICE, describes all that is going on, what an aggressive regulator we have. You know what, this regulator has been sending out no action letters. Isn't that a wonderful thing to perfectly describe a regulatory agency that wants to take no action for anything? It said: Let me be willfully blind and not see what is happening. By the way, because of these no action letters, I can't see what is happening in the over-the-counter market, the intercontinental exchange, and all of the unregulated trades because I have decided I don't want to see it. Then let me go to the Congress and testify, and with a straight face—I am sure suppressing a grin—at least with a straight face say, I don't see anything that represents anything other than supply and demand.

My question to them was: I understand you don't see that. Is it the case you see very little because you have chosen, through no action letters and other limitations, to decide you don't want to see it all?

We brought a bill to the floor of the Senate that says we have a lot of problems. First and foremost, let's set this market straight, putting pressure downward and preserving the oil futures market for that which was intended in 1936. It was for the hedging of a physical product between consumers and producers. That is what it was for. It has now been taken over by the carnival of greed. Speculators control these markets, have driven up the price despite the fact there has been no change in the fundamentals.

My colleagues on the other side of the aisle say drill. I have had a bill in for a year and a half to say drill more in the eastern Gulf of Mexico and allow U.S. companies to produce in Cuban waters. I am also one of the four Senators who opened up lease 181 in the Gulf of Mexico for drilling. I support that. I am fine with drilling. But if drilling is your only answer, boy, that, in my judgment, is a pretty pathetic future. Here is what Boone Pickens says. Boone Pickens and I have disagreed on a lot of things, but he came to Congress this week:

> I've been an oil man all my life, but this is one emergency we can't drill our way out of. But if we can create a new renewable energy network, we can break our addiction to foreign oil.

Think of this. What if between now and 2020, if we start now we can actually have a new barrel of oil by 2020, and you say to somebody down the block: Cheer up, things are going to be better in 12 years—that is one position to take, I guess.

What if the other position is as Mr. Pickens suggests? What if we did this: We are going to produce oil. We want to be less dependent, however, on the Saudis, Kuwaitis, Venezuela, and so on, because if we didn't get their oil for some reason, we would be flat on our back as an economy. This makes our country vulnerable. We have to be less dependent on them. We are going to use oil we produce.

How about if we decide to do something dramatically different? How about in the wind belt from Texas to North Dakota where we produce a massive quantity of wind and have the capability of taking the energy from the wind and producing electricity? And how about in the Sun Belt where we move dramatically to solar energy and create a superhighway of transmission lines to be able to move that energy all around this country? How about if we do that for a decade and then say: You know what, all that natural gas we are using for coal-fired generating plants, we can displace a fair amount of that with wind and solar and a superhighway of transmission lines, and we can dramatically change America's energy future.

We need more conservation and energy efficiency and dramatic increases in renewables. There are so many exciting things we can do to change America's future. Yet, my colleagues come to the floor of the Senate for a different pursue. They plant their flag, and say: We want our future to be the same as our past, and every 10 or 15 years, they will be content to come here and say: Yes, we have an urgent problem and what we ought to do is more of the same. That is not a future that makes much sense to us.

Again, coming back to this issue, we are saying with this legislation on the floor of the Senate requires that we do first things first. We should do a lot of things, we agree with that. Senator BINGAMAN is introducing a bill I fully support as a cosponsor. It deals with a whole range of other issues with which we have to deal. First things first. At least let's address this issue of excess speculation that has broken the commodity futures market for oil.

To my colleagues who say, you know what, this is all about drilling, I say to them: Come to the floor of the Senate and tell me what has happened in the last year, what has happened in supply and demand that justifies a doubling of the price of oil. They will not come and cannot come because they don't have an answer to that.

I can give them a partial answer. If anything would have been expected to happen to the price of oil and gas, it should have gone down because we have driven nearly 6 billion fewer miles in America than we did in the previous 6 months. So we are using less energy and less gasoline. So one would expect, if you are using less, you would put some downward pressure on prices. But that is not the case. Prices go up like a Roman candle, double in a year.

The only conceivable reason given us is by the experts who don't have a vested interest in this issue of the oil futures markets, and they say that the market is now broken. Fidel Gheit has been an Oppenheimer analyst for 30, 35 years—the top energy analyst for Oppenheimer—and he says: Look, this is like a casino, open 24/7, like a highway with no speed limit, he said, and no cops, and everybody is going 120 miles an hour.

Is that really what we are willing to allow an oil futures market to be, if it drives up the cost of oil and gas, doubles it in a year, and imposes this kind of burden and financial penalty on every American family and every American business; imposes this kind of burden on some of our major industries, such as airlines and trucking

companies and farmers and others? That is a back breaker. Are we really willing to stand on the floor of the Senate and say: Yeah, that is OK. It is OK. Let's do something that will increase the production of a barrel of oil in 2020.

That seems to me to be a false choice that we are being offered. I think it was Will Rogers who once said:

It is not what he knows that bothers me, it's what he says he knows for sure that just ain't so.

I think about that as I hear this debate on the floor of the Senate; all this assertiveness about one answer. Do something now so we have more oil in 2020. What about tomorrow, next week, or next month? What do you want to do about that? What about a market that is broken; do you ever care about fixing it? What about the fact that investment banks and hedge funds have marched right directly into the oil futures market?

The Wall Street Journal writes about investment banks that are actually purchasing oil storage so they can purchase oil and keep it off the market. Pension funds—CalPERS and others—are moving money into the oil futures market as if it is just another share of stock. That is just pure speculation. That massive quantity of money flooding into this market has dramatically changed the market.

Now, I have had a lot of people come and see me about these issues because some are very upset with what we are trying to do. They like the speculation in the marketplace because a lot of people made a lot of money by speculating in this marketplace. I think this marketplace needs to exist. You have to have a market that represents a place for legitimate hedging of a physical product. But when the market is broken, you also have to have a regulator with the strength, the capability, and the willingness to stand up and do what is necessary to fix it.

The current regulator at the Commodity Futures Trading Commission has not done that, has not demonstrated a willingness to do that, and it seems to me Congress must. Our legislation does a couple of things. It says to the Commodity Futures Trading Commission: You determine who is trading out there and distinguish between them. Those who are engaged in legitimate hedging of a physical product between consumers and producers, that is fine. That is what the market was created for. All others are pure speculators, and we establish strong position limits on those speculators to try to shut down that speculation, that excess speculation in the marketplace. Relatively simple. But it does cause a firestorm of protest by those who are making a lot of money having broken this marketplace.

I suppose there is room—I shouldn't say I suppose. There is room for disagreement. I respect those who disagree. But it seems to me that this country will pay a very high price if we don't understand the need to cooperate. There is no Republican or Democrat label on the fuel gauge on a car. There is just ''full'' and ''empty.'' And all too often these days it is empty because of what has happened to prices. I think the American people expect and demand we do something that addresses these issues.

The first step—the first step and most important step, in my judgment—is to set this market straight and to distinguish between excess speculation and legitimate hedging and establish position limits in order to put downward pressure on gas and oil prices. We are told by some very distinguished people who have testified before our committees that we could see as much as a 40-percent decrease in the price of oil and gas just by wringing the oil speculators out of the futures market.

If we did that, it would be a good thing, a good thing for our country. Then, yes, we have much yet to do. I don't disagree at all with that, and some of it is drilling. But as I said before, if our future is just to continue down that road, without understanding the need for a game-changing, moonshot plan to make us less dependent on the Saudis, less dependent on foreign oil, this country will have missed an enormous opportunity and put its future in jeopardy.

I remain hopeful. It is now Thursday, and we have been largely at parade rest most of the week. The minority has required us, in effect, to spend 30 hours postcloture—30 hours postcloture—doing nothing, which makes precious little sense. I think the country senses some emergency here, but some of my colleagues in Congress sense no such emergency. So we spend 30 hours largely doing nothing, and then we will come to a cloture vote to shut off debate to see if we can perhaps get to a vote to end this relentless speculation.

My hope is we will have sufficient votes to do that.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator has used 21 minutes.

Mr. DORGAN. Mr. President, I believe a couple of my colleagues are coming, so I will reserve the remainder of my time.

Mr. President, I ask unanimous consent to have printed in the RECORD for Senator DURBIN a story that he described on the floor titled ''Traders Manipulated Oil Prices.''

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

TRADERS MANIPULATED OIL PRICES—U.S.

(By Steve Hargreaves)

NEW YORK (CNNMoney.com)—The government charged an oil trading firm Thursday with manipulating oil prices in the first complaint to be announced since the regulators began a new investigation into wrongdoings in the energy markets.

The Commodity Futures Trading Commission accused Optiver Holding, two of its subsidiaries and three employees with manipulation and attempted manipulation of crude oil, heating oil and gasoline futures on the New York Mercantile Exchange.

''Optiver traders amassed large trading positions, then conducted trades in such a way to bully and hammer the markets,'' CFTC Acting Chairman Walt Lukken said at a press conference. ''These charges go to the heart of the CFTC's core mission of detecting and rooting out illegal manipulation of the markets.''

In May, under the backdrop of record oil prices and calls from legislators to crack down on speculative oil trading and market manipulation, the CFTC announced a wide-ranging probe into oil price manipulation. The agency says it has dozens of investigations ongoing.

The complaint filed Thursday names Bastiaan van Kempen, chief executive; Christopher Dowson, a head trader; and Randal Meijer, head of trading at an Optiver subsidiary.

The CFTC said the firm attempted to ''bang the close'' by amassing large positions just before markets closed—forcing prices up—then selling them quickly to drive prices down and pocketing the difference.

The alleged manipulation was attempted 19 times on 11 days in March 2007, the agency said. In at least five of those 19 times, traders succeeded in driving prices higher twice and lower three times, according to the CFTC.

Calls to Optiver seeking comment were not answered, and an email was not immediately returned.

CFTC stressed that the price changes were small and the manipulation was isolated, and that the investigation has nothing to do with the recent heat the agency has taken on Capitol Hill over rising oil prices.

TRADERS IN THE SPOTLIGHT

CFTC has repeatedly said that speculators are not to blame for rising oil prices, and any cases of price manipulation—such as the one brought Thursday—have only a small, if any, effect on oil prices.

The CFTC is the government's main regulator of commodity markets. Its officials have been hauled before Congress and asked repeatedly whether manipulation or excessive speculation is playing a role in record oil prices.

Repeatedly, CFTC experts have said they have found no evidence that speculators—investors who do not ultimately use crude oil—are to blame for the rising prices. They say trading information shows no correlation between investment activity and price swings.

Others, such as the International Energy Agency, have also said speculators are not to blame. They've pointed to other non-traded commodities that have risen in price even faster than oil, and to the fact that there is no evidence of a bubble, such as excess oil sitting around in storage.

Still, the correlation of a four-fold increase of investment money into oil futures and a four-fold increase in oil prices since 2004 has not gone unnoticed. Many lawmakers, consumer rights advocates and even some oil industry analysts say speculation is at least partly to blame.

Against that backdrop, the CFTC has been ordered to investigate the matter more thoroughly and dozens of investigations are underway. The agency may soon be given a bigger staff and wider powers under bills being debated in Congress.

Over the years, the CFTC has found isolated incidents of price manipulation—when an oil producer controls products to influence prices—or other cases of wrongdoing. Since 2002, the agency has charged 66 defendants with energy market violations.

In a recent case, BP settled a suit that alleged the company tried to corner the propane market to inflate prices in 2003 and 2004. BP agreed to pay a $303 million settlement.

But overall, most experts say the incidents are so scattered, and the energy market so large, that it's unlikely a single trader or group of traders can have substantial sway over prices.

Correction: An earlier version of the story said indictments have been brought against the company and some of its employees. The charges are civil, not criminal.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

U.S. TROOPS DYING OF ELECTROCUTION

Mr. DORGAN. Mr. President, I believe the majority leader is coming over, but I would like to speak until he arrives, at which point I will continue later.

Mr. President, we had a hearing yesterday before the Senate Appropriations Committee that I had requested. That followed a hearing that I had conducted on the Democratic policy committee, the 17th hearing I have conducted and chaired, looking into the issue of contractor irregularities and waste, fraud, and abuse involving contractors with respect to the war in Iraq.

I want to talk just for a moment about what is happening with respect to these contractors.

We are shoveling money out the door. Three-quarters of $1 trillion has been spent, and much of it ends up in the pockets of contractors, and much of the work by contractors not only fleeces the American taxpayer, but it represents, I think, the greatest waste, fraud, and abuse in the history of this country. I think it is also the case that it endangers the lives of American soldiers.

So what I would like to do for a moment is to describe the hearing that I held recently and show a photograph of Cheryl Harris and her son, SSG Ryan Maseth.

Ryan Maseth was an Army Ranger and a Green Beret. He was killed in Iraq. He wasn't killed by an insurgent or killed by enemy fire. He was killed because he was electrocuted while he was taking a shower at the Army base. He was electrocuted while taking a shower.

It turns out the contractor that wired that particular area didn't know how to wire and didn't properly attach ground wires. So when this Army Ranger reached up and touched a pipe, he was electrocuted and died.

The Army initially told Cheryl they thought perhaps her son had taken an electrical appliance into the shower and, therefore, was electrocuted. Not true. It is not true. Halliburton—or Kellogg, Brown & Root, its former subsidiary—had been given the contract for wiring these facilities at Army bases and were hiring, among others, third-country nationals who had very little electrical experience. Two people who were electricians and working there in Iraq and Afghanistan for Kellogg, Brown & Root came and testified and said the work done by KBR was the most shoddy, unbelievably sloppy work.

Thirteen people have been electrocuted in Iraq as a result of these kinds of things. So I don't understand the recent order by the Defense Contract Management Agency, and announced by General Petraeus, that the Pentagon is going to have the same contractor that caused some of these problems—the contractor that has in a number of instances failed to fix faulty wiring—do a comprehensive review of these problems throughout U.S. military installations in Iraq. It makes precious little sense to me that would be the case.

This is Larraine McGee. Her son was killed as well. Larraine McGee's son was killed while power washing a humvee. He was killed not by an enemy combatant but power washing a humvee vehicle. Again, improper wiring and grounding meant this soldier was electrocuted.

How do these things go unfixed? What kind of work is done by contractors, and who cares about all this? We had testimony from Debbie Crawford, who was an electrician who worked for the contractor in Iraq. She described work by people who were not qualified. She described KBR supervisors who said: Well, this is not the United States. There is no OSHA here.

Mr. Jeffrey Bliss, an electrician for KBR, said there was pervasive carelessness and disregard for quality electrical work at Kellogg, Brown & Root.

Again, I say to you that we are told, with the news of all of these problems, with 13 people, 11 of them soldiers, being electrocuted in Iraq because of shoddy wiring by contractors, the Pentagon has asked the same contractor to go out and review the work. It is nearly unbelievable to me.

Mr. President, there are so many problems in Iraq contracting that I am going to try to come tomorrow and talk about the 17 hearings I have held and how much money the American taxpayers have been charged for such shoddy work. It is not just fleecing the American taxpayers, it is also injuring American soldiers when we have contractors not doing the job for which they were contracted to do.

Again, this is a photograph of Larraine McGee, who is Sergeant Everett's mother, and Sergeant Everett, as I indicated, was electrocuted as a result of improper grounding. Ms. McGee learned from a newspaper that 10 other soldiers were electrocuted in Iraq due to faulty electrical grounding and faulty wiring. So she came to Congress pleading for help, pleading that somebody do something. She said:

Anger has now taken over my grief. I plead with you to do something to bring an end to this unnecessary cause of death to our soldiers. They should not have to worry about stepping into a shower or using a power washer in the safety of an established base.

As I indicated, the Pentagon ordered there be a comprehensive inspection of electrical installations at the Army bases in Iraq, but it hired the same company to do the inspections, the same company who had hired two electricians who came to this Congress to say the electrical work was unbelievably shoddy and done, in some cases, by people who didn't have the foggiest idea what they were doing.

I sent a letter to General Petraeus last Friday, signed by Senators CASEY, CANTWELL, KLOBUCHAR, and WHITEHOUSE, urging him to replace KBR in these inspections. The inspections should be done by objective, qualified electricians. KBR has shown itself to be incapable of fixing electrical hazards that had been known for years. It is an insult to the memory of these soldiers that KBR has now been assigned to conduct the inspections.

There is more to this story. I will, tomorrow, visit about a wider range of these issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 3333 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Tennessee is recognized.

Mr. ALEXANDER. Madam President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for the remaining 30 minutes of our time.

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

Mr. ALEXANDER. Madam President, if you have been watching television lately, you have seen Boone Pickens. In the Democratic caucus, you have seen Boone Pickens. In the Republican caucus, you have seen Boone Pickens. Boone Pickens has said a lot of things, but the thing he says that I think most of us agree with here is that we are in the midst of the greatest transfer of wealth in our country's history as we pay for foreign oil and that we do not need talk, we need action.

In these next few minutes, what we hope to do on the Republican side of the aisle is make absolutely clear what we are trying to achieve over the weekend and during this week.

What we see is that $4 gasoline prices are the single biggest problem facing our country. What we know is that what the people of this country want us to do is to take up this issue, give it our best ideas, vote on it, and come up with a substantial result that increases the supply of new energy and reduces the demand for energy, which is the way you change the price of energy. That should be simple enough to do, but the fact is that the Democratic

leader has had us all tied up in parliamentary knots since last Friday. We could have been doing this every single day since last Friday.

Just to give an idea of what we have in mind, we have a real solution in mind: conservation; deep-sea exploration; removing the moratorium on oil shale so that, in an environmentally safe way, we can proceed with that; Alaskan energy production; clean nuclear power; military coal-to-liquid transportation fuels; home heating oil assistance. That is just the beginning of the kind of debate we ought to be having. We could have been having it since Friday.

I see my friend from Georgia in the Chamber. He has been a leader in nuclear power. I ask the Senator from Georgia, isn't clean nuclear power essential to any supply of new American energy?

Mr. ISAKSON. I thank the Senator from Tennessee. It absolutely is essential. The Senator and I share a common border between the States of Georgia and Tennessee, and along that border, Tennessee Valley operates. They are a big producer of efficient, inexpensive, reliable electric energy produced by nuclear power.

In the United States of America today, 19 percent of our electricity is generated by nuclear, 81 percent by coal, gas, and a sliver by hydro. That 19 percent that is nuclear does two things: No. 1, it is reliable, and No. 2, it emits zero carbon. Carbon reduction is in the best interests of our climate. It is also in the best interests geopolitically of the United States of America, by reducing our dependence on foreign imported oil.

I have offered an amendment to this bill, which has been filed, which is a new nuclear title, which reenergizes the nuclear energy business in the United States, which has basically been dormant since the mid-1970s while other countries around the world have embraced nuclear energy as the solution to their fossil fuel problem in terms of energy production and electric production. Look at the nation of France. Eighty-seven percent of their electricity is generated by nuclear. They have developed a reprocessing MOX facility that reduces their waste by 90 percent. So they have almost eliminated the waste problem, and they almost have total reliability on nuclear energy.

There is no silver bullet in this challenge of reducing gas prices and reducing our dependence on foreign oil, but there are a lot of bullets we have in our arsenal if we are only willing to put them in the chamber. Nuclear is one of them.

One of the great things Senator ALEXANDER advocated so much is the plug-in car that we know is coming. You can plug it in at night, recharge it, and the next day drive it and use it. At night, we are generating a lot of electric power that goes to waste because everybody is asleep and activity is slow. If you plug your car in at night, you are making good, efficient use of the electricity you are generating and wasting, and you are reducing totally, because you use electricity, dependence on oil.

I say to the distinguished Senator from Tennessee, nuclear energy is a piece of the puzzle—and this is a puzzle. I happen to know the answer to the puzzle. It is all the resources the United States has at its disposal to reduce its importing of foreign oil, increase our conservation, and incentivize production of the energy we know we have within our own capacity and within our own boundaries. I thank the Senator for recognizing nuclear.

Mr. ALEXANDER. I thank the Senator from Georgia for his leadership on nuclear power. If we care about global warming in any respect, there is no way to deal with that in a generation without nuclear power, which is free of carbon, free of mercury, free of nitrogen, and free of sulfur. It is the best way we have to move ahead with that, and we should, in this debate, be thinking of ways to make it possible for this country to be building five or six new nuclear plants a year, producing more American energy.

The Senator from Georgia spoke about a plug-in electric car. I know when I first started speaking of that, some of my friends in Tennessee thought I had been out in the Sun too long. But I found out the Senator from Utah was way ahead of me. In fact, an important part of the Republican proposal—and I know on the Democratic side there are many who agree with this—is to make it commonplace in America for us to reduce the amount of oil we use by using electric cars and trucks that plug in.

As I move to the Senator from Utah, I hasten to add—I sat here last night listening to the Democratic leader characterize the Republican proposal as only drilling. I know the Democratic leader has a lot of responsibilities, and he may not have had time to read our proposal carefully. An important part of our proposal is to make it commonplace for Americans to drive plug-in cars and trucks, thereby reducing the amount of oil we use. That is the demand side of the equation. The difference between us and the Democratic leader is we understand that the law of supply and demand has both supply and demand.

I wonder if the Senator from Utah does not believe that plug-in electric cars and trucks are an important way to reduce our use of oil?

Mr. HATCH. I thank my colleague and thank him for his leadership in this matter.

Back to the nuclear thing, I drove a hydrogen vehicle not too long ago. If we had these nuclear powerplants, we would have enough hydrogen. We could do it. The problem is we only have 9 million tons and we need 150 million tons just to start it.

But having raised the hybrid and plug-in hybrid issue, let me say Americans are looking to Congress to address our current energy crisis, and we should be pursuing every reasonable option to reducing our addiction to foreign oil.

The distinguished Senator from Tennessee may be aware that I was the sponsor of the CLEAR Act, which was signed into law as part of the Energy Policy Act of 2005 and as part of the transportation bill which passed the same year.

The CLEAR Act has been providing tax credits to consumers who purchase alternative fuel and advanced technology vehicles, including battery electric and hybrid cars. It has also been providing incentives for new alternative fuel stations and for the use of alternative fuels in vehicles.

Our transportation sector is 97 percent dependent on oil. I am all for oil. We certainly need more of it, but we also must find ways to diversify our transportation fuels.

I have heard some argue we must promote solar, wind, and geothermal as an answer to high gas prices. Well, obviously, cars and trucks don't run on electricity. It is going to take us a little while to get there.

But what if we changed that?

Why not use plug-ins to apply hydroelectric, solar, wind, geothermal, and nuclear to our transportation sector? Talk about adding diversity to our transportation fuels.

Immediately after the CLEAR Act was signed into law, I began working on legislation to promote plug-in hybrid vehicles. It was a bipartisan effort, and I received strong and early assistance from Senators MARIA CANTWELL and BARACK OBAMA, of all persons. We introduced S. 1617, the FREEDOM Act, which would provide four strong tax incentives promoting plug-in hybrid vehicle purchases, and also the U.S. manufacture of these vehicles and their technologies.

I am pleased that the plug-in hybrid idea has remained bipartisan. I know that portions of the FREEDOM Act have been included in both the Republican and Democrat energy extenders bills.

I believe we will see the day when the electric grid becomes a significant new alternative transportation fuel. We should keep in mind that our electric grid is a domestic resource. You won't see our President flying to the Middle East begging the Saudis to send us more electrons. We can do it right here.

Electrons are not only domestic, but they are much cheaper and much cleaner than gasoline.

Best of all, the United States is well positioned to be the world leader in the development of plug-in hybrid vehicles. We have already seen the California-based Tesla Motors plug-in electric vehicle. Raser Technologies based in Utah, has developed a very powerful and efficient AC induction motor, and A123 Systems, based in Massachusetts, has developed a very advanced lithium

ion battery that has been configured specifically for electric-drive vehicles.

Also, General Motors will soon offer a plug-in hybrid Saturn vehicle, and that will be followed by the plug-in hybrid Volt. The Volt will be one of the most exciting vehicle innovations of our lifetimes. It will allow the average commuter to drive to work and back without using one drop of oil. Our friends on the other side will be delighted. The problem is we cannot do it right now. We have to have something to power our trucks, planes, trains, and cars. The volt will run entirely on electricity for up to 40 miles. For longer trips that exceed the range of the battery, the vehicle will switch into a very efficient hybrid vehicle. The U.S. is truly on the cutting-edge of technology in developing commercial, electron powered vehicles.

Mr. President, I am aware that my good friend Senator ALEXANDER has also shown a great deal of leadership in promoting plug-in hybrids. And I would ask him if it isn't true that our Nation is in position to lead the world on the potential of shifting some of our transportation needs over to the electric grid? Perhaps we are not quite willing to lead it because it takes time to get that accomplished?

Mr. ALEXANDER. I thank the Senator from Utah for his leadership. Before I answer his question, I wish to emphasize our point here. What we are hoping to do is to show that, on the Republican side—and we believe there are many Democrats who feel this way too—we believe the solution to high gasoline prices is finding more American energy and using less. We are willing to do both. The Democratic leader is not willing to find more, for some reason.

But on Senator HATCH's point, the most promising opportunity I believe for using less oil in the near term is the plug-in hybrid car and truck by a confluence of two things: One is all the car companies you talked about who are about to produce the car. I can add to that Nissan, at the dedication of its new North American headquarters in Nashville this week, announced it intends to market a plug-in pure electric vehicle that will go 100 miles with a charge in 2010 for fleets and for individuals in 2012.

One may say: Well, where are you going to get all this electricity? We have plenty of electricity at night. In our region in Tennessee, the Tennessee Valley Authority has the equivalent of seven or eight nuclear powerplants of unused electricity at night, which could be used for plug-in cars and trucks.

So I think there will be a great many people in Tennessee and in Utah and across this country who very quickly will be plugging in at night in a wall socket and filling up, so to speak, for a dollar or two, instead of filing up for $80 at the gasoline pump.

Mr. HATCH. Can I mention to my colleague this little company, Raser Technologies in Utah, now has developed an electric motor, not very large, that has more thrust, more—I do not know what to call it, but more actual energy than the gas combustion engines.

They are about to put one of those motors on a pickup truck that will get, according to them, around 120 miles per gallon of gas. We can get there, but it is going to take us a number of years to get there.

In the immediate future, we have to find more oil so we quit sending $700 billion or more every year—and that is going to go up every year—overseas that does not do us very much good. Because that is all gone once it is gone. We should keep that money here so we can do all the things we need to do for the American people.

I cannot, for the life of me, understand why the other side will not get together with us and help us to put all these elements together and recognize it is going to take oil to get us over the next few years to where these wonderful things can explode. They are doable. We can do them now, except we cannot manufacture them fast enough or get the manufacturing lines up in a short period of time.

But if we can, it will be amazing. I remember when I got into the hybrid car business in the CLEAR Act. We found that hybrid cars could be driven on HOV–2 lanes during the rush hour. Automatically, they sold out. We knew just on that one little incentive, so we put incentives in to develop hybrid cars in the CLEAR Act, we have them in the Freedom Act as well, plus incentives for all kinds of other things. Frankly, they have worked amazingly well. But in the interim time, we are going to have to have oil. I hope we can find more and use less through these other mechanisms.

Mr. ALEXANDER. I see the majority leader, who I think has some remarks to make. We would be glad to suspend the colloquy if he would like to do that now.

CAPITOL POLICE OFFICERS JOHN GIBSON AND JACOB CHESTNUT

Mr. REID. Madam President, some may know that when I attended George Washington Law School many years ago, I worked full time on the swing—or night shift—as a Capitol police officer.

My service as a Capitol policeman was not one where I did anything courageous or notable.

But even then, before the heightened awareness to threat we have today, we police officers knew if the call came to sacrifice to protect this U.S. Capitol, our jobs meant answering the call.

Ten years ago, two officers did just that.

Special Agent John Gibson and Officer Jacob Chestnut were stationed near the east entrance on the House side, mere steps from where we stand.

When a gunman attempted to bypass metal detectors, Officer Chestnut answered the call of duty and blocked his path.

The gunman shot Officer Chestnut point blank.

Hearing shots, Special Agent Gibson also answered the call of duty.

He warned nearby staffers to seek cover and confronted the attacker. They exchanged fire.

Despite valiant efforts to keep both heroes alive, including efforts by my predecessor, Senator Frist, Special Agent Gibson and Officer Chestnut died from their wounds.

I knew Agent Gibson. During a congressional retreat to Virginia, he came to care for my wife when she became ill during the night. I remember how he ran to her side. I will never forget how kind and gentle he was with her.

I knew Officer Chestnut only by face and in shared greetings whenever we passed each other.

But I do know he was a veteran of the Vietnam war, had given 18 years of service to the Capitol Police, and heartbreakingly, was just months away from a hard-earned retirement.

We are honored to have Agent Gibson's wife Lyn and their children, Kristen, Jack, and Danny; Officer Chestnut's wife Wen-Ling and their children, Will and Karen; and their many cherished friends and family.

We hope that it has been some comfort to you—the ones they loved most—to know that in the 10 years since that terrible day, some measure of you burden has come to rest upon all of our shoulders.

So today we plant a tree in the name and memory of John Gibson and Jacob Chestnut.

The tree is small now, but every day it will grow taller, stronger, and broader. Its roots will grasp ever deeper for the American soil that lies below, the American soil that both men defended so heroically.

As this tree takes root and grows and flourishes, it will remind us always of these two brave men.

And though it will shed its leaves in the fall, it will always bloom when spring arrives again.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the majority leader for his comments. The Republican Leader would want me to say, he speaks for all of us in expressing the respect for the families of the two fallen men and our appreciation to the service of all the Capitol police officers today. We will have an opportunity, within a few minutes, to honor the fallen men.

Mr. HATCH was saying, the Senator from Utah, we have impressive ways to use less oil. But we also have important ways to find more oil. One of those ways would be to use technology to turn coal into aviation fuel; a proven technology which is available, which in the past has had some challenges, but there are some new techniques. One of the Senators who is a leading advocate of coal-to-liquid technology understands it well, the Senator from Wyoming. I ask the Senator from

Wyoming: Would it not be important for our national security to at least take steps toward turning coal into liquid aviation fuel?

Mr. BARRASSO. Most certainly it would be very important to turn that coal into liquid fuel for aviation. If you take a look at this morning's Politico, an issue of the Pentagon, the Department of Defense is the Nation's biggest oil consumer, burning 395,000 barrels per day, about as much as the country of Greece.

The Air Force's thirsty planes burn more than half the fuel supplied for the entire U.S. military. It did receive $1.5 billion in new relief from Congress for fuel and still has $400 million left to go.

When you look at that and say: What else could we do to help lower that cost, not just for the consumer who fills their tank at home but also for your military, it is converting coal to liquid. The technology is there. People ask: Is there enough coal and how would you do it?

There is an incredibly abundant supply of coal in this Nation. To me, coal is the most available, affordable, reliable, and secure source of energy we have in this Nation. Wyoming is the No. 1 coal producer in the United States. There is enough coal in Wyoming alone to help our Nation for centuries, for hundreds of years. Coal is there and the technology is there.

Right now under the law, the military is not allowed to make a contract long term to put that coal into liquid. But the technology is there. We have an exciting company in Wyoming, near Medicine Bow, building a plant to do this, to convert the coal to liquid. But it is not only Wyoming

As the Presiding Officer knows, and the Senator from Tennessee knows, there is coal all around the United States—coal in West Virginia, coal in Kentucky, coal in Pennsylvania, coal in Illinois, coal in Wyoming, coal in Montana. Everyplace we need energy we have coal.

Some folks are saying: What about the carbon dioxide? But the technology is there to get the carbon dioxide, to sequester it, and actually to use it for more oil development.

You take an old burned-out oil well where there is not a lot of oil coming out. There is a way to inject the carbon dioxide and get out more oil. So it is not only good because you can use the coal for the liquids, you can also use this carbon dioxide to get even more oil. By that, you are certainly finding more, with something we have here.

To me, this is so much about becoming, as a nation, energy self-sufficient. The only way we can do that is to rely on American sources of energy. We are sending hundreds of millions of dollars overseas to people who are not our friends—hundreds of billions of dollars.

This is America's treasure going overseas. Why? Because we are not energy self-sufficient. But with all the coal resources we have all across this country, and the technology, we can today start converting the coal to liquids to be used for aviation, to be used for our military. The No. 1 user is our military in terms of the largest user of our energy.

It seems to me, to the Senator from Tennessee, that when we have this discussion—and I hear Senator ISAKSON talking about nuclear, finding more energy that way, I hear Senator HATCH talking about the cars and using less energy that way—this is one more way in this whole portfolio of different ways to use energy as we find more and use less.

Because the American people are going to continue to use all the energy, we need all the sources of energy. That is the way we can keep down the price at the pump for people all across our country.

Mr. ALEXANDER. I thank the Senator from Wyoming for his leadership. As he speaks, it reminds me of how much I wish, instead of our being in a parliamentary position where all we can do is talk, the Democratic leader would put us in a parliamentary position where we can act. I mean, we are prepared to act. We have offered an amendment that has a series of suggestions about how to find more American energy and use less.

We may not be right in every case. But I believe the American people expect us, expect us to take up these issues and debate them and use them, whether it is plug-in electric cars, to use less oil, or, for example, I see the Senator from Alaska is here, whether it is using more of Alaskan energy.

Every time we talk about more American energy, we must think about Alaska because so much energy is there. I wonder if the Senator would not agree, that there is not one way, but a whole series of ways we might change the law to improve our country's security, improve our supply of oil and gas by using Alaskan energy?

Ms. MURKOWSKI. Madam President, I am pleased to respond to the question from the senior Senator from Tennessee.

Alaska is blessed in its abundance of resources, whether it be oil or natural gas, coal, to the timber, to the fisheries, we are absolutely blessed. When it comes to those fossilized fuels, the abundance is extraordinary.

Oftentimes people think we are making up the numbers because they are as substantial as they are. We have the potential in the State of Alaska right now, between our onshore assets and our known offshore reserves, when it comes to oil, of an additional 65 billion barrels of oil coming from the State of Alaska.

There is 390 trillion cubic feet of natural gas from the onshore reserves and, from what we know, from the offshore. Yesterday there were new numbers released from the USGS on the potential for oil and gas in the Arctic region. This was a survey of the entire Arctic, not only Alaska's resources. Of those resources, they indicated, in terms of oil, it is about 90 billion barrels coming out of the Arctic. Of that 90, a full third would be in the area in the waters off of the State of Alaska, so about 30 billion barrels of oil in terms of resource there. What we are talking about, in terms of the potential for Alaska to contribute in a meaningful manner with increased production, is nothing short of dramatic. When we talk about ANWR specifically—and there has been great debate about whether we should open ANWR—keep in mind, we are not allowed to explore.

Mr. ALEXANDER. If I may let the Senator know, we have about 3 minutes remaining and I need 1 of those to make a unanimous consent request.

Ms. MURKOWSKI. I could go on all day talking about Alaska's resources. What I wish to leave Members with is the knowledge that as a mean estimate, we are looking at 10.6 billion barrels of oil out of ANWR. This is not insignificant. We have been providing about close to 20 percent of the Nation's oil for the past 30 years from Prudhoe Bay. We would like the opportunity to continue. We know we have the resource. We have the opportunity. We have the technology, the smarts, the know-how to make it happen and do it right while protecting the environment.

I thank the Senator for his questions and recognizing that Alaska has a great deal to offer us as a nation when it comes to energy independence.

Mr. ALEXANDER. Madam President, our hope today is to show the Senate that we are ready for full debate on finding more American energy and using less. That is what we should be doing. We have our proposals and would welcome debate and amendment on others.

I now ask unanimous consent that the Senate consider the pending energy speculation measure in the following manner: that the bill be subject to energy-related amendments only; provided further, that the amendments be considered in an alternating manner between the two sides of the aisle; I further ask consent that the bill remain the pending business to the exclusion of all other business, other than privileged matters or items that are agreed to jointly by the two leaders; I further ask consent that the first seven amendments to be offered on this side of the aisle by the Republican leader or his designee be the following: Outer Continental Shelf exploration plus conservation; oil shale plus conservation; Alaska energy production plus conservation; the Gas Price Reduction Act, which includes plug-in electric cars and trucks; clean nuclear energy; coal-to-liquid fuel plus conservation; and an amendment involving LIHEAP.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALEXANDER. Madam President, is there time remaining?

The PRESIDING OFFICER. There is no remaining time.

The Senator from Michigan.

Mr. LEVIN. Madam President, yesterday the minority leader suggested an analysis of the staff of my Permanent Subcommittee on Investigations ran counter to the legislation which has been offered by the majority leader, the Stop Excessive Energy Speculation Act. In particular, the minority leader cited a statement in the staff analysis that ''there is no credible evidence that simply amending the [Commodity Exchange Act] to regulate energy commodities as if they were agricultural commodities will lead to lower energy prices.''

The minority leader was in error. The energy speculation act offered by the majority leader does not ''regulate energy commodities as if they were agricultural commodities.'' The proposal to do that was offered by a law professor at the University of Maryland but is not contained in the majority leader's bill. Rather, the energy speculation act, which the majority leader did introduce and which is before us, contains a number of other broader measures aimed at controlling and limiting excessive speculation in the energy markets.

First, the energy speculation act would close the London loophole so that traders in the United States would no longer be able to avoid limits on speculation that apply to trading on U.S. exchanges by routing their trades on to foreign exchanges through a U.S.-located trading terminal or computer. The energy speculation act would also close what is often called the ''swaps loophole'' so that traders in the United States would not be able to avoid oversight and Commodity Futures Trading Commission authority by trading in over-the-counter markets because it would require the CFTC to be provided with the information about large trades, and it authorizes the CFTC, if appropriate, to order traders to reduce their holdings in the over-the-counter market in order to prevent excessive speculation or price manipulation.

The bill would also give the CFTC more resources to oversee the energy markets in that it would require the CFTC to obtain and publish better data on speculative trading in the futures markets.

Finally, the findings and recommendations of the subcommittee staff reports on energy prices give strong support to the core premise of the energy speculation act, that speculation has played a significant role in high energy prices.

In June 2006, the PSI issued a report, ''The Role of Market Speculation in Rising Oil and Gas Prices: A Need to Put a Cop on the Beat,'' finding that the traditional forces of supply and demand didn't account for sustained price increases and price volatility in the oil and gasoline markets. The report concluded that in 2006, a growing number of trades of contracts for future delivery of oil occurred without regulatory oversight and found that market speculation had contributed to rising oil and gasoline prices, perhaps accounting for $20 out of a then-priced $70 barrel of oil, in other words; speculation contributed from 25 percent to 30 percent of the prices.

So the work and reports of the Permanent Subcommittee on Investigations provides solid support for the legislation offered by the majority leader. The subcommittee's work demonstrates the significant role played by speculation in high energy prices and the need to adopt measures to control that speculation.

MOMENT OF SILENCE TO HONOR OFFICER CHESTNUT AND DETECTIVE GIBSON

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, under a previous order, at 3:40, we will observe a moment of silence. At the conclusion of that moment of silence, Members are encouraged to exit the Chamber and proceed to the tree planting on the east front of the Capitol. Staff from the Sergeant at Arms office will be at the door exiting the Chamber near the Republican cloakroom to direct Members.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the Senate will now observe a moment of silence in memory of Detective John Gibson and Officer Jacob Chestnut who lost their lives on July 24, 1998.

(Moment of silence.)

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, July 24 always brings a sense of sadness to the Capitol and a sense of gratitude. We feel sadness over the loss of Officer J.J. Chestnut and Detective John Gibson who died 10 years ago today on their posts doing jobs they loved in this great American building. We also feel a deep sense of gratitude to Officer Chestnut and Detective Gibson for their service and sacrifice and to the men and women of the U.S. Capitol Police Department who continue to stand guard every day to protect this Capitol and all who work and visit here. Because of their dedication and professionalism, the doors of the people's House have remained open, as they should be, and our Nation owes them a debt of gratitude.

Officer Jacob Joseph Chestnut—''J.J.'' to all his friends—and Detective John Michael Gibson were good men, good police officers, husbands and fathers, who both gave 18 years of distinguished service to the U.S. Capitol Police department.

For J.J. Chestnut, this was a second career, after 20 years in the Air Force, including two tours in Vietnam.

He greeted everyone—Congress Members and visitors—with the same warm smile. He treated everyone with dignity. After he died, we learned that he used to take clothes to a political activist, whom many called ''homeless,'' who kept a daily vigil near the door where Officer Chestnut was posted—just feet from where he died. He loved his work, his friends, his vegetable garden—and most of all, his family.

John Gibson was a transplanted New Englander who loved hockey, the Boston Bruins, the Red Sox and, most of all, his wife and their three teenage children.

They died at their posts in the Capitol, at the hands of a deranged man with a gun and a history of serious mental illness.

They lie today with other American heroes in Arlington National Cemetery.

Their deaths have left an indelible mark on those of us who work in this great symbol of our democracy.

Just now, as we observed a moment of silence in this chamber, the Speaker of the House and the majority and minority leaders of both the House and Senate—Democrats and Republicans—observed a moment of silence at the Memorial Door of the Capitol.

The leaders will lay a wreath at the bronze plaque that bears the names and likenesses of Officer Chestnut and Detective Gibson.

Then, together, they will walk outside and help plant a tree on the grounds of the U.S. Capitol to honor these two fallen heroes. It is a Valley Forge American Elm—a strong, sturdy, quintessentially American tree. In the years to come, it will grow tall and shelter visitors from the sun, just as J.J. Chestnut and John Gibson sheltered visitors from harm.

In addition to their plaque and their new tree, there are other, more personal reminders of Officer Chestnut and Detective Gibson in this Capitol.

When John Gibson died, a woman who had taught both of his son's in grade school wrote the boys a letter in which she said their father had died a brave man and his legacy would always be a part of them. Jack and Danny were teenagers then.

Today, Danny Gibson works for the Senate Sergeant at Arms.

Officer Jack Gibson is 2-year veteran of the U.S. Capitol Police Department.

Officer Chestnut's son-in-law, Officer Jason Culpepper, is also a U.S. Capitol Police officer.

That says a great deal about the dedication of these two families to public service and safety.

To these fine men—to Wendy Chestnut and Lyn Gibson, and all of the Chestnut and Gibson children and family members, and to their friends and colleagues—we offer our condolences

and respect on this sad 10-year milestone.

Madam President, so Members may join in the planting of the tree on the Capitol grounds, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

WARM IN WINTER AND COOL IN SUMMER ACT—MOTION TO PROCEED—Continued

Mr. SANDERS. Madam President, all of us recognize there are very strong differences of opinion in Congress about how to resolve the major energy crisis facing working families throughout our country. I have my views on this issue, and other Members have different points of view, and that is the way it is.

I am happy to report, however, that there is an increasing unanimity of understanding around one very important fact regarding this energy crisis; that is, if we do not dramatically increase funding for the highly successful Low-Income Home Energy Assistance Program, usually known as LIHEAP, senior citizens on fixed incomes, the disabled, and working families with children are in serious danger of either freezing to death this coming winter or perhaps dying of heat stroke this summer because they are unable to pay their home energy bills. We cannot allow that to happen.

I am happy to announce, in a tripartisan effort, that more and more Senators understand that reality and are prepared to work together to protect our citizens. S. 3186, the Warm in Winter and Cool in Summer Act, the LIHEAP legislation that I recently introduced, now has 53 cosponsors—53 cosponsors—38 Democrats, 13 Republicans, and 2 Independents. I thank all of those cosponsors for their support. I am absolutely confident that as soon as this bill gets on the Senate floor, not only do we have the 50 votes, I am quite confident we are going to have 60 votes and perhaps more.

I also thank majority leader HARRY REID for filing a cloture motion last night on the motion to proceed to this very important legislation. Senator REID understands, as I think most of us do, that it is absolutely essential for the health and well-being of millions of our citizens that this bill be passed, and passed as soon as possible. My hope is that after passage in the Senate, we can get it over to the House before the August break and see it pass in that body as well. That may be overly optimistic, but that is what I would like to see.

Let me say a few words about why this bill needs to be passed.

At a time when home energy bills are soaring, this legislation would nearly double the funding for LIHEAP in fiscal year 2008, taking it from a little more than $2.5 billion to $5.1 billion—a total increase of $2.53 billion. This is, in fact, what Congress has authorized for LIHEAP.

Let me say a few words about why we need to significantly increase funding for LIHEAP.

In 2007, 5.8 million Americans—primarily senior citizens, working families with kids, and people with disabilities—utilized this program. These are the most vulnerable people in our country. Unfortunately, these 5.8 million Americans are only 16 percent—16 percent—of the people who are eligible for the program. The vast majority of the people who are eligible cannot get into the program because we lack the funds to help them. Madam President, 94 percent of the participants in the LIHEAP program were elderly, disabled, or had a child in the family under 18.

From fiscal year 2003 to fiscal year 2008, the cost of the average heating oil bill has increased by over 93 percent—almost doubled. The estimated increase in an average natural gas bill during that same period has gone up by about 50 percent. Unfortunately, LIHEAP funding has lagged far behind these outrageously high increases in energy costs. In fact, we are spending 23 percent less on LIHEAP today than we did 2 years ago, and after adjusting for inflation, we spent more on LIHEAP 20 years ago than we are spending right now.

Let's be very clear. What we are talking about now is a life-and-death situation. Many people do not understand this, but more people have died in our country from the extreme heat and extreme cold since 1998 than all natural disasters in this country combined, including floods, fires, hurricanes, and tornadoes.

According to the Centers for Disease Control, over 1,000 Americans from across the country died from hypothermia in their own homes just between 1999 and 2002. Those are the latest figures we have available. In other words, they froze to death because they could not afford to adequately heat their homes. How many of these deaths were preventable? All of them were, according to the CDC. We will probably not know for several years how many Americans died last winter because they could not afford to heat their homes, but clearly one death is too many.

I understand this country is struggling with an emergency situation in terms of flooding in the Midwest and wildfires in California, but there is another emergency which must be dealt with now while we also deal with those emergencies.

At a time when the costs of home heating fuels and electricity are soaring and when the economy is in decline, millions of Americans are finding it harder and harder to stay warm in the winter or stay cool in the summer.

In my State of Vermont and throughout New England and the Northeast, people are extremely worried that they will not have enough money to afford the price of heating oil next winter. A newspaper in my State, the Stowe Reporter, recently editorialized that the lack of affordable heating oil could turn into New England's version of Hurricane Katrina next winter. We cannot allow that to happen.

I want all of my colleagues to understand that the home energy crisis that is being faced throughout the northern part of our country is something that is very imminent and is something that people are very concerned about. But this program, LIHEAP, is not just a program for cold-weather States; it is also a program for hot-weather States so that the elderly, the sick, and the frail in hot-weather States can afford to pay soaring electric bills to provide the air-conditioning they need. In other words, this program is not just a life-and-death program for the northern tier of our country; it is vitally important for the South and Southwest and for people who are struggling to pay for the skyrocketing price of electricity which has tripled in some parts of the country. What we are concerned about there is that if you are 90 years of age and you are sick and you cannot afford skyrocketing electric bills and your electricity gets turned off, you are in serious trouble.

According to the National Energy Assistance Directors' Association, a recordbreaking 15.6 million American families, or nearly 15 percent of all households, are at least 30 days overdue in paying their utility bills. This is a crisis situation and a situation in which LIHEAP can be of significant help.

To demonstrate how important LIHEAP is right now for Southern States dealing with a major heat wave, let me give you a few examples of what I am referring to. This is hard to believe, but it is true. Over the past decade, the last 10 years, more than 400 people have died of heat exposure in the State of Arizona, including 31 in July of 2005 alone. All of these deaths could have been prevented if the people affected had air-conditioning. Without increased support from the Federal Government, Arizona will be out of LIHEAP funding before the end of this month.

Let me quote from a letter I received on July 15—last week—from Phil Gordon, the mayor of Phoenix, AZ. This is what he writes:

> I am writing to express my support for the Warm in Winter and Cool in Summer Act. Currently Arizona can only provide assistance to 6 percent—
>
> Six percent—
>
> of eligible LIHEAP households. . . . To make matters worse, Phoenix continues to experience extreme heat. In the past month alone, we have had 15 days with temperatures at or

above 110 degrees. This extreme heat is especially hard on the very young, the elderly and disabled who are on fixed incomes and can no longer afford to cool their homes. . . . Arizona Public Service—

That is the electric company there—

reported that there was a 36% increase in the number of households having difficulty in paying utility bills and an increase of 11,000 families being disconnected compared to a year ago.

Imagine not having electricity, and day after day the temperature is 110 degrees. And imagine if you are 90 years of age. Imagine if you are sick.

Rising energy and housing costs are placing enormous strains on low-income households across Arizona.

So writes Mayor Phil Gordon of Phoenix, AZ.

Madam President, it is not just Arizona. Due to a lack of LIHEAP funding, the State of Texas only provides air-conditioning assistance to about 4 percent of those who qualify.

Let me quote from a letter I received on July 15 from Shawnee Bayer from the Community Action Committee in Victoria, TX. She writes:

The temperatures in our area have been 100 to 110 degrees for 16 consecutive days. I fear it is going to be very tragic at the current pace we are going with so little LIHEAP funding available. . . . There are so many who need our assistance, like the elderly lady in her 80's who recently almost died due to kidney failure; now she doesn't want to use her air conditioner because she is afraid she won't be able to pay the bill. . . .

That should not be taking place here in the United States of America. This is in Victoria, TX.

I received an e-mail from DeAndra Baker from the Community Action Agency in Giddings, TX, who writes:

We have a gentleman who is 78 years old and on a fixed income of $770.00 a month. . . . Due to the extremely high temperatures he is unable to afford to keep his home cool. His doctor provided a statement that he must have his air conditioner turned on at a minimum of 80 degrees to avoid congestive heart failure and he is not even able to afford that much. Sadly, he will not continue to run his A/C or fans and will be at serious risk unless LIHEAP funding is increased soon.

That is what is going on in the State of Texas.

Without additional support from the Federal Government, the State of Georgia will not be able to offer any LIHEAP assistance whatsoever to its residents this summer. Currently, Georgia has a waiting list of 28,000 people hoping to receive some relief from the hot weather this summer.

Let me quote from a letter I received from the executive director of the Community Action Agency in Gainesville, GA, Janice Riley. She writes:

One family that came in after we ran out of LIHEAP funds was the Jones family. . . . Mr. Jones, came to our office requesting assistance with his electric bill. He has a wife and five children. . . . They got behind with all their bills when he was injured on the job six months ago. . . . Their daughter is paralyzed from the neck down from a fall she had at six months of age. I wish we could help them. Another participant that did not receive LIHEAP funds and is now facing disconnection or homelessness is Ms. O'Brien, a 33 year old, single parent with 5 children between the ages of 7–16, and a newborn grandchild which she has taken in. . . . Her power was turned off last week because she was unable to pay it. . . . Her need for assistance is based on the high costs of living, not from her lack of work ethic and heroic efforts to maintain her household.

In addition, unless this legislation is signed into law soon, the State of Kentucky will not be able to keep any of its residents cool this summer through the LIHEAP program.

According to the executive director of the Community Action Agency in Kentucky, Kip Bowmar:

February of 2008 marked the first time in the program's history that all 120 Counties in Kentucky ran out of LIHEAP funds forcing us to close our doors as fuel prices were soaring and people needed help.

In Florida, Hilda Frazier, the State director of the LIHEAP program, has estimated they will serve 26,000 fewer households this year because of the reduction of available LIHEAP funding and the rising cost of energy.

Moving on to California, Joan Graham, the deputy director of the Community Action Agency in Sacramento, CA, recently wrote that:

Every day we are turning away at least 50 families who qualify for LIHEAP because we lack resources. Energy bills have increased 30 percent over last year, yet our funding has not increased. In 2006, there were 29 heat-related deaths in Sacramento County. One senior who passed away due to extreme heat was afraid to turn on his air-conditioner because he knew he would be unable to pay the electric bill. We know there are more like him out there at present.

Why is LIHEAP so important in the South in the summertime? From 1999 to 2003, over 3,400 deaths in this country were due to excessive heat. All of these deaths were preventable, and air-conditioning is the best way to prevent those deaths, according to CDC.

I relate the problems associated with high heat and lack of LIHEAP funding not because that is necessarily an issue in my State. In our State of Vermont, in the northern tier of this country, the fear obviously is that when winter comes and weather becomes 20 below zero, we are going to have many families who are going to go cold. Some may freeze, some may be forced to vacate their homes and move in with other relatives and friends. That is what our fear is. Again, this is not just a fear of northern States, this is a concern that impacts every State in this country, whether you are in the North or whether you are in the South. It is imperative that we move on this issue and it is imperative that we move as quickly as possible.

So once again, I am delighted that in the midst of all of the differences of opinion we are hearing on energy policy in general, there has been a coming together around the issue of LIHEAP. We now have 52 cosponsors, including 13 Republicans. When this bill comes to the floor—and it will come to the floor soon; we are going to pass it—I am quite confident we are going to get at least 60 votes, if we need that, and maybe a lot more than that. My hope is that we move it on to the House to get it passed there as soon as possible and we get this desperately needed funding out into the States. This is an issue we are making some progress on and I look forward to the support of all of my colleagues.

With that, I yield the floor.

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

Mr. GREGG. Madam President, I wish to pick up on what the Senator from Vermont is saying because I feel very strongly that we do need to move forward with additional funding for LIHEAP, the Low-Income Energy Assistance Program. In fact, I have offered an amendment to this—or I have filed it. I haven't offered it, because no amendments have been allowed by the majority party, but I have filed an amendment to the Energy bill, which is the logical place that we should put the LIHEAP language, which would do three things. It would double the amount of funding for low-income energy assistance, increasing it by $2.5 billion, which is the essence of the bill of the Senator from Vermont, which is exactly what we need to take care of the increased prices for energy according to the Energy Office in New Hampshire.

Secondly, it would add $25 million to the weatherization program. I think weatherization makes a lot of sense because it takes homes which lose a lot of their energy through lack of adequate windows or adequate insulation and helps those homes, especially low-income individuals. Further, it does something else which is important. LIHEAP is directed to low-income people, but middle-income families today, with the cost of energy doubling and tripling, have a serious problem. Folks who are working for a living but are still on a fairly tight budget or a fixed income are going to get hit hard this winter when their energy bills double and triple. So this bill sets up a tax credit dealing with the first $1,000 for an individual who is purchasing energy at fairly moderate income levels, so it doesn't benefit high-income individuals, and allows people, to the extent they buy oil to heat their home, to take that tax credit to assist them in the effort of reducing the cost of that oil.

All of this is paid for. My bill is entirely paid for. I think that is also a critical element because what we are talking about here is buying a consumable product for today—oil to heat your home—and then, unfortunately, if you don't pay for it, you are passing the bill for that oil on to our children and our grandchildren by adding to the debt of the United States, and that is not fair. Our children and our grandchildren are going to have their own tough time heating their homes; they don't need to have the debt that is included in paying for that program.

So my bill is entirely paid for by eliminating a tax—what I consider to be an inappropriate tax break for basically large, integrated oil companies known as section 199. This tax break was not directed at those companies originally when it was passed—and it should be—but it is being taken advantage of, and it is certainly not needed when oil is selling at $120 or $130 a barrel, and the incentives to produce oil are significant enough by the cost of the marketplace.

I feel very strongly—and I think this is an important point to make—that we need to have a comprehensive approach relative to people who are going to be impacted this winter, and it needs to be a paid-for approach, and that is why I made this suggestion.

I also feel strongly that if the majority leader calls up the bill which he filed, which is the bill from Senator SANDERS, in an attempt basically to take down the Energy bill so that we are not going to debate it any longer, that is not the right approach. Because the real way you get to the issue of energy and the cost of energy for low-income people in New Hampshire this winter—or for moderate income people in New Hampshire this winter—is to reduce the overall cost of energy, to bring the price of energy down. How do you do that? You produce more and you consume less.

We on our side of the aisle have a series of ideas as to how you should produce more. Use the oil that is in the Outer Continental Shelf, drill in the Outer Continental Shelf. Use shale oil. We have 2 trillion barrels of shale oil sitting there—more reserves than in all of Saudi Arabia and many of the Middle Eastern countries combined. Use those resources. Bring them on the market. Take away the impediments which we as a Congress—the Democratic Congress specifically—have put in the way of using Outer Continental Shelf oil.

There is language which has passed this Congress which was put in by the Democratic Congress that says you can't drill in the Outer Continental Shelf. There is language which says you can't use oil shale from Wyoming, Colorado, and Utah—this huge reserve of energy. That language should be removed so that those sources of oil can be used.

Once you show the world we are willing to bring on line as a nation additional production from our resources, that will reduce the price of energy, because these prices which we are seeing today are speculative prices based on what they expect to occur in the future, and they expect demand to go up, but supply to stay stable—to not go up. Well, if we prove we are willing to bring more supply on line, and we are willing to use other sources such as nuclear power to reduce our reliance on oil, that will cause these prices to come down. That is the most significant thing we can do. If we could bring the price of a barrel of oil down to $100, even, that would dramatically take pressure off of people buying home heating oil this winter in New Hampshire.

So this bill we are debating right now, this energy bill, has to be completed before we move on to Senator SANDERS' bill. In the debate of this bill, we should take up the LIHEAP amendment which will be offered, I suspect, from our side of the aisle—probably by Senator SUNUNU or myself. At the same time, we should take up these other ideas of expanding the use of our reserves as a nation on the Outer Continental Shelf, in the shale oil reserves, using nuclear power.

We should be expanding these reserves. Why? Because that will cause the price of oil to come down. In addition, the secondary benefit of this, of course, is that we won't be buying energy from people who don't like us. We won't be buying as much energy from Venezuela if we are producing American oil. We won't be buying energy from Iran if we are producing more American oil.

So clearly this is what we should do. We should produce more and we should consume less. At the same time, we should be promoting—and there will be an amendment from our side of the aisle on this bill—promoting the use of electric cars and development of electric batteries, promoting more conservation ideas, promoting more renewable ideas. These are initiatives which need to be pursued. More importantly, they need to be discussed and a genuine bill needs to come out of this Congress. A bill such as the majority leader has presented—or the Democratic side has presented—which deals only with one small sliver of the problem, which is the potential for speculation, does nothing to increase supply and it does nothing to increase conservation, the two things we need to do in order to get the price of oil down.

The simple fact is this bill should be available and open to amendment. In an attempt by the majority leader to basically sidetrack this bill, to throw it in the ditch, so we can't go forward with amendments which deal with addressing drilling on the Outer Continental Shelf, which deal with bringing on more shale oil, which deal with nuclear power, which deal with more conservation—I am not going to vote for something that tries to accomplish that. I am going to vote to try to make sure we come out of this debate with a comprehensive policy, something that drives this country toward creating more supply that is American-created while at the same time using less.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 8 minutes and there is 22 minutes left.

Mr. GREGG. I believe I have 10 minutes. If the Chair would advise me when I have completed 10 minutes, I would appreciate it.

The PRESIDING OFFICER. I will do that.

HOUSING

Mr. GREGG. On another topic, we are going to take up tomorrow hopefully the housing bill. This is an extraordinarily important piece of legislation. It is a big leap for those of us who are fiscal conservatives to say the Government should step into this arena as aggressively as this bill suggests we do but, unfortunately, it is a necessary step. It accomplishes two things which are absolutely critical in the present context of our economy.

Today there are a lot of people losing their homes through foreclosure as a result of taking part in what was known as the subprime lending process and having their ARMs reset, their mortgage rates reset. This bill sets up a process where people who live in their primary residence who have the wherewithal, the ability, to pay a reasonable mortgage can restructure that mortgage so they can afford it and so they don't lose their home, and so there isn't a foreclosure. That is very important. It is important not only to those individuals, but it is important to the marketplace to start some activity in the marketplace in the area of mortgage lending and home sales.

Secondly, and equally important, this bill addresses the fundamental strength of our financial institutions. We have some financial institutions in this country which are a bit unstable—unstable. We need to make sure they are stable. Why? Because these institutions, such as Freddie Mac and Fannie Mae, are essentially at the center of the strength, whether we like it or not, of our banking industry. We need to set up a process so the marketplace knows these institutions, specifically Freddie Mac and Fannie Mae, are going to survive and are going to be stable and are going to be able to have the capital and the wherewithal to continue to lend and to continue to have the market, to turn over mortgages so you can have liquidity in the lending markets. This is critical.

Some will argue it may be expensive. My argument is if we don't take this step, we know it will be expensive. We know from the FDIC——

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. GREGG. Insurance that we will incur—as a result of bank failures that we will be paying a massive price. So although I don't like the idea from a concept as a matter of practice, this is something we are simply going to have to do in order to assure the fiscal solvency and resilience of our credit markets.

Madam President, I appreciate the courtesy of the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I thank Senator GREGG for his insights on housing and other matters. With regard to the potential LIHEAP legislation, I respect the fact that he desires it to be paid for and for it not to be one

more addition to the public debt. However, as a Senator who has believed for the last 12 years I have been here that this Nation needed to produce more oil and gas at home, I have been frustrated so often by my colleagues—frequently from the Northeast, I have to say—who have opposed oil production offshore, have opposed oil production in Alaska, have opposed coal to liquid, have opposed shale oil production and other avenues of production. The junior Senator from Vermont, my colleague on the Energy Committee, declared that we needed more geothermal, we needed more wind and solar, we needed renewable energy forms, which I certainly support in every way possible.

Yet it is odd to me that those very same persons now walk blithely into the Senate and want the taxpayers of America to subsidize the Northeast so they can buy more dirty fuel oil to heat their homes with—the people who objected to the production of oil and gas year after year. I have to say that. I know people in the Northeast are hurting. People all over the country are hurting. The little county where I grew up in Alabama, according to the New York Times and a national survey, found that they spend a larger percentage of their income on gasoline than any other county in America because incomes are low in the rural areas and they have to drive a long distance to work. Those were the primary factors cited. That makes sense to me. Are we going to subsidize people in Wilcox County? Who gets subsidized?

What we need, without any doubt, colleagues, is an energy policy that will bring down these prices. We need an energy policy that makes sense—not subsidizing the dirtiest oil of all, burning heating oil in individual homes. We ought to be thinking about things that could actually work, such as cleaner natural gas, making those pipelines available throughout the country, instead of blocking every attempt to expand a pipeline. Or maybe we could expand nuclear power in the Northeast and other places in the country so more of our homes could be converted to clean electricity, produced by nuclear power, which produces not one drop of global warming gases or atmospheric pollution.

I have to say I am disappointed that the majority leader has decided he did not have time—I believe those were his words—to deal with energy. Therefore, he filled the tree, using a parliamentary procedure that means we would go home a week earlier than we expected to go home and not stay in session next week and talk about energy and the things the American people care about. They care about energy and the economy. The economy is adversely affected by high energy costs. That is what we need to be doing right now.

I think this idea, that the majority leader can fill the tree and control the amendments so we are not able to enter into a debate about how to confront the energy crisis this Nation is experiencing, is a very extraordinary departure from our classical history.

In 2005 and 2006, we had an energy debate and passed an important energy bill. The Republicans had the majority at that time. I believe there were 15 days of debate, 20 or 30 amendments were offered, and many more were accepted without a full vote.

Then, last year, the Democratic majority allowed an energy debate that improved our CAFÉ standards, and it passed overwhelmingly. I voted for that. I think it was 10 full days of debate and many votes were cast on amendments. At this time, quite a number of amendments were accepted.

Why would we not do that now when we are facing an even more severe crisis? That is my question. So I note to my colleagues that energy prices are having a very real impact on the lives of our constituents.

According to AAA, the average price of regular unleaded gasoline was $4.03 this morning. As a result, the typical American family, with two cars, is paying approximately—we have calculated this out, according to average miles driven—paying $1,260 more this year for the same number of gallons of gasoline they were purchasing last year. That amounts to a $105-per-month increase in expenditures for each family. Remember, people have paid taxes, they have had Social Security withheld, they have paid their insurance, their house payment, and all their basic expenses. You only have a certain amount of money. The American people are unhappy because they are paying an extra $105 per month for the same amount of gasoline they were purchasing before. When they realize that a big reason for that is because of a systematic action by Congress to block production of clean American energy, I think they are going to be unhappy with us. In fact, they are already unhappy with us. The popularity of Congress is at an alltime low. I think, on this energy question, we deserve the criticism. I have to say I have promoted more production for years. I have warned against this problem.

As a result of our policies, we are now importing over 60 percent of our fuel. That amounts to $500 billion to $700 billion in American wealth which has been transferred out of this country to foreign nations. They are using it like Venezuela is right now, with Chavez in Russia closing a $2 billion arms deal. He is basically doing that with our money, with the high price of oil. He is off shopping to buy weapons and—hopefully, he will not—possibly use them to destabilize South America, since he sees himself as following in the steps of Fidel Castro, his hero. That is not a good thing.

I have offered legislation that would open an area in the Gulf of Mexico on Alabama's side of the Alabama-Florida line, called the stovepipe, that has large amounts of oil and gas in it. It is in shallower water, so the wells can be drilled in a fashion that they can sit on the bottom. With the deep drilling we are doing today, you have to have a ship. The waters are so deep, they cannot anchor the ship. It has to sit in place by GPS and have propellers all around it to hold it steady, so it doesn't move, and the drilling can go on. This would be much cheaper and much quicker to bring onboard.

I have offered legislation that would require the Department of Energy to examine the subsidies and incentives we have created and to see which ones are working. This legislation would also have the Department of Energy work on a recommendation of how to utilize our subsidies, incentives, and prohibitions in a way that effectively maximizes our energy capacity in this country, making us less dependent upon foreign oil.

I believe strongly we need more efficiency. We need to use less energy. We need to have a breakthrough. I believe we will. In my home State, I believe we are going to see, within the next few months, a breakthrough on the conversion of cellulose to biodiesel or ethanol, and that could be a big help to us. It will certainly be more productive than that ethanol we are getting from corn today.

I see my colleague, the distinguished Senator from Arizona. I wish to say more, but I will conclude by saying that I believe we need to act. Our soldiers in Iraq work 7 days a week, 12- to 15-hour days. Their lives are at risk. The majority leader said we don't have time, that we need to recess a week earlier than we projected, and we cannot possibly spend more time during August—we need to be home on recess—dealing with the No. 1 issue facing the American people in this country.

I believe that is the wrong policy. I think we need to say so. I believe there are large numbers of Democratic Members of this Congress who will support more production that is safe and carefully done, that will help us deal with the crisis we are facing, but we cannot make progress, unless we are able to vote and debate. That is being denied at this time.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I associate myself with the remarks of my colleague from Alabama a moment ago. I will speak to the reliance of the United States on other countries around the world for too much of our petroleum and natural gas supplies and what that does to the United States to make us dependent, to cost us more money, to reduce our flexibility and actions around the world, and also the point that every time they want to rattle their sabers to create instability in the world, what that does to the markets is to reflect that instability in higher prices. So these very countries that we would like not to make so much money off their oil supplies, if they want to make more, all they have

to do is create a little trouble in the world, and it raises the price because the markets go higher for a while. I will talk about that in a moment.

I have reflected on a comment a friend of mine made some time ago. I don't mean disrespect to my friends on the other side. But he said: You know, Democrats have three approaches to every problem: Taxation, litigation, and regulation.

Sometimes we like to laugh about that because it is, unfortunately, too true. But I thought how does this apply to energy. Sure enough, it does. They, of course, tried taxation and failed, trying to raise taxes on oil companies, under the notion it would never be reflected in consumer prices we pay. But that is exactly what would happen. They tried litigation against OPEC. There is no way you can sue the OPEC countries. We ought to produce more of what we have, not tell them they have to produce more. They are pretty strained, in terms of where they are in production right now, in any event, and we are not, as the King of Saudi Arabia reminded President Bush not too long ago.

Then, the third thing has to do with regulation. It is the bill that is pending before us right now. This is the Democratic approach: Let's regulate the people who buy and sell the contracts for oil and natural gas and the like. Of course, we already have regulators—it is called the CFTC—and today we have some news that demonstrates that this body is doing its job and can do its job. To the extent that there is illegal manipulation in the market, the CFTC can stop it. They announced that, after a year of investigation, they had stopped a company that was allegedly illegally manipulating the market, and they are going to take legal action against them. The Department of Justice may be looking at it from a criminal aspect, as well.

Both Democrats and Republicans have agreed that one of the things we need to do is ensure that the CFTC has all the money it needs and the personnel it needs to continue to do the job we have given it to do, to make sure people are not abusing the process. That is the good part of regulation. The bad part would be to begin defining—as the Democratic legislation does—who good traders are and who bad traders are and not let the bad traders trade—something that was debunked yesterday in an interagency study concluded by the CFTC, which concluded that speculation wasn't the problem; that the reason for the price increases at the pump is the law of supply and demand—not enough supply for the demand that exists out there.

Today, another diversion was created. I wish to reiterate this. It involves a friend of mine, my colleague, JOHN MCCAIN. He was grossly misquoted this morning by Senator REID and others, who have tried to suggest he is not for offshore drilling. I think everybody knows JOHN MCCAIN supports more offshore drilling. As a matter of fact, on this chart, I will quote one of many things I could refer to from his Web site. I have a great deal of information in which he makes it clear he is for more offshore production.

Among other things, in June, he said this:

> Opponents of domestic production cling to their position, even as the price of foreign oil has doubled, and doubled again . . . every year, we are sending hundreds of billions of dollars out of the country for oil imports, much of it from OPEC, while trillions of dollars of oil reserves in America go unused.

He has also said the current Federal moratorium on drilling on the Outer Continental Shelf stands in the way of energy exploration and production. JOHN MCCAIN believes it is time for the Federal Government to lift these restrictions and put our own reserves to use, and on and on.

He obviously supports offshore production. So why did some of my colleagues take a quotation of his, leave part of it out, and try to create the impression that he did not support it and he did not think it would do any good? He was responding to a question earlier about whether more of this offshore production would produce immediate results. All he did was to tell the truth. Here is what he said:

> I don't see an immediate relief, but I do see that exploitation of existing reserves, that may exist, and that—in view of many experts—that do exist off our coasts, is also a way that we need to provide relief, even though it may take some years. The fact that we are exploiting those reserves would have a psychological impact that I think is beneficial.

I totally agree with him. My colleagues read this to suggest that he believes offshore production would have no benefit except a psychological benefit. As we can see, that is not what he said. But his point is also valid—''is also a way we need to provide relief,'' it will provide a psychological boost to the markets just as, in fact, President Bush's lifting of the moratorium a week or so ago on some offshore drilling caused prices to drop. Many analysts believe the drop of about $25 per barrel was much because of the President's announcement and the fact that Congress was taking up this subject with the idea that perhaps we would actually get something done.

What the speculators are doing is simply placing a bet into the future that there is either going to be enough oil to meet demand or there is not. If there is not, then they are betting the price will go up.

What Senator MCCAIN is saying is the mere fact we would pass legislation saying we are going to produce more oil offshore would immediately have the impact on the markets to bring the prices down because they would know in the future we would have enough supply to meet our demands. JOHN MCCAIN was exactly correct on this, and I think it serves no purpose to misquote him and suggest otherwise.

I also note that in the House of Representatives today, legislation was defeated, as it was last week, by the Democratic majority there that is very similar to, if not identical to, legislation that was introduced by Democrats in the Senate.

For example, last week the House of Representatives defeated a provision that says where leases have been let to oil producers, if they do not drill on those leases after a period of time, then the leases come back to the Federal Government.

As you probably know, that is already the law. The bottom line is you get primarily 10-year leases. Some are shorter. You cannot obviously immediately go out and drill on every one of several hundred thousand acres, but what you do is try to figure out where it is most likely you are going to get oil and you start drilling there first and keep going until you drill in all the areas where you think there is potential. It is obviously not going to be on every acre. Whatever you haven't done in 10 years goes back to the Government. That bill failed because it is already law.

Today another bill failed that is to drain the Strategic Petroleum Reserve. This is our national security reserve of oil, in case of an emergency, for our military primarily. We need reserve so the tanks can drive, planes can fly, and the ships can sail. You don't want to reduce that to affect very briefly the price of gas in the country. They would reduce it by 10 percent. What would that do in terms of the oil supply in the country? It would reduce the oil supply by 3½ days—3½ days. If it drove the prices down at all, which I doubt would happen, it would be very temporary because everybody would know it is not a permanent solution. So it is no wonder that failed in the House. Again, to the extent that is part of the Democratic bill, it is obviously not a solution to the problem.

I mentioned I would talk briefly about what Senator SESSIONS was talking about, and that is the unintended consequences of not producing our own energy, even though we have it in our country, and relying on other countries to do it instead.

More than 60 percent of every dollar spent at the pump—I filled up my tank last week, and it cost me over $70, and my tank wasn't even empty when I filled it. More than 60 cents out of every dollar I paid went to a foreign country. We could keep that money in the United States if we produced our own energy.

I conclude by saying we can do ourselves a whole lot of good to take advantage of the resources that exist right here in the United States of America, reduce the cost of gasoline at the pump, and ensure our future energy security.

I hope during the course of the next several days we will have an opportunity to do that as we debate this important legislation.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Madam President, I came to the floor yesterday to talk about how our Nation must move forward on a new energy future and explain how even if we drilled off all our coastlines it would still meet only 1 percent of our future oil needs. Instead we should be moving toward a renewable energy future and new energy technologies that could actually reduce our dependence on foreign oil by over half.

But today I come to the floor to talk about the proper policing of oil markets because we are in a crisis that is literally bankrupting families and businesses and even threatening entire industries.

Now, I don't often agree with President George Bush, but I have to say in his latest economic analysis, I actually agree with him, because I think it explains part of the reason why we are in a crisis today.

That is right, the President said that ''Wall Street got drunk.'' That is right, the President acknowledged that something was wrong with Wall Street and that ''Wall Street got drunk.''

Now, I don't know if the President meant to say that publically, but it got captured on the Internet. I don't know if he plans to keep saying that or all the intentions he has about trying to sober up Wall Street. But I know elaborating on the President's point, White House press secretary Dana Perino explained:

> Well, you know, I actually haven't spoken to him about this, but I imagine what he meant, as I have heard him describe it before in both public and private, was that Wall Street let themselves get carried away and that they did not understand the risks that the newfangled financial instruments would pose to markets.

That is what she said.

I don't know why the Bush administration and the regulatory team that they put in place wasn't doing something about this situation. We do know the administration supported deregulation of the financial markets.

And to me, the issue is that while Wall Street was getting drunk, it's really America and the American middle class that is feeling the hangover.

Today the Federal Reserve is struggling to contain what is almost one of the most severe credit crises since the Great Depression, and American families and businesses are paying dearly for the poor decisions and inactions of this administration.

During the past decade, the financial economy seems to have repeated some of the excesses our country has gone through before. So I wonder when we are going to learn the lessons of history and make sure that we in Congress do our job and that regulatory agencies do theirs.

In many ways, today's situation is a repeat of the 1920s when too much borrowing to underwrite too many speculative bets using too much of other people's money set up an the entire economy up for a crash.

Well, in 1999, Congress repealed key parts of the Glass-Steagall Act of 1933. It allowed banks to operate any kind of financial businesses they desired. And it set up a situation where they had multiple conflicts of interest. And several economists and analysts have cited the repeal of this Act as contributing to the 2007 subprime mortgage crisis. In fact, Robert Kuttner, cofounder and co-editor of the American Prospect magazine wrote in September 2007:

> Hedge funds, private equity companies, and the subprime mortgage industries have two big things in common. First, each represents financial middlemen unproductively extracting wealth from the real economy. Second, each exploits loopholes in what remains a financial regulation.

Then, in 2000 we also deregulated a new and volatile financial derivative that is at the heart of today's housing credit crisis—credit default swaps. As White House press secretary Dana Perino would describe it, these newfangled financial instruments that posed a risk to the market actually grew into a $62 trillion industry.

And Warren Buffett has called these credit-swaps financial weapons of mass destruction. So the proliferation of these newfangled financial instruments has resulted in huge profits and losses without any physical goods changing hands.

So now, I come to the floor asking my colleagues when are we going to learn the lessons of the past? When are we going to realize that the the 1929 stock market crash has the same root cause as the recent housing bubble? Both were financed by dangerously, highly leveraged borrowing, and after the crash many banks failed causing a ripple effect that devastated our Nation's economy. Well, after the 1929 crash, Congress stepped up and changed the banking laws to eliminate some of the abuses that had led to the crash.

That is right, only after the crisis did Congress act. What I want to know is whether we are going to learn that vital lesson and legislate consumer protections in advance, or only after a bubble bursts.

The savings and loan crisis of the 1980s and 1990s when 747 savings and loan associations went under provides a similar lesson. Like before, much of the mess can be traced back to deregulation of the savings and loans which gave them many of the capabilities of banks, but failed to bring them under the same regulations as banks. Congress eliminated regulations designed to prevent lending excesses and minimize failures.

Deregulation allowed lending in a distant loan markets on the promise of higher returns, and it also allowed associations to participate in speculative construction activities with builders and developers who had little or no financial stake in the projects.

The ultimate cost of this crisis is estimated to have totaled around $160 billion, with U.S. taxpayers bailing out the institutions to the tune of $125 billion. This, of course, added to our deficit of the early 1990s.

So I ask my colleagues: When are we going to learn this lesson?

As George Soros wrote in his book documenting the credit crisis:

> At the end of World War II, the financial industry—banks, brokers, other financial institutions—played a very different role in the economy than they do today. Banks and markets were strictly regulated . . .

Unfortunately, today's banking and credit crisis teaches us we have failed again to learn the hard lessons. We have failed to see that oversight and transparency are always critical, and when Congress makes reforms, they cannot disregard these important fundamentals.

The only encouraging news I have seen lately is that Treasury Secretary Paulson is now working to increase regulation over investment banks, hedge funds, and other financial institutions.

I could go on and on for my colleagues on my own personal experience with the western energy crisis that happened in electricity in 2000 and 2001. We saw that during the electricity deregulation experience which started in the mid 1990s, people argued that electricity was just another commodity. But it is really a very vital element to our economy. Many experts cautioned that electricity was too vital a part of our economy and way of life to let these markets go without the transparency and oversight that is essential.

We all know the rest of the story. We saw that deregulation set the table for some of Enron's spectacular manipulation schemes of 2000 and 2001 among other bad actors, which all told caused more than $35 billion in economic loss and over 589,000 jobs were lost because of this crisis.

Again, only after the crisis was over, Congress stepped in and gave the Federal Energy Regulatory Commission and now the FTC more regulatory authority on energy markets. But again, Congress is doing its job after the fact.

So I ask my colleagues: When are we going to learn? When are we going to quit deregulating these critical markets without much thought to the transparency and oversight that is critical for markets to operate and function correctly? When are we going to learn that when we give Wall Street an inch, as the President says, Wall Street gets drunk?

We are here today. We are here today to talk about the oil futures market and hopefully enact some meaningful legislation. But the real reason we are here is that we deregulated the energy futures market in 2000, which helped spark today's price bubble that is driving our markets to no longer be based on supply-and-demand fundamentals. In one fell swoop, this deregulation did a number of things that enabled today's perfect storm to brew.

We let newfangled financial instruments—called credit default swaps—go

unregulated and made it too easy to use bad debt to finance home mortgages. We also let newfangled crude oil trading—called energy swaps—go unregulated and essentially allow Wall Street to trade without any transparency. And we allowed electronic trading of energy commodities to emerge as a new form of trading. In a nutshell, we let Wall Street rewrite the rule book for all the traditional exchanges, like as NYMEX and the Chicago Merc, which were previously subject to considerable CFTC oversight.

The consequences of allowing these energy speculators to move into this market, as my colleagues on the floor have said, in spades, shows it is similar to a casino game, instead of playing in the legitimate trading market. And the consequences are the American people paying hand over fist for our lack of regulatory oversight.

Why are we talking about the futures market? Because it should be a key price discovery method to establish the true price based on supply and demand. As the Government Accountability Office has said:

> The prices for energy commodities in the futures and in the spot or physical markets are closely linked because they are influenced by the same market fundamentals in the long run.

That is right, the prices for the energy commodities in the futures and in the spot or physical markets are closely linked because they are influenced by the same market fundamentals in the long run. So why is that so important? Well, it is important because the facts are clear: Speculation, and excessive speculation, have driven up oil prices over 100 percent in a year, and energy market experts are telling us the price should be more like $60 a barrel.

So people are questioning why the futures market is so high, driving the price people pay at the pump today. Well, as Ed Wallace, with the Dallas Star Telegram, said:

> Record high prices without record low oil inventories, analysts saying that so much money flows into the oil commodities that it gives the impression of shortages, when in fact no shortage exists.

So that is to say that when you have record-high prices without the record-low inventories, and I note we haven't had a supply disruption, so much money flows into the oil commodities it gives the impression of a shortage when, in fact, a shortage doesn't actually exist.

Now, I learned this phenomenon the hard way because that's how Enron manipulated the electricity markets coming up with various names for these various schemes—Darth Vader, Get Shorty—where Enron created the perception in the futures market that there was somehow not enough supply and then went in the physical market and signed people up for contracts at exorbitant rates. Thank God, through the hard work of people in my office, a little utility in Washington state actually recovered a tape of a trader talking to one of the individuals from Enron doing a contract and actually saying on the phone: No, this isn't true about the future price, but go ahead and tell your buyer it is so they will sign this contract.

So now we are seeing the same thing happening again. To quote again from the Dallas Star Telegram, in an article called ''ICE ICE BABY'':

> Investors know that if they invest huge amounts in the commodities futures, they can create a shortage on paper, driving prices up just like an actual shortage.

That is right, investors know they can invest huge amounts in commodities futures and they can create a shortage on paper and drive up the price just like an actual shortage. So, yes, we are concerned.

In fact, that article goes on further, speaking about the Intercontinental Exchange, better known as ICE—that this ICE platform has been a big problem because we have allowed it to operate in the dark without the same regulator oversight as other exchanges. Ed Wallace is also quoted in that article as saying:

> What kept traders from cornering the market in the past where the government's anti-manipulation rules.

He is talking about what kept bad actors in check in the past, but once we deregulated in 2000, they didn't have the same tools in place to keep the manipulation from happening. So we are here today, on the floor now, talking about whether we are going to move ahead on a speculation bill to deal with this problem.

Compounding this problem is that we have a CFTC and an administration that is watching out more for Wall Street than for Main Street. It is up to us to make sure we are going to pass legislation that puts transparency and tough rules in place to make sure the markets work for consumers and that both the future price and physical price of oil today are truly based on supply and demand.

Americans may be surprised to learn that our oil futures markets were further deregulated—besides this 2000 Act. I am talking about a CFTC decision made by staff behind closed doors who decided to take no action against a London-based trading exchange that actually trades U.S. oil products. As my colleague from Maryland likes to call it, the London loophole. It is like driving on a U.S. highway but only applying the same speed limits as the German Autobahn.

It is abundantly clear to me that the CFTC is doing everything it can to continue to operate this way without thinking about its job, which is to protect the American consumers from oil price manipulation. So that's why I am making no secret of the fact that I am holding up the renomination of CFTC commissioners. And I am holding up new appointments to the CFTC until Congress gets to the bottom of this and we can get Commissioners who are going to enforce the law on the books.

Hardworking Americans are counting on us and are suffering in this crisis. Congress is their last resort as an oversight agency to make sure there are functioning markets and not the manipulation of supply based on the fact that we have created dark markets without proper oversight. But don't just listen to me on this subject about the CFTC. Listen to what other people have said about our CFTC, our Commodity Futures Trading Commission. Others have been critical as well. In fact, William Engdahl, who is an expert and an author on oil markets, wrote in May of this year:

> The CFTC seems to have deliberately walked away from their mandated oversight responsibilities in the world's most important traded commodity—oil.

So there is one expert who doesn't think the CFTC is doing its job. Another expert, Steven Briese, who is a futures market analyst and author of the ''Commitments of Traders Bible,'' which is a futures market trade publication, wrote in May of this year as well:

> Congress has provided the CFTC the power to control this unlimited speculation—the law is very specific about establishing position limits. The problem is they have abdicated this role.

He is talking about the ''behind the closed door'' situation where the CFTC said: We are not going to enforce the laws we have on the books.

We have heard from other people, Mark Cooper, of the Consumer Federation of America, recently testifying before Congress, because the Consumer Federation of America focuses on protecting consumers. He had something to say about the CFTC's poor performance. In fact, he said the CFTC's poor performance is ''the regulatory equivalent to FEMA's response to Hurricane Katrina.''

What he is basically saying is they dropped the ball, at least at the beginning of this crisis, and have not responded.

So there are other people who have said things, like the trucking industry. They have a big stake in making sure the markets function properly. They say: ''There's oversight that's lacking or not taking place—so the private market is taking advantage of that.''

So, Madam President, I am not the only person. I know The Washington Post has also talked about this. They said, in an article: ''The CFTC has exempted these firms from rules that limit speculative buying, a prerogative traditionally reserved for airlines and trucking companies that needed to lock in future fuel costs.''

So it is clear the CFTC has abdicated its authority and responsibility. It has abdicated its authority and responsibility, and we have been trying to clean this up and to push forward on important efforts in this regard.

Madam President, I would like at this time to reference for the record a document prepared by Professor Michael Greenberger that responds to information from the Senate Permanent

Subcommittee on Investigations. I know the SPI staff analysis of Professor Greenberger's recent testimony before Congress on this topic has been discussed on the floor, and I would like to make my colleagues aware of his rebuttal to that PSI staff report.

Now, I am sure many of my colleagues probably didn't realize I was going to come and talk so much about the history of Congress deregulating markets, the crises that have ensued—billions of dollars paid by taxpayers—and Congress finally coming in and doing its job and making sure oversight agencies are performing their proper role and responsibility. But I thought it was important context so that we do not repeat the same mistakes.

Some of my colleagues today talked about the CFTC's recent investigation that uncovered oil market manipulation, which underscores the point. The CFTC could only take action against traders that are using exchanges regulated under their purview. What we need to ask is: what are we going to do about the dark markets, the markets that operate within the United States with U.S.-traded products that have been given an exemption and loophole in oil futures that we are not regulating and are probably also causing the problem? We want to know what they are doing about that.

So what is the American consumer saying about this? I know my colleagues have been saying a lot about Americans and what their preferences are. But it is clear to me that the American public wants us to act. In fact, 80 percent of the American public believes that oil commodities speculation and manipulation of the oil markets are taking place. That is right. They want Congress to act. Eighty percent of Americans polled said they believe oil commodities speculators are manipulating the price of oil. So Americans are very concerned.

Two-thirds of Americans believe we should pass legislation that creates new regulations governing all oil speculators. They want us to put back in place the rules we had before we threw them out in 2000. So two-thirds of Americans polled believe we should pass legislation that creates the necessary regulations, and that is what we need to be doing today.

I wish to make sure I am clear to my colleagues. We have done a great service by having an open debate on these issues. And just this week, experts said the Senate action is one of the reasons prices have fallen $20 below where they were, because we have had this discussion what a more regulated marketplace should look like. But I want to make sure my colleagues are clear that we need to pass legislation that really will crack down on excessive speculation. We cannot have a study bill, we cannot punt this to the future. We have to pass a bill that really addresses all areas of potential for excessive speculation. We need a bill that has aggregate speculation limits across all exchanges. It has to be transparent, and it has to be enforced on all markets.

We cannot have a bill on the Senate floor that has all the right words in it but none of the important words in the proper places. That is what I am going to continue to fight for. I am going to continue to fight to make sure we put real teeth back into the law, to make sure the American consumer is protected from the manipulation of oil markets in the future.

We can give the CFTC the tools it needs, and we must insist that it use them, but we will have to do our job here and pass this important legislation. Wall Street may be drunk, but it is America that is suffering the hangover, and we must help them recover. We need a new, tough law on the books, and it is imperative that we learn from the past mistakes of Congress in their attempt to lighten the load on some of these financial institutions with tools, only to find it wreaking havoc with housing oil speculation bubbles that is causing our country great distress. I hope we get this right in the next couple of days, and I am going to continue to fight until we do.

I yield the floor.

The PRESIDING OFFICER. (Mr. WHITEHOUSE). The Senator from Iowa is recognized.

FISCAL POLICY

Mr. GRASSLEY. Mr. President, in a little over 3 months, Americans will make a very important choice on the future direction of the country. We will go to the polls, we will select a new President. Americans will also vote on roughly one-third of the Senate and all the Members of the House of Representatives.

According to public opinion polls, economic issues will be among the most important matters voters will consider when they go to the voting booth in November.

Everybody knows that the Federal Government affects economic issues, and we do it through Federal fiscal policy. How we deal with Federal fiscal policy can be viewed as two sides of a ledger: On one side is tax policy, and on the other side is spending policy. The choices about how we as a nation want to balance each side of the ledger will have very important consequences and implications on our economic future.

Most economists agree that high taxes dampen economic growth. Too much spending, just like too much taxation, can also dampen economic growth. As elected representatives of the American people, we have an obligation, as the Constitution directs us, to spend those tax dollars for the common defense and also for the general welfare of the Nation. We all have a stake in a growing economy, and we will all suffer from a shrinking economy.

As ranking Republican on the tax-writing Senate Finance Committee, I believe it is my obligation to explain the choices and the consequences of those fiscal policy choices; therefore, I wish to focus on tax policy as it relates to the choices Americans will face this fall.

In all of the discussion about vague notions of change and vague notions of hope, there are some substantive issues Americans will be facing in the fall. The big question will be how much is the Federal Government going to take out of the American taxpayers' pocketbooks. We will need to evaluate before the election what we are being told on the campaign trail—not just what we are told, compare it with what is likely to occur starting at high noon, January 20, 2009.

I think from history we have some pretty good indicators that tell us what will happen based upon the choices of the American people in the next election. To do that, we must look at our current tax burden. Then we need to take a look at what Senators MCCAIN and OBAMA are telling us about how they will change the tax burden. Finally, we have to consider the ability of each candidate to deliver on promises. Each taxpayer is going to have to make choices, choices about what these candidates will do on tax issues once they get into that position of power. Every American taxpayer and every American family budget will be impacted by the new President and the agenda of the Congress. Elections have consequences.

Today, I wish to consider future tax policy and do it in the context of the CONGRESSIONAL RECORD over the last 3 decades.

First, I want to compare the actions of Congress on tax hikes and tax cuts in relation to each party's hold on the White House and do it from the congressional as well as the White House basis. As a baseline, I will show a scorecard of tax hikes and tax cuts for each 4-year Presidential term since 1981.

I have a chart here. The chart shows three things. They start, as I said, with the year 1981. As you will note, the years are divided into Presidential terms, so we start with President Reagan's first term and work our way through to the present, which is the last year of President George W. Bush's second term. You see the bottom lines across there, the ones that have red and blue, and the years there for the Presidential terms.

Right above the line for the Presidential terms, we have a thick line. It is a three-part line. The line shows relative power of Democrats and Republicans. The top third of the line, if red, shows Republicans holding the White House. The middle third of the line shows who held the Senate majority for a certain period. If red, then Republicans held the Senate; if blue, the Democrats held the Senate. Then the bottom line, that is in regard to the House majority. Like the other two lines, if red, it means the Republicans held the majority; if blue, it means Democrats were in charge of the other body.

If you move up the chart, there is a running total of how much on a yearly average that particular Congress and President agreed to raise or reduce taxes. The lines going up or down are in regard to the tax raises or tax decreases. This data is not mine; it was drawn from the Treasury Office of Tax Analysis report that was released—the most recent one in 2006. The amounts are derived from the nonpartisan Joint Committee on Taxation revenue estimates of each of the enacted bills Congress passed during that 26-year period of time.

Let's take a further look at the chart so you get some specifics.

President Reagan made tax relief a cornerstone of his successful 1980 campaign. His election helped Republicans attain a narrow majority for the first time in over a generation. The House, of course, remained in Democratic hands.

In 1981, President Reagan proposed and Congress agreed to a large tax cut. So you have it. The first green line goes there. On average, if fully implemented, it meant that you would have a tax cut of almost $111 billion per year. Over time, the Democratic House pushed for and President Reagan reluctantly agreed to some smaller tax increases, and they are the second line where the tax increases come down toward the zero line there.

For the 1984 campaign, President Reagan made revenue-neutral tax reform a central part of his campaign for reelection. Republicans held a majority in the Senate for that election, and President Reagan had built a case for reform. Republicans in the Senate and Democrats in the House agreed, and the chart reveals tax reform for 1986 of a small amount, as you can see there, but still tax reform. It is significant, I would say.

But in 1986, Republicans lost control of the Senate. I happen to remember that because I was on the Finance Committee for my first 6 years in the Senate. We didn't have enough Republican seats after that, I didn't have enough seniority, and so I lost my seat on the Finance Committee.

Congressional Democrats insisted on and obtained, after their success in that election, a tax increase in 1987. You can see that tax increase there for 1987.

In 1988, as you recall, President Bush's father, George H.W. Bush campaigned, in 1988, and included a pledge not to raise taxes. President George H.W. Bush won that election, but congressional Democrats solidified their majorities, and, as a part of a deficit-reduction package, President George H.W. Bush forgot about his campaign promise and agreed to a tax increase. And here it is. You can see the big tax increase—in 1989–1990, it was. Shortly after that tax increase went into effect—there are consequences of policy made here in Congress—the American economy went into recession that year.

Then you get to the 1992 campaign. Bill Clinton, in response to the recession, campaigned on a middle-income tax cut and tax increases on higher income taxpayers. President Clinton was elected, and Congress Democrats retained a very comfortable majority in the House and Senate, as you can see by the blue lines there, during those years.

In 1993, less than a year later, on the force of the Democratic votes alone, the largest tax increase of modern era was enacted. There you can see it very definitely, a big tax increase at that period of time. You will note it is at the highest point on the tax increase part of the chart.

Republicans claimed majorities in the House and Senate in the 1994 election.

President Clinton agreed to a revenue-neutral small business tax relief package in 1996. During that campaign, President Clinton campaigned once again on middle-income tax relief. President Clinton was reelected, Republicans increased their majority in the Senate, and we retained a majority in the House.

In 1997, congressional Republicans and President Clinton agreed to a significant tax relief package. It was the first tax relief law since the President Reagan administration, and it averaged about $13 billion a year. There you can see it in the year of 1997.

George W. Bush campaigned on a broad-based tax relief plan for 2000, or in the 2000 campaign. He was elected then, obviously. The parties split the Senate 50–50, with Republicans in control because of Vice President CHENEY's tie-breaking vote for organization. Republicans held their House majority.

In 2001, President Bush and Congress agreed on the largest comprehensive tax relief package since President Reagan. Here it is, as you can see, the big tax reduction of 2001, averaging about $82 billion per year.

As things happen around here, I was chairman of that committee for only about 5 months because Senator Jeffords switched from being a Republican to a Democrat, and in the wake of 9/11, corporate scandals, and other events, President Bush, a Republican House, and a Democratic Senate agreed on an economic stimulus package that averaged about $12 billion a year.

Republicans regained the Senate majority in 2002. So in 2003, President Bush and the Republican Congress continued to significantly reduce the overall tax burden.

So here you can see in the 2003 and 2004 tax bills a combined about another $82 billion a year reduction in taxes. If you look at President George W. Bush's first term, enacted legislation totaled roughly $174 billion per year, on average. Republicans held the House for all of that term. Republicans held the Senate for most but not all of that term.

In 2004, President Bush campaigned for reelection by emphasizing the permanence of the lower tax burdens secured during his first term. Republicans increased their House and Senate majorities.

So in 2006, President Bush and the Republican Congress extended the tax relief in the first term through the year 2010. It is shown here. It averages about $22 billion per year. In 2006, the situation now, as a result of that election, Democrats gained majorities in both the House and Senate.

Despite the opposition of the Democratic leadership in the House and Senate, Congress passed and President Bush signed an ''unoffset'' alternative minimum tax. That legislation averaged $13 billion in tax relief.

This year Congress and the President agreed to $34 billion in temporary economic stimulus. At present, the Democratic Congress and President Bush are in a stalemate on an AMT patch extension and other expiring tax relief matters. The reason for the stalemate is the House and Senate Democratic leadership's opposition to passing these bills ''unoffset.''

I want to use one chart to sum up today's discussion. This chart shows a tax thermometer. We have got it up there. The heat side is the tax increase side. This chart shows the relationship between party control of Congress, Presidency, and tax hikes or tax relief.

If Republicans control the Presidency and Congress, then lowering the tax burden, which is a tentative Republican philosophy, is virtually certain to be put in place. So you can point to that point in the chart there that demonstrates having both a Republican President and a Republican Congress is a certainty to have a lower tax burden for the American people.

If Democrats control both the Presidency and the Congress, then an increase in the tax burden is certain to occur. That is what history of the last 25 years shows. So it is a virtual certainty, regardless of campaign rhetoric to the contrary.

If the parties split control of the Presidency and the Congress, the record is, as you might expect, mixed, though generally against tax relief.

So if you look at the median picture there, you see that we have about three decades of history backing this up. I would encourage everyone to take a look at this thermometer chart. When folks go to the voting booth on November 4, they will need to consider the probability of a change in fiscal policy. They will need to consider the potential change to their family budget, from higher or lower taxes, because elections have consequences. They will have to also think about the broader economic effects of higher or lower tax burdens on business or investment, because tax policies by the Congress of the United States do have consequences, some ways good, some ways bad. My view is, higher taxes are bad for the economy.

That change could be dramatic if the vote is for one party to control the House, the Senate, and the Presidency. There would be consequences then,

lower taxes if that is House and Senate Republicans, Republican President; House and Senate Democratic, Democratic President, higher taxes.

In my next discussion, which will not be today, I will follow up this one with a detailed examination of what happens in the last bit of history most like the present. I am referring to the 1992 campaign and the legislative record that followed in 1993.

The reason I do that is I think I see the same thing evolving in this campaign. We ought to learn from history, and the voters need to take that into consideration before November 4.

I yield the floor.

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

Mr. DEMINT. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

Mr. DEMINT. Mr. President, I commend Senator GRASSLEY for focusing again on the importance of lower taxes and promoting a better economy and higher standard of living in America.

It is disturbing, as we talk about energy and high gas prices, to hear from our Democratic colleagues in the House that they are actually considering raising taxes on gasoline 10 cents or more per gallon at a time when it is already a crushing cost to Americans on energy.

The energy debate has been very helpful. I think for years Americans have known, at least many Americans, that the Democratic Party has blocked the development of energy supplies, America's own energy supplies, from the time of Jimmy Carter stopping nuclear generation to President Clinton vetoing the legislation that would have opened some oil reserves in Alaska, to constant votes by our Democratic colleagues to stop the opening of oil and natural gas which is plentiful in America.

Americans do not trust Congress to fix this because they know it is the inaction by Congress that has caused the gas prices, and we see that the Democratic leadership is going to do everything they can to keep amendments and an open and honest debate about real energy development in America from happening.

HOUSING

The same thing has happened on another bill that is going to be interjected into this energy debate, this massive housing bill, this massive mortgage bailout that is going to come back to the Senate floor for a vote. This is another situation where the American people know that the mortgage crisis, the foreclosure crisis, the problems with Freddie Mac and Fannie Mae are caused by incompetence and gross negligence by this Congress and past administrations.

We suspect, and there is every evidence, that part of that negligence has come from the ability of Fannie Mae and Freddie Mac to spend hundreds of millions of dollars to lobby Members of Congress and other watchdog groups to keep them from focusing on the reforms that were needed.

When this housing bill comes back, I have proposed one amendment. I asked for one amendment in this process, that if the American taxpayers put their money on the line to back these private companies, that these private companies should no longer be able to spend millions of dollars lobbying Members of Congress to keep them from implementing the reforms that are so important.

Last night I made an offer to the majority leader. I suggested we could have one vote under a time agreement to allow my amendment to prohibit lobbying and political donations from Fannie Mae and Freddie Mac. We could have been done with the bill last night. If the majority leader tabled the amendment, the bill would have been passed and sent to the President last night. But I do not think he wanted his Members to have to vote on that.

If the amendment had been adopted, the bill would have been immediately sent to the House, passed and sent to the President, probably today. The only thing that prevented this from happening was the objection of the majority leader last night, because the majority leader was intent on blocking this amendment to prohibit Fannie Mae and Freddie Mac from lobbying.

The bill will likely pass the Senate on Saturday and will not reach the President until next week. So the argument that my one amendment is slowing this down is not true. Let me state again one more time, to be clear. This Senator was prepared to vote on the housing bill last night. I do not support the bill. I do not think it should become law. I simply wanted one amendment.

My constituents sent me here to Washington to clean up this place. Fannie Mae and Freddie Mac have spent hundreds of millions of dollars over the past decade to block commonsense reform, which could have been prevented. We could have prevented the debacle that we are faced with now if Congress had not been blind to the problem. But because the leader was intent on filibustering my amendment, blocking me from doing what my constituents sent me here to do, the housing bill will be delayed until next week. This is fine with me, because there is a lot wrong with the bill. But the decision to delay the bill was made by the majority leader and him alone.

I wish to offer one more opportunity here for the majority to expedite the housing bill and to give me the one vote on this amendment and then we can proceed to a final vote.

UNANIMOUS CONSENT REQUEST—H.R. 3221

Mr. President, I ask unanimous consent that when the Senate resumes the consideration of the housing bill, the pending Reid amendment be withdrawn and the only amendment in order be a DeMint amendment which I will send to the desk. This is a measure to address lobbying by Fannie Mae and Freddie Mac.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. Mr. President, the majority clearly will not permit this or any other amendment on the bill. He says he does not want anything to delay it. As I have already pointed out, however, I think his own obstruction is delaying the bill.

I wish to make one more proposal. I will explain it, and if the majority is willing, then I will read the technical language. But I am very willing to offer a unanimous consent request to move immediately to a final vote on the housing bill, and then once the energy debate is completed, that my amendment, then in bill form, be allowed a straight-up vote in the Senate.

This may be several weeks from now. But if the concern by the majority is that my amendment would slow the bill down, they should certainly agree that if we can move to housing and pass it straight up, and finish the energy debate, whatever time that is finished, then we could have a simple vote at the scheduling of the majority leader to vote on this lobbying amendment.

I would be glad to put this in unanimous consent form if the majority is interested in entertaining this. If I could get some indication from the speaker or the leader over there. Would you be interested in that unanimous consent request?

Ms. STABENOW. Mr. President, in response to my colleague, I would indicate that on behalf of the majority, if that were offered I would object.

Mr. DEMINT. I thank the Senator. Clearly there is no need to continue to try to get this housing bill expedited. It is clear my Democratic colleagues do not support this reform, and apparently they are going to do everything they can to protect their relationship with these Government entities.

The majority leader suggested yesterday that he would be happy to join me in sending a letter to these two entities, Freddie Mac and Fannie Mae, to request that they be more transparent in their lobbying. Well, I am not interested in sending a letter to the management of Fannie Mae and Freddie Mac. That would be as effective as sending a letter, which has been suggested by my Democratic colleague, to Saudi Arabia demanding lower gas prices. I am not interested in transparency in their lobbying or political donations. The lobbying contracts need to be terminated and their PACs should be disbanded.

The majority leader disagrees. In fact, his staff sent out a blast e-mail to their lobbyist friends asking for help in defeating my amendment.

I want to protect taxpayers and end the culture of corruption in Washington, but I am afraid in this case, the majority clearly does not want to join me.

All I am requesting is one amendment on a 694-page bill that spends

anywhere from $25 billion to hundreds of billions of dollars of taxpayer money to bail out two companies, Fannie Mae and Freddie Mac.

I believe my amendment is essential to considering the way Fannie Mae and Freddie Mac have spread their wealth around Washington for years to buy Government influence and to cover up their problems. The housing legislation that will be before us authorizes the Secretary of the Treasury to use taxpayer money to rescue Fannie Mae and Freddie Mac, but it does not include an immediate end to their lobbying and political activities.

If American taxpayers are forced to bail out or buy out Fannie Mae and Freddie Mac, their lobbying and political activities should stop. Our Nation has a longstanding tradition of preventing American tax dollars from being used for lobbying and for soliciting and making campaign contributions. There is no doubt that this housing legislation crosses that line. Under current law, the Department of Treasury cannot retain high-powered lobbyists or make political contributions to candidates. This rule should apply to Fannie and Freddie. There may have been some doubt as to whether a government guarantee existed for Fannie and Freddie before, but now with this legislation, that guarantee is made very explicit. They are, in effect, government entities and should be treated as such.

The Politico newspaper recently reported on how Senators and Congressmen are benefiting politically from propping up these two mortgage giants. The article said:

> If you want to know how Fannie Mae and Freddie Mac have survived scandal and crisis, consider this: Over the past decade, they have spent nearly $200 million on lobbying and campaign contributions. But the political tentacles of the mortgage giants extend far beyond their checkbooks. The two government-chartered companies run a highly sophisticated lobbying operation with deep-pocketed lobbyists in Washington and scores of local Fannie- and Freddie-sponsored homeowner groups ready to pressure lawmakers back home.

One thing that should get our colleagues' attention, this chart is a copy of an invitation by Freddie Mac and Fannie Mae and other groups for a big party at the Democratic National Convention. There is one very similar to this for the Republicans. They will continue to lavish entertainment on those of us in Congress until we stop it.

National Public Radio reported that in the first 3 months of the year alone, Fannie Mae and Freddie Mac spent a combined total of $3.5 million on lobbying and hired 42 outside firms.

According to the Center for Responsive Politics, Fannie Mae and Freddie Mac have been such prolific donors to political parties, candidates, and PACs that they are the No. 1 and No. 3 top contributors in the mortgage industry and rank in the top 100 political donors of all time.

May I inquire as to how much time I have remaining?

The PRESIDING OFFICER. The Senator has about 3 minutes remaining.

Mr. DEMINT. I thank the Chair. I can see I have more to say than I have time to say it.

Let me close by encouraging my colleagues. There is no need for this issue to be partisan. Clearly, if we are going to put hard-working taxpayer dollars behind our bailout of Fannie Mae and Freddie Mac, we should not allow them to continue to throw millions of dollars around for political activities. It just makes good common sense.

On a bill that is this large and this important and that probably not one Senator has read even half of, the opportunity to have at least one amendment and a limited time for debate seems to be a small request. Unfortunately, the majority is not going to give us any amendments, and apparently they are going to turn a blind eye to this obvious problem on which the Wall Street Journal and news media all over the country have been focusing. The American people know about it. I think they would trust the Senate much more to make the proper reforms for housing and mortgages and Fannie and Freddie Mac if they could see that we were eliminating a conflict of interest that has clearly existed for a number of years.

I thank the Presiding Officer and encourage my colleagues to ask the majority leader to reconsider and give us the opportunity to have a vote on this one amendment, and then we could speed the housing bill through.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, let me indicate my strong support for the Low-Income Home Energy Assistance Program and the motion to proceed under which we are currently working. I hope we will have a strong vote. We know regardless of the debate we are having on solutions or causes for how we got here, seniors, families, those we represent are being affected by this every single day.

Making sure that LIHEAP is increased and that we have support for families in paying their heating bills is absolutely critical. I very much appreciate our majority leader making this a top priority and Senator SANDERS for his advocacy. I look forward to what I hope will be a strong bipartisan vote in support of improving and strengthening LIHEAP.

I want to speak further today about the reality of what is happening for families, businesses all across America, certainly in my great home State of Michigan. Since President Bush and Vice President CHENEY, two oilmen, two people from the oil industry, took office, gas prices have nearly tripled. Oil prices have gone up four times higher than before the current administration came into office. The average family is spending a record 6 percent of their income, and counting, paying for gas to get to work, to get the kids to childcare, to try and maybe take a little vacation up north in beautiful northern Michigan or Rhode Island. I can't leave out beautiful Rhode Island, the State of our Presiding Officer.

But the reality is, families are making incredibly tough choices. At the same time, energy prices certainly are taking a toll on the economy. We are seeing the level of unemployment going up. People are losing their jobs or are underemployed or are working three jobs, trying to get to work, paying more for gas. It is outrageous. I go home every weekend, and it is amazing. It makes you want to scream as you stand at the pump and the price goes $50, $60, $70, $80, to fill up a gas tank. It is unbelievable. Families are trying to figure out what to do about it.

Unemployment rises, and we have now 12 States with unemployment rates over 6 percent. My State has an unemployment rate of 8.5 percent, 45 out of 50 States have seen job loss and unemployment numbers going up.

One of the challenges, if we are going to talk about what to do about this, is we need to be talking about how we got here. How did we get here? We have had 8 years and two oilmen leading us in the White House, and it is not, unfortunately, a surprise, based on their agenda, that we have ended up with $4 and higher per gallon of gasoline. That is the shorthand way of talking about what has been happening.

For the folks they represent, for the folks who met with the Vice President to put together his energy policy, what has been happening for them, while families are seeing their wages go down, if they have a job at all, every cost they have going up—what has been happening to them? The total combined net profits of the big five oil companies since this President took office are upwards of $556 billion. That is net profits. ExxonMobil alone has had, since this President took office, $185 billion in profits.

One could say, well, businesses want to be profitable. I want them to be profitable, and I am working hard to make sure our manufacturers who, by the way, pay a lot of these costs and are impacted by gas prices when it comes to what is happening in the economy, I want them to be profitable as well. This is not about whether companies should be profitable. This is about the fact that we have had an energy policy put forward by two oilmen in the White House that has focused on supporting an industry and their backers, their supporters, that has now created a crisis in America, a crisis in the economy.

To add insult to injury, it is one thing if there are profits and they are put back into creating more oil and gas exploration, alternative energy exploration, if this was reinvested to strengthen America, the folks who are helping to subsidize this, taxpayer money. The folks I represent who have lost their jobs, they are subsidizing this right now because of tax policy.

To add insult to injury, are they putting this back into the economy to make us energy independent? No. The oil companies have spent $188 billion in stock buybacks over the last 5 years, instead of investing in increasing supply at home or in supporting a man who has now become very well known to everyone, T. Boone Pickens, an oilman his whole life, who is now investing in alternative energy. Instead of going in that direction because they care about America, the American people, American businesses, American economy—no, that is not what is happening. That is what adds such insult to injury about what is happening to the people of Michigan and around the country. It is the fact that people are taking this and having stock buybacks or adding another corporate jet or putting it into their pockets as opposed to investing in America and the ability for us to have energy independence.

Then, on top of that, with what is being drilled for—and we know we are in a global market. We understand that. We are in a global economy where commodities move around the world. But it is important to know that when our colleagues put forward the oil agenda of drill, drill, drill, let's keep doing what we have always done and hope maybe something will change, maybe we will get out of the hole we are in if we just keep digging—when they talk about that, they are not acknowledging the fact that a record 1.6 million barrels a day from U.S. refineries, 1.6 million barrels a day in refined petroleum products were exported in the first 4 months of this year, up 33 percent.

So we are paying more. We are being told the problem is we are not drilling more, and then 33 percent more of the oil drilled in America leaves America. Why? We are in a global marketplace. It goes to the highest bidder. We understand that. We understand the fact that China is using more, the fact that the weak dollar impacts that and oil speculation, the whole question of energy speculation which, again, I appreciate Senator REID and all the leadership of my colleagues—Senator DURBIN, Senator DORGAN, so many people—who have been focused on this as a piece of the problem, but we are being told: Use the old solution over and over and over, knowing that we don't even know if that oil is going to stay here.

I have supported drilling in the gulf. I have supported efforts to add to our domestic supply. But this is not the way we are going to create energy independence by only focusing on that. According to the Department of Energy, shipments this February topped 1.8 million barrels a day, shipments outside the country, the highest for the first time in any given month.

We are being told that we should do the same old thing, add to it, but do the same old strategy, and somehow we will get a different result. I suggest that the same old strategy, first of all, has achieved great results for friends of the administration, for friends of my colleagues, the Republican leadership that has been fighting for the oil agenda of this country. It has achieved a goal but not a goal for the American people. This is a question of who you are fighting for, whose side you are on.

These folks are doing well. We know whose side the current administration and those who support the administration are on. Unfortunately, it is not the side of the folks in Michigan who are worrying about whether they can buy enough gas to get to work.

We have, in fact, a formula the Presiding Officer is very well aware of: 8 years divided by 2 oilmen in the White House has gotten us this result: $4 and counting.

So what has been the energy plan of the administration that has gotten us to this situation? Well, for one thing, we have seen a free ride for the oil companies. In January 2006, the New York Times reported that the Bush administration was allowing oil and gas companies to forego royalty payments—so they were not having to pay their royalty payments they should be paying—on oil and gas leases in Federal waters in the Gulf of Mexico. This decision by the Department of Interior could cost American taxpayers more than $60 billion.

So to go back again to another chart—they are not paying oil and gas leases, which costs American taxpayers up to $60 billion. I wonder how much of these profits came from that decision. I wonder how much.

We all know that the administration and, unfortunately, those who support the administration's policy, Republican colleagues, have joined in supporting an effort to block the elimination of taxpayer subsidies to the oil industry so we can take those precious dollars, hard-earned dollars of people working every single day, money that has been going to subsidize the oil companies—we wanted to move that over to real energy independence, to focus on the priorities of the American people, American families, American businesses that are having to pay for all this. We tried to move over $12.5 billion that would be used for real energy independence, for incentives for solar and wind and, yes, our new hybrid and plug-in vehicles that are coming in the next couple years that, frankly, provide a much quicker opportunity for us to be able to get to energy independence than what we are talking about here in terms of a long-term drilling strategy.

We have an opportunity to take precious taxpayer money and move it over to invest in the future, to invest in the American people and in the future, rather than in the past and the oil companies. We lost that by one vote, not because we did not have enough to pass it, not that we did not have 51 votes, but unfortunately the Bush administration and the Senate Republican leadership blocked it, filibustered it: Let's filibuster. Let's make sure nothing happens to this. So there was a filibuster that then we were not able to overcome because we were missing one vote.

So the solution that has come forward by this administration, the solution that has come over the last 8 years of the leadership in the White House—the two oilmen in the White House—has been simply to have one solution, which is to continue drilling even if, in fact, that oil does not stay in the United States. So between 2001 and 2007, the Bush administration issued leases on over 26 million acres of onshore public lands. There are already 44 million acres, as we know, of onshore Federal lands under lease, but 31 million acres of those are currently not being drilled upon. There are 2,200 producing leases on the Outer Continental Shelf and 6,300 nonproducing leases at this time.

So that has been the strategy. That has been the strategy that has gotten us to this—okaying more and more land and not even using it. And in the first 4 months of this year, when we were drilling for domestic production—because we are in a global economy—33 percent more of that went out into the global marketplace.

Let me say there is a better way. In addition to supporting the energy speculation bill that is in front of us and in addition to supporting efforts, as I have done before, to have a responsible drilling policy in this country, there is a quicker way to get to where we want to go, and it is one that creates jobs, jobs right now.

I am so appreciative of the fact that, through our budget resolution in the Senate, our Democratic majority put jobs as No. 1 and green-collar jobs in support of manufacturing and retooling our auto industry at the top of the list. I am grateful for our leader's support, Senator REID, and Senator DORGAN, who has been such a leader on these issues, chairing the Energy and Water Subcommittee in Appropriations. I am very grateful for his support. But here is what we could be doing.

Oil exploration and drilling will take 7 to 10 years to bring new supplies to market. Some people say longer. But there are technologies we can bring to market in the next 2 years—in the next 2 years—for advanced technology vehicles. The more we invest in technologies such as advanced battery technologies, the quicker we are going to find relief at the pump. That is the way we are going to do it, not by rewarding the oil companies more but by investing in our own energy independence, with innovation, American ingenuity, hard work that allows us to not only create jobs but create a future for us here in terms of energy independence and lowering costs.

The facts are simple. Advanced vehicles that run with new batteries are much cheaper to drive than conventional automobiles, and we need to be moving to them as quickly as possible. Currently, the average cost to run a vehicle is 16 cents per mile—16 cents per

mile—on the roads. But the cost to run a plug-in hybrid car with advanced lithium-ion batteries is only 3 or 4 cents a mile—a 75-percent reduction. Not only does this save energy, but, as I said before, it creates jobs. This technology is right around the corner.

Frankly, there is a huge competition going on in the world today to see who is going to get to that plug-in battery, that lithium-ion battery that is lightweight enough, small enough, with the technologies that will allow it to be mass-produced on the assembly lines so thousands can be produced a day. The prototypes are there. We have probably all driven them. We have prototypes for a variety of different vehicles. The question is not the prototype; the question is being able to get something mass-produced so it is in the realm of price where consumers can afford to buy it and it can be produced in the volumes we need. We are really in a race right now to do that.

I am grateful there is support from our Senate Democratic leadership to invest in advanced battery research, R&D, the next generation, to provide low-interest credit to retool our plants, to keep the jobs here in America, and to provide consumer tax credits for plug-ins and hybrids to make sure the price is affordable. All of those things are in legislation right now. They are before us in the tax package. They are before us in Senator BINGAMAN's amendment, if he has the opportunity to offer it, as it relates to the Energy bills. They are in our appropriations. They are right now in front of us, and we have the ability to act on this and quickly be able to move us to the next generation of vehicles that go from a cost of 16 cents per mile on the road down to 3 or 4 cents—much faster than what is being talked about in terms of drilling.

Germany has announced the Great Battery Alliance, which will invest over $650 million in advanced lithium-ion batteries for German vehicles. The German automobile companies are receiving the support of the German Government to be able to be the first ones that are able to get to where we need to be in terms of the new battery technology.

South Korea, by 2010, will have spent $700 million on advanced batteries and developing hybrid vehicles.

China has invested over $100 million in battery research and development.

Over the next 5 years, Japan will spend $230 million on advanced battery research. It is spending $278 million a year on hydrogen research for zero-emission fuel-cell vehicles.

We are in a race. We are in a race as it relates to technology. We have the engineers. We have the scientists. We have the skilled workforce here in America to do this. We have not had an administration or a willingness by our Republican colleagues to join with us to be able to partner in the investments that need to be made in the automotive industry of the future. That is just a reality. I believe it was last year when I looked at the President's budget and it was something like $22 million he was suggesting for advanced battery technology research. Unfortunately, they just don't get it about what is going on around us.

If we want to see prices go down and have energy independence and be able to move to the future for our country, frankly, that is the fastest way to do it. I am very proud our Democratic majority understands that.

We know there is no silver bullet on any of this. But I can tell you what I also know: a game show approach to battery technology research is not the answer. Frankly, both the Republican alternative as well as the candidate who we understand will be the Republican nominee for President have put forward the idea of a prize at the end of the line, a prize for whoever can create the new advanced battery technology research.

Well, Mr. President, we do not need a prize. We do not need motivation. We do not need the motivation to get there. We need the capital to get there. We need the investment. We need the partnering. We need the priority of investing in this innovation to get there. The prize is going to be real easy. Whoever gets there first, they are going to get a big enough prize without us in terms of the marketplace.

The question is, How do we invest up front? What is it that Germany knows, Japan knows, South Korea knows, China knows that we do not know about this, when they are all racing to put hundreds of millions of dollars into this technology? It is very unfortunate that the approach that has been taken—primarily in the Republican alternative; not completely but primarily; and certainly by the Republican nominee—is to treat our economy and certainly the industry that I care deeply about somehow as a game show, and I find that really appalling.

As I conclude, as indicated before, there is no silver bullet to stop the outrageous price increases at the pump. We know that. We have to pass our legislation dealing with energy speculation. I hope we will be able to proceed to do that. We all understand that a responsible drilling policy is part of this. We have, frankly, supported that and made those acres available. But we also know—we also know—if we want America to be energy independent, we have to invest in the future.

We have seen this chart before, but I am going to show it again because we have a lifelong oilman now running ads on television who is so concerned about what is happening in our country and this constant policy that has not been working that he has been presenting, through commercials, a message that we should be paying attention to:

> I've been an oilman all my life, but this is one emergency we can't drill our way out of. . . .
>
> ''We can't drill our way out of.''
>
> . . . But if we create a new RENEWABLE energy network, we can break our addiction to foreign oil.

There are some folks who are making a lot of money by ignoring this strategy, there is no question about it. There has been an energy strategy in place that has worked for the oil companies. I understand that when somebody comes out of a particular industry, their focus is on that industry. I understand that. But the reality is, we have gone too long—too long—with a strategy: 8 years of a Republican strategy, with two oilmen at the head of this, creating $4-per-gallon gasoline. That is the simple explanation for how we got where we are. We have to stop digging. We have to stop doing more and more of the same and hoping somehow we are going to get a different result. We need a new strategy: Energy independence, investing in American ingenuity, investing in a strategy for the future, and, most importantly, what we need is to put the American people first. That has not happened for the last 8 years. It is time to make it happen. That is what our energy proposals are all about. That is what we are fighting for, and we are going to continue to fight for that until we make it happen.

The American people have had enough, and I don't blame them. I have had enough too. It is time for a change, and we are going to work very hard to get that change.

Mr. President, I ask unanimous consent that Senator MENENDEZ be the next speaker following the remarks of Senator SNOWE.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, today I rise in strong support of the Warm In Winter and Cool In Summer Act as the lead Republican cosponsor, along with 52 of my colleagues on both sides of the political aisle.

I first thank the Senator from Vermont, Senator SANDERS, for his tireless leadership on this vital issue of heating and cooling assistance and for his steadfast vigilance throughout the last few months in pressing for this debate on energy assistance when there is not a moment to waste in preparing for what could be the worst winter in a generation, given the historic cost of energy today. At a time when skyrocketing energy prices are at the forefront of our national agenda—when heating oil prices have increased from about $2.77 per gallon a year ago in my home State of Maine to a staggering $4.81 cents a gallon today, and when electricity has risen 3.6 percent in the last 12 months, and gas prices have jumped from $3.05 a gallon to $4.05 in the last year—as we know, it should come as no surprise that countless American families are faced with choices that, frankly, no family should have to make. Indeed, as a direct result

of spiraling energy costs, 70 percent of low-income Americans are buying less at the grocery store, 31 percent are purchasing less medicine, and 19 percent say they have changed plans for the education of their children. Even now, in the midst of July, in truth, Americans—and certainly Mainers across my home State—are wondering how exactly they will pay for the fundamental necessity of heating their homes this coming winter, just as many others cannot afford the costs for critical cooling during these dangerously hot summer months in so many States. In fact, in South Carolina, electricity services have been suspended to 39,000 homes that are falling behind on their bills, leaving these individuals with no assistance to alleviate the stifling heat. In Arizona there has been a 40-percent spike in shutoffs for residential electricity users. The bottom line is this issue knows no boundaries regionally or politically.

The reality is the stunning effects of these astronomical energy costs are not a regional problem, they are a national problem requiring national attention and a national solution. In fact, as I think about it, with the Low-Income Heating Assistance Program pending before the Senate—at least the motion to proceed; and I hope we will proceed, Mr. President and Members of this body, because I think we ought to be translating words into action—I think there is no better place to start than on this very crucial and vital program. In fact, if I recall, it was back in 1979 and 1980 when we first had the debate on whether to create this program called the Low-Income Fuel Assistance Program, and it was my first term in the House of Representatives. I, along with the late Speaker O'Neill, testified before the then House Appropriations Committee to create such a program. It was born out of the energy crisis that was engulfing our Nation at that time when we had gas lines here in the District of Columbia and across this country.

It was interesting to think that at that time, in the midst of an energy crisis, that previously—6 years previously or 7 years previously—we had another energy crisis and, unfortunately, didn't learn from that event. Out of that crisis in 1979 and 1980, we created the Low-Income Fuel Assistance Program in order to give low-income families the ability to heat their homes and to cool their homes in other parts of the country. That is how this program was created. So I think this program was created as a result of a crisis—as a result of the failure of this country to create and enact a comprehensive energy plan. I think too today, 30 years later, we are in the same circumstance, regrettably and tragically, and the people who rely on this program should not be the victims of our inability, or our unwillingness, to address the energy problem. That is what we should come to terms with here in the Senate, that we should proceed to consider this legislation and have it become law. I think absolutely it is our responsibility and obligation to give peace of mind to our constituency as they are despairing about the oncoming winter and how they are going to meet the costs of home heating oil that is now close to $5 per gallon.

I think we do have an obligation to continue to support this social safety net that is so essential. It is a matter of life and death, and I don't think they should be the victims of our political failure or our failure to address a comprehensive energy policy. That should happen. No doubt it should. Frankly, I hope we can reconcile our rhetoric here on the floor of the Senate with legislative action that becomes law that has an actual, direct impact on people's daily lives. They deserve that. They deserve for us to take action. Irrespective of the time or place we are in, in the Senate—whether or not it is a political year—we ought to reconcile our differences to do what is right for America on this mighty challenge that is facing so many across this country, including my constituency.

Here we are in the third energy crisis of recent times, and we see that the program was at least designed to minimize the burden for the least fortunate for years and has provided a level of funding. However, as you can see, with the historically high home heating oil prices you see over time, and yet, even though we have provided funding for low-income fuel assistance basically on a consistent basis, it never addressed the gap between the level of funding and the costs for home heating oil. So we are seeing, as you can see in the recent times, in the recent months, what has happened to the cost of home heating oil. Yet at the same time the level of funding for low-income fuel assistance has leveled off.

That is why we need the legislation that is pending before the Senate. My colleague Senator SANDERS is absolutely right, we need to double this funding. I thank the chairman of the Budget Committee as well for doubling the authorization. I appreciate his leadership on this question because we are in very different times, and that is the reason why we need to increase the level of support for this valuable program.

This program is for the most vulnerable. We are talking about income limits of $17,680 for an individual, and the average individual recipient earns around $13,000 per year. Think about it. The assistance we are providing is for those who have income eligibility of somewhere between $17,000 and $13,000 on an individual basis. That is who we are talking about when it comes to the income eligibility standards for low-income fuel assistance—$13,000 for an individual and as high as $17,000, and for a family of four the limit is $36,000. In Maine, in terms of the projected costs for paying for a household for home heating oil during the course of a winter, based on today's prices, is close to $5,000, just to keep warm this winter—$5,000. So if the eligibility standards are $33,000—$36,000 for a family of four, and for an individual it is anywhere from $13,000 to $17,000, it costs $5,000 to heat one's home or residence for a winter. These are hard-working individuals and families who, quite frankly, were in desperate need of assistance back in 2006 when we witnessed the first major increase in home heating oil. So we were able to provide additional funding at that time of $1 billion for a total of $3.1 billion. At that point, again, it was a crisis that, given the sharp hike, New Englanders were paying about $2.39 per gallon. Well, fast forward 2 years to today and you will see, based on our charts we have provided, that oil costs $4.81. That is a 75-percent increase in only 2 years—75 percent.

So we augmented the funding back in 2006 up to $3.1 billion when home heating oil was $2.39. Today, it is at $4.81, and of course we are in July, so we have no idea in terms of what we can anticipate or expect for home heating oil costs when it comes to winter. So a 75-percent increase as we know it today. So when winter actually arrives, New England could spend, under today's prices, more than $19 billion on home heating oil—$19 billion on home heating oil alone. That is a staggering price increase compared to back in 2006 when it was approximately $9 billion. That gives us a dimension of the escalation of the problem as we face it today and still not knowing what we can expect when winter approaches.

As we see on this other chart I have presented, here is the cost of home heating oil, and as we have seen, it has increased 147 percent since 2004. So basically, in the last 3½ years, we have seen an increase in home heating oil of 147 percent. Yet when you look at the wage increase, it has only been 17.1 percent. So you see that the cost of home heating oil in Maine has outpaced wages by 174 percent. Prices are now well ensconced in the stratosphere, with the legitimate fears that the sky may not, in fact, be the limit. It is a huge disparity when you see how little wages have grown over the last 3½ years and what has happened with a basic commodity such as home heating oil having increased 147 percent.

Yet given all of these alarming numbers, what has happened to the level of low-income fuel assistance? It has actually dropped. It has actually declined to $2.5 billion from the $3.1 billion that we provided and that I sought, very actively, back in 2006, when the prices had spiked. So we were able to augment, as I said, that funding by an additional billion dollars to reach $3.1 billion, but unfortunately, the funding for low-income fuel assistance fell back to $2.5 billion. So it obviously doesn't make sense. We are actually regressing in terms of a level of funding at a time when home heating oil is actually skyrocketing and we don't know where the boundaries are, we don't know where

the limitations are. As I said, the sky could be the limit, given what the unknown presents for the future with respect to home heating oil.

In testimony before the Senate Committee on Small Business that Senator KERRY and I convened last month to discuss the dimensions involving small businesses and home heating oil and what the impact would be in our region, I had an individual from my State—her name is Jennifer Brooks—who is the community relations manager at Penquis Community Action Program. They are on the front lines of providing critical services to Maine in multiple counties during these difficult times.

Last year, the community action program provided fuel assistance to more than 9,000 Maine households. The average benefit received by each household was $736. In order to qualify for low-income fuel assistance this upcoming heating season, a family of four must earn less than $31,800. So under the best case scenario, if a household does qualify for LIHEAP and benefits remain constant, a household on average can expect to receive 158 gallons of oil for the season, which isn't even enough to fill a 250-gallon tank one time.

We know it takes, on average, to get through a Maine winter, 850 gallons of heating oil—850 to 1,000 gallons—and it costs $4.81, which we know is the price today. When you look at what is available in the low-income fuel assistance program, if we fail to take action and increase funding, as this legislation would prescribe, to $5.1 billion, our lowest income families will receive a mere 19 percent of their home heating oil costs through this program—the lowest in the program's history.

Now, it is unbelievable to think people can anticipate this winter facing, at the minimum, spending close to $5,000 for home heating oil. Yet given the dimensions of this program, we will only be able to provide support for 19 percent of the entire cost for the entire winter. As you can see from the previous support of this program, the percentages have declined over the years. Over the last 25 years, the average Maine low-income fuel assistance recipient received assistance that provided 41 percent of their heating oil costs. Last year, that started eroding, and it declined from $3.1 billion to $2.5 billion. For the nearly 50,000 Maine households that received benefits, they were only provided 35 percent of the entire cost for the season.

At today's prices, if we fail to increase or double the funding of the low-income fuel assistance program to $5.1 billion, then we can only provide 19 percent of the entire cost of winter for home heating oil. Obviously, I think that speaks volumes, in terms of the dimension of the problem we are facing and what families are facing in my State, in New England, and across the country. Whether you are living in a cold- or hot-weather region, you depend on this program either for air-conditioning or heating during the winter. It is a basic social safety net program.

I think it is absolutely incumbent upon us to do everything we can to double funding for this program and to do it now and provide the assurances, instead of the rhetoric about what we will do sometime down the road. I think we do have a responsibility, individually and collectively, to make the process work in the Senate and in the Congress, with the President, to do what is right for this country, for these families who are agonizing over the anticipation of what next winter will bring in terms of costs. Here, with this program, we are talking about the lowest of incomes. When it comes to $13,000, $17,000 for a family of four, or even $31,000 or $33,000, we need to help these families and these individuals, without question.

As my constituent Jennifer Brooks said in her testimony before the Small Business Committee:

> If the average person on fuel assistance makes about $14,000 a year and the benefit only pays for 158 gallons of oil, I don't know how they come up with any more money . . . they can't, with the cost of food and the cost of gas and everything else. There is no money left over to pay even in the summer months . . . there is talk [of having] ''warming places'' so people can shut their furnaces down real low during the day and go to libraries and stay warm during the day . . . we are in a crisis.

Last year, I heard many stories. After we were expecting $2.50 to $2.70 a gallon for home heating oil, I heard stories of desperation then. One TV station, channel 13, in Portland, ME, decided they would initiate a program where they would provide a few hundred gallons of heating oil to four families requiring assistance. They were asked to submit e-mails or letters if they believe they qualified for this assistance. They received an astounding response, with more than 2,000 requests.

Again, there is no doubt as to the magnitude of the problem. That was for last winter. One hesitates to think about what we can expect for this winter, when prices have increased by more than $2 since last winter. Here we are in July. So we must step up to our responsibilities in this crisis and fully fund the low-income fuel assistance program at the $5.1 billion. That is the least we can do. It is not that it will address all the problems or fulfill the needs for all those individuals who rely on this program, but certainly it will be a very important step forward. We must do it now. We should be proactive and preemptive and prescriptive in our measures, not reactive, and not wait until after the August recess and continue to dither and talk but fail to take action.

We have a responsibility to provide assurances to those people we represent in this country, to take the strong measures, and to take those actions that are so vital and instrumental to providing peace of mind during these very difficult times when people are facing these mighty challenges.

There are many ways to debate this energy problem. Certainly, we should have a comprehensive energy solution, no doubt. I don't think we should place the burden on those individuals who rely on this program, who are concerned—deeply concerned—and anguishing about the future because of our failure to reconcile our differences to reach out across the political aisle. I question as to why we cannot do it. I don't think we should live in an all-or-nothing world because that is not the world our constituents live in. These issues are not mutually exclusive. It is not that we cannot do one because we were haven't done the other. How about starting someplace? We can start with this program, which was born because of an energy crisis 30 years ago. We are in a similar circumstance today.

These people should not bear the brunt of our political failures or unwillingness or inability to resolve these differences.

I think the Senate should not be a roadblock to results but a pathway to hope. What I see here today, regrettably, is, again, my way or the highway. Here, at a time when we are dealing with monumental challenges confronting this Nation—and they are affecting our country simultaneously. Look at our economy and the job picture, the housing, energy, and we are in a war in Iraq and in Afghanistan and we continue to dither, to remain intractable, intransigent about achieving results. Truly, it is not in keeping with the legacy of this institution, which has done so much throughout our history.

That is why Senator NELSON, from Nebraska, and I sent a letter to the President, along with 14 other colleagues, asking the President for a bipartisan summit. After all, we think these times demand it. The President should convene a national energy summit, bringing together the congressional leadership, on a bipartisan basis, and other Members of the House and Senate from the committees of jurisdiction, environmental leaders, industry leaders and scientists, to sit around a table to see what we can do for the good of this country now.

It is immaterial that we are in an election year, that we are 7 months away from the election. The American people deserve to have us honor our obligations as elected officials. After all, there was an election in 2006, as I recall. We promised our constituents we would work on the problems facing this country. Here we are today with an abysmal 14 percent approval rating. I don't know, that may be the lowest approval rating in the history of Gallup Polls.

We all bear a responsibility, individually and collectively. We should care how Americans feel about this institution and what can we do every day to

make it better. Some days, I wonder if we wake up and say: Well, this is going to be another ''can't do'' day. We are not going to achieve anything for the people. We are going to see if we can continue to be a roadblock to results and action. We are going to do everything we can to be a barrier to solutions. We will wait for the next election or next year or maybe some other time.

Yet people are suffering. They are losing their jobs. They are wondering how to heat their homes next winter. They are losing their homes. This is a time for us to step up to the plate and demonstrate to the American people that we can do it. Frankly, we are experiencing a crisis in confidence in America, in a variety of institutions, not the least of which is Congress. People are not only despairing about their individual situations, they are also despairing about the inability of elected officials in our political institutions to address these problems. It is not so much that America has these problems, it is the question of our inability to address them and to reach across the political aisle.

I hope we can find a way to extricate ourselves from this confrontational morass and not constantly engage in all-or-nothing politics and scoring political points, making it all about the election, and not live up to the expectations the people rightfully have of their elected officials and political institutions to address the mighty challenges confronting this Nation.

Without question, we can and we must have answers to this national emergency. That is why I thought it would be an important step forward if the President convened an emergency energy summit. There are short-term and long-term solutions. There are many pieces to the energy pie. The low-income energy assistance program is a critical aspect of that in terms of mitigating the impact on the most vulnerable in our society. We have an obligation, at a very minimum, to address that for these individuals. It is not their burden and it should not be; they should not have the responsibility of our failure to address the energy problem. That is why we need to double the funding for this critical program.

Yes, we should pass legislation with respect to speculation. It is something most of us agree on. Why can't we do it? There are other aspects to energy policy we have failed to address. Everybody is agreeing we should extend the tax credit for renewables. So why haven't we done that? It should have been part of the stimulus package—and it was, to a point. But, regrettably, again, there were those who opposed it. Yet it could have very well been stimulative to this economy. It would have created up to 100,000 jobs. In Maine, we get $1.5 billion for wind projects, but we didn't extend the tax credits for renewables beyond this year. Why couldn't we do it? Everybody talks about it. Yet we failed to address that problem. We keep postponing, deferring, delaying, and denying that the problem exists. Yet this is something that could be readily accomplished.

My constituents are looking into alternatives; for example, wood pellet stoves or other energy-efficient means of heating our homes. Yet the tax credits for those have expired. They expired at the end of last year. So they cannot even resort to that as an alternative because, regrettably, we have not extended that tax credit.

The question is, Why? Why are we at an impasse on those issues upon which we agree? I think that is the most startling dimension to the problems facing this country—that in the Senate, where we should be taking and adopting the can-do approach, why can't we do the right thing and address this energy crisis? We all agree extending tax credits for renewables is something we should do. So why aren't we doing it? Because individuals or companies or entities aren't going to make investments in renewables if they don't have the assurance of tax credits. That is abundantly clear. They have no way of knowing how long or whether they are going to be extended. They are not going to put themselves on the line financially without the certainty of knowing they will be extended.

Why are we not doing that? It will create jobs and, certainly, we need job creation in America, at a time when unemployment is rising at high levels.

We should be concerned about creating jobs, and that is one dimension. We should be concerned about creating alternatives, creating incentives, inspiring innovation, entrepreneurial spirit. We should do all of that and more, and we hesitate and fail to take action on issues on which we agree, which is truly dismaying and disconcerting, most certainly to the American people who depend on us to take those measures and those steps that can begin to resolve effectively the problems that are at hand.

We can do all of these things. We are certainly capable of doing them, unless we are stuck in the status quo and the gridlock that constantly is where we try to score the political points time and time again to no avail.

I hope we can proceed and take action on this very basic social safety net program for the most vulnerable in our society and demonstrate that we do have the opportunity, these rare moments, to reach across the political aisle and proceed to double the funding for this program at this moment in time because, certainly, it is one program that is of immense value to the people of my State and throughout this country, and it is certainly at the very least, at the minimal, what we should be able to accomplish.

I hope we can do more. I hope we can find the political wherewithal to search within ourselves to reach across the political aisle so the monkey wrenches don't continue to grind down the deliberative process with polarization and partisanship that yields no achievements, no accomplishments, no opportunity, and provides no hope for the people we represent.

The American people deserve more than what they are receiving today. Frankly, I cannot believe that we would adjourn for the August recess without addressing the energy crisis—this program, speculation, and much more. The American people do deserve to have a comprehensive approach. They do deserve to have their elected officials stay here as long as it takes, as much time as it requires for bold action that will be so essential and can measure it with the problems we are facing in this country today.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I wish to start off by saying how much I agree with my distinguished colleague from Maine. I think the LIHEAP program is one that is essential. There is a real possibility if we do not deal with the LIHEAP program, fellow Americans across the landscape of this country will find themselves in the cold, literally and figuratively, and they will be in such a situation where they will have to make desperate choices in their lives.

So this is something, among other things, on which we should be reaching across the aisle. As one Democratic Senator, I want the Senator from Maine to know that we are absolutely in agreement with her, and we believe this is essential to move forward.

I appreciate her comments about coming to common ground and common cause on those things on which, in fact, we can agree. There is much, at least from listening to the speeches on the Senate floor, that, in fact, we supposedly can agree on. We see there are elements of the Republican package that deal with market speculation. That is the essence of the underlying bill we are debating. Let's come together on that. Let's come together on the renewable energy tax credit extenders, something that we began, that existed, and we need to extend if we want to get the marketplace not depending on oil, whether it be foreign or domestic. Let's agree on that. That is apparently something we can agree on from speeches I heard. We should come together in that respect.

I heard conservation about using less. We agree on that issue. Let's come together on that. I agree with the Senator from Maine that while there may be differences, there are a lot of elements together that we do agree on, and if we can begin to move on those elements, maybe we could come to a point in which we could move forward on other items as well.

But why not allow those things that ultimately can make a difference in the short term and in the long term for our collective constituents? When you are cold, it doesn't have a Republican or Democratic label to it. When you

have to make a choice between a gallon of gas or putting a gallon of milk on the table, it doesn't have a Democratic or Republican label on it.

I agree with the Senator from Maine. I am glad to have been on the floor to listen to her. She is a voice of reason, and I appreciate where she stands on these issues, and I agree with her. Hopefully, we can move in that direction.

COASTAL DRILLING

Mr. President, I have come to the floor various times over the last couple of weeks to discuss opening our coastline to drilling. This is part of one of the marvelous beaches in New Jersey. You have to get off the New Jersey Turnpike to understand.

I had some colleagues say: Why are you so fixated on this drilling issue? Isn't your State one big refining place? They obviously never got off the New Jersey Turnpike.

If you get off the New Jersey Turnpike, you will see one of the most incredible parts of the United States coastline where not only millions of New Jerseyans go, which they consider a birthright, but people from throughout the region. Canadians come down and contribute to our economy because they want to go to the New Jersey shore.

The Presiding Officer, the distinguished senior Senator from Florida, understands what that Florida coastline means to his State and his economy. That is why he has been such a vigorous voice on the floor of the Senate.

Ever since I have been having to come down to the floor, ever since we have had these two oilmen in the White House, the Presidential candidate they support, and many on the other side of the aisle—not all but many on the other side of the aisle—have begun a very hard sell to the American people over an absurd notion that opening our coastlines to drilling will ever lower gas prices. They have grabbed on to a source of fear and frustration among American families, and there is no question that there is frustration and pain for our American families. But they are using that frustration and pain to pull a fast one on the American people.

Exploitation of pain at the pump to grab more land to build up stock prices, that is what this is all about. They are using it to sell a plan that in reality will bring absolutely zero relief to Americans but instead represents one last great big handout to oil companies that are already making astronomically staggering profits.

We just saw the beginning of that parade with ConocoPhillips, an incredible increase in profits. On one hand, you have American families who are getting absolutely slammed by high gas prices. On the other hand, you have oil companies counting their money, sitting on 68 million acres of public land that are not being put to use and focusing way more on taking that money and using it on stock buybacks that ultimately drive up the value of their shares than exploration or innovation.

It is not because I say that. Listen to what the President of the American Petroleum Institute said when he was asked: Why can't you create more production?

He said: We don't have the infrastructure and the rigs and the drills and all the pipeline and everything that is necessary to create more production. He didn't say why. One of the reasons is they haven't been investing the money to do that.

So all the suggestions to lift the moratoria and tomorrow out sprouts oil and, therefore, gasoline and prices plunge is simply not true. They cannot even pursue the 68 million acres, the extra area in the gulf, the extra area off the Outer Continental Shelf in Alaska that is not subject to any moratoria right now. They cannot even do that and haven't done it. What an incredible falsehood perpetuated on the American people. But I believe the American people know better.

If we listen to these proposals, you would think—I have seen some of my colleagues shake the legislation and say: There is no oil in here. Guess what. There is no oil in their proposals either. That is really laughable.

Who do our colleagues on the other side of the aisle choose to help? The oil companies have more money than the eye can see, and you don't even hear them talk about the oil companies. They never invoke their name unless it is to say: Oh, we need to give them more. We need to do more for them. We need to do everything for them. The average American wishes they were in the role of the oil companies—record profits, huge amounts of money. Let's give them more. Let's give them more.

We never hear from our Republican friends talking about the oil companies having any responsibility—I am not saying the responsibility, any responsibility—for some of our lack of production. I have just heard one too many speeches that are apologies for the oil companies. Multibillion profits—I am not going to be an apologist for the oil companies.

As we try to pass legislation to crack down on greedy oil speculation which could lower gas prices quicker than anything, they just say no, even though they include it as part of their proposals.

Back at home, people who are hearing these debates say: They keep talking about speculation. I know what speculation generally means.

What does it mean in the context to the average person? What it means is traders buy huge quantities of oil online, many times intentionally inflating prices. They then turn around and sell those very orders to other traders at even higher prices. These traders never intend to use the oil. This is not a purchase of oil because they are going to ultimately use it in distribution in the country and make sure people have, for example, home heating oil or they are going to refine it and have gasoline. No, they use these constant trades bidding up the price so they can ultimately cash in.

But who gets stuck with the bill every time we have to pay to fill our tanks and heat our homes? It is the American consumer.

We Democrats want to do something about it. For those who keep saying—even though it is part of their plan—oh, no, this is really not a problem, let me read to you from an article that appeared today, July 25, in the New York Times:

Firm said to manipulate oil market. Commodity regulators in Washington have accused a Dutch trading company of making roughly a million dollars in illegal profits by manipulating the prices of crude oil, heating oil—

What we are going to be using this winter—

and gasoline—

Over what period of time?

over an 11 day period of time.

One million dollars in 11 days in illegal profits. Oh, it is not a problem; speculation is not a problem.

In audio tapes uncovered in their investigation, regulators said one defendant described the scheme as an effort to ''bully the market''—

Bully the market—

by making a large number of trades at or near the end of the trading day to move closing prices.

But this is a marketplace that cannot be bullied. Therefore, we don't need to do anything about the speculative nature and unbridled speculation. Well, guess what. One million dollars in 11 days, with their own voices saying that this is an effort to ''bully the market.'' Moreover, unlike many manipulation cases, this one accuses the defendants of actually succeeding in moving prices that were used as benchmarks for consumer markets—actually moving the benchmarks that are used for consumer markets, in essence, saying not only is it our intention to bully the market, but the regulators are saying yes, and they did bully the markets. They did bully the markets.

Now, the complaint that was filed in the Federal District Court in Manhattan says at least two of those attempts resulted in, guess what, higher prices for gasoline and crude oil. But our Republican friends say: Oh, no, market manipulation and speculation isn't a problem. But here is only one example, and this has been a reluctant regulator to pursue this. When they have heard the speeches on the floor and they have heard this going on for some time now, all of a sudden we grab one of these companies, 11 days, $1 million, bullying the market and doing it successfully.

That is why we need the legislation Senator REID and the Democratic majority brought to the floor and that others only talk about, saying it is part of our package. Well, join us. Join us before more market speculation takes place.

What are Democrats trying to do about it? We are trying to add 100 new cops on the beat to the commission that oversees these traders. We are trying to create greater transparency, for the first time requiring—for the first time—detailed reporting of previously undisclosed trades. And oversight—stopping speculators from inflating oil prices by playing domestic and foreign markets off of each other.

We had testimony before the Congress, sworn testimony, as a matter of fact—and it is not often we have sworn testimony—from oil company executives. They were challenged as to why we are having these high prices. You tell us, in fact, it is the demand and the supply side. We said we have heard a lot of talk about supply and demand, and that largely over the last 2 years they have traced each other pretty closely together. Well then, what is the issue? And what is their response, these very oil company executives? Their response is: market speculation. But no, we don't have to go after that. It is not one of the most important issues, something that can be done now. So they say no.

I have to hand it to my colleagues for their political talent, to take an issue so vital to the daily lives of Americans and convince them they want to do something about it with a proposal that is more about oil company stock prices than gas prices. That is quite a feat, if you can pull it off. That is talent. But here is the problem. The facts always come out, and the facts ultimately always win.

It has been tremendously important to me, as a Senator from New Jersey, to come down here and give the facts about coastline drilling. It is not just the facts about drilling and gas prices, although that is how they initially make their plan popular, it is also the facts about oil spills, which they say are virtually impossible with today's drilling technology, virtually impossible.

That is exactly what they told us about the tanker industry that carries the oil. We don't have any rigs that I know of in the country, along the coastal waters of the United States, where there is drilling, that either don't have a pipeline system or don't ultimately have a vessel. And we were told: Don't worry about our tanker system. In fact, it is impossible to have any spills.

This is what happened with that impossibility. Workers there are cleaning up after the Exxon Valdez oil spill in Prince William Sound—a lot of oil there, obviously, a huge disaster. So if we could say that, and if it were true, that would surely be nice for the eastern and western coastlines of the United States. If it were true, in fact, that it is virtually impossible to have no spills, that surely would be nice for the $200 billion that our coasts generate each and every year in fishing and tourism revenues—$200 billion. And it surely would be nice if it were true for my home State of New Jersey and the millions of people who end up on the Jersey shore each summer and the half a million jobs in the State of New Jersey supported by the economy there between recreation, tourism, and the commercial and recreational fishermen.

It surely would be nice if an oil spill off the coast of Virginia didn't have the potential to affect the coastline from South Carolina up to New York. That surely would be nice, if it were true. But the facts always come out, and at the end of the day, the facts always win.

Earlier this month, the distinguished minority leader made this statement, echoed by several of his colleagues as part of their hard sell to the American people: ''Not a drop of oil was spilled during Katrina.'' Not a drop of oil. Well, that surely would be nice, if it were true. But the fact is, we can see here from this U.S. Coast Guard photo that was published in the Washington Post on July 14 of 2008 what was happening with this spill and how they were trying to burn the spill up in order to try to deal with the disaster. Oh, but not a drop of oil was spilled during Katrina. I guess this picture must be a fabrication of the Coast Guard.

Last month Senator MCCAIN said: ''Not even Hurricanes Katrina and Rita could cause significant spillage.'' Well, the same picture from the U.S. Coast Guard. That surely would be nice, if it were true. Last time I checked, 7.7 million gallons of oil is pretty significant, pretty significant.

And then in the last 24 hours, there was a stroke of poetic justice. Senator MCCAIN was ready to fly out to an oil platform in the Gulf of Mexico to stage a photo opportunity. He was ready to show how safe it is to drill for and transport oil these days. Nothing to worry about. Unfortunately, he should have known better, because the facts always come out, and the facts always win. Just as he was set to do this yesterday, there was an accident on the Mississippi near New Orleans in which a freighter rammed a barge and spilled 419,000 gallons of fuel oil. Next thing you know, the McCain photo-op was postponed. It seems they realized it is hard to make the case that oil drilling and oil transportation is completely safe when there are 419,000 gallons of oil floating around and washing up on the shore nearby.

Of course, now his representatives are saying it was postponed because of the hurricane that hit the southern tip of Texas yesterday that this event was cancelled. I thought: Well, that might be a legitimate reason. But then I checked the National Weather Service forecast. And what did the National Weather Service's detailed forecast say, which I have right here—satellite images?

The National Weather Service made the following forecast today for the Louisiana gulf coast: Partly cloudy. Scattered thunderstorms, mainly in the afternoon. Highs in the lower 90s. Southeast winds 5 to 10 miles per hour. Chance of thunderstorms, 30 percent.

I think the Presiding Officer has a pretty good sense that this is pretty tame weather conditions for this time of the year—certainly not hurricane weather.

So if you look up ''irony'' in the dictionary, I think you will find possibly that it might describe cancelling an oil drilling photo-op because a massive nearby oil spill took place. Having to cancel your big oil drilling photo-op because of a massive oil spill is like cancelling a crime safety photo-op because the house next door got robbed. In selling this absurd coastline drilling plan to the American people, Senator MCCAIN and others have time and time again pointed to advanced technology that would supposedly eliminate the threat of massive oil spills. Well, this is the oil fire after Katrina. As he can now personally attest to, even with the most modern technology, we can't prevent massive oil spills such as the one currently devastating the Mississippi, just as we couldn't prevent a 7.7 million gallon oil spill after Hurricanes Katrina and Rita. And that is the type of straight talk we need about oil drilling and the type of talk the American people need to hear and that they deserve.

As to the claim that coastline drilling will lower gas prices, we know it simply won't. That is clear when we realize there are millions of acres already subject to oil exploration that aren't being pursued. In fact, the American Petroleum Institute president says: Well, we don't have the infrastructure and the rigs and the drills to pursue it. We can't do that overnight.

We know we have reduced 800,000 barrels a day in demand because of high gas prices. The Saudis have produced 500,000 barrels a day in extra production—a 1.3 million barrel a day shift in barrels of oil—and yet gas prices have done what? They have gone up. We opened the gulf—181—and gas prices have gone up.

So if 1.3 million barrels in either reduced demand or increased production haven't done anything about gas prices, imagine the very large sum of 200,000 barrels in the year 2030 at this risk. If 1.3 million barrels can't do it, how does 200,000 do it, and yet accept this risk? Accept this risk to this environment and to the $200 billion that is generated by the coasts of the east and west.

And, by the way, that 200,000 would mean that every State would have to agree, assuming we would give States an option, and we have already heard the Governor of California say: No way. They are one of the biggest parts of the coastline. I doubt you will get Oregon and Washington in that respect. We have heard some of their distinguished colleagues say that is not going to happen. New Jersey won't do it. So by the

time you are finished, you are nowhere near even the 200,000.

Now, what is it we can do? Well, I agree with the comments of the distinguished Senator from Maine, who said: Let's do what is possible and what we agree to. And what is possible and what we agree to is very significant.

The Republicans say they are for a renewable energy source, and are providing the tax credits that existed and expired and should be brought back to life. They say they are for that. Well, they have said ''no'' twice, though. Twice we have brought that forward, and twice they have said ''no.''

The fact is that passing the tax credit extenders would create the incentives that are necessary to move us in a direction in which oil is not the issue, and risking the coastlines and the $200 billion economy is not the issue, and where we could do things in a tighter timeframe and better timeframe than the year 2030. That would move us toward renewable energy sources, such as wind, solar, biomass, and cellulosic ethanol, plug-in hybrids, which are critical. All of these things would move us in a direction long before 2030, which is when all of this production would take place, if it takes place.

We supposedly agree on moving forward on that, but our Republican friends have said ''no'' twice. Republicans say that speculation is part of their package. I talked about that earlier. We saw already one company being pursued—$1 million, 11 days, bullying the market and succeeding in doing it. Well, it is time to move on speculation. Yet that is the very essence of the underlying bill. We can't seem to get them to agree on that. Most of the speeches I have been hearing is that they pooh-pooh speculation. When it made a difference in oil and gas prices, as that case suggests, I would simply say that is certainly not anything to be pooh-poohed. It is real and it is consequential, and even the testimony of the oil company executives says it could produce anywhere up to $50 per barrel more.

Republicans say that conservation is part of their package. We agree. So why not join us in that respect as well, with the conservation proposals we have put forward?

There are three very significant areas: renewable energy tax credits, speculation, conservation. Let's move forward. But instead, what we have is a series of noes. Then we have 18 amendments filed by Republicans, all to do what? To open the coastline of our country, which, as I have already discussed, will not achieve anything. But do you need 18 different amendments even to pursue what you think is an appropriate energy policy to open the coastline to drilling, to risk the consequences of this? OK, the majority leader said: Go ahead, we will give you an amendment. But you cannot take yes for an answer. We have to have 18 different amendments to do virtually the same thing.

You can repeat a big lie over and over. We have seen that in the history of the world, that you can take something that is not quite true, repeat it over and over, and try to give it the life it otherwise does not deserve—try to make it true. But saying it over and over doesn't make it true, saying over and over that drilling is the panacea, the solution to bring down gas prices.

The way I hear it, I hear: Pass the legislation, have the President sign it, tomorrow oil sprouts up, gas gets made, prices go down. I give a lot more credit to the American people than that.

The truth, crushed down to the floor, springs back up. The truth is that, in fact, we have the wherewithal to move our country in a much different direction. It is the can-do spirit of America. It is the pioneer spirit of America. It is the spirit that gets going—the tough get going when the going gets tough. That is the spirit we have. That is the spirit we should pursue. That is the renewable energy from tax credits. That is the conservation. That is stopping the speculation in the marketplace. That is ensuring that, in fact, we move to necessary renewable energy sources. That makes for a great America, a new economy—and do something about global warming all at the same time that we deal with the challenges of gas prices in the short term and liberate ourselves in the long term. That is what the debate is all about.

Mr. NELSON of Florida. Will the Senator yield for a question?

Mr. MENENDEZ. I will be happy to yield.

Mr. NELSON of Florida. The Senator has given an excellent exposition and debunking of a number of these myths. As to his recitation debunking the statements made by a number of Senators on this floor that there was no oilspill in the Gulf of Mexico after Hurricane Katrina and Hurricane Rita, I want to ask the Senator whether he had seen this particular report from the White House, ''The Federal Response to Hurricane Katrina, Lessons Learned,'' February of 2006, after Katrina, in August of 2005.

I want to find out whether the Senator had seen this report:

> In fact, Hurricane Katrina caused at least 10 oil spills releasing the same quantity of oil as some of the worst oil spills in U.S. history. Louisiana reported at least six major spills of over 100,000 gallons and four medium spills of over 10,000 gallons. All told, more than 7.4 million gallons poured into the Gulf Coast region's waterways, over two-thirds of the amount that spilled out during America's worst oil disaster, the rupturing of the Exxon Valdez tanker off the Alaskan coast in 1989.

That is the end of the quote from the very report on Katrina from the White House. Has the Senator seen that report?

Mr. MENENDEZ. I have. I appreciate the distinguished Senator from Florida pointing it out. The words are powerful because there it is not a Member of the Senate saying this, not a Democrat saying this. This is the official report. I have used the pictures because a picture speaks better than a thousand words, and you cannot deny it as you cannot deny the report. The fact is that we had massive oilspills after Katrina and Rita.

This is a Coast Guard picture. That is the reality. The fact is, we were told we have the most highly technologically advanced—it is impossible to have any spills as a result of tankers.

The Exxon Valdez.

It simply is not true to suggest that there was not. How is it that it has been quoted here—

> Not even Hurricanes Katrina and Rita could cause significant spillage . . .

At least that says ''significant spillage.''

> Not a drop of oil was spilled during Katrina . . .

It is pretty tough to say that not a drop of oil was spilled during Katrina. This is why we have to be so cautious about risking the coastlines, the economy, the environment, when it will not produce a drop of oil for over a decade, it will not do anything about gas prices now or in the future, but can create an enormous consequence.

We need to be honest with the American people, and I hope this opportunity to get to the floor and talk about some of the facts and show some of the photos from the Coast Guard will make it very clear.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this is an unusual day in the Senate. I have been in this body for a while. I have never seen the floor so crowded. I have sought, since early morning, to find a little floor time and have waited more than an hour at the present time, past the time I was scheduled to speak. I am glad to listen.

I am beginning, on my consideration of the pending legislation, the energy speculation bill, to note what is happening on the Senate floor. There has been a lot of talk, a lot of talk in the Senate for the last 4 days, and really no action—only one vote on Tuesday morning on a procedural matter to invoke cloture to proceed to the consideration of the bill. What has happened? We have been talking a great deal but not considering anything which would advance an energy policy for the United States.

We are engaged in a process which is a little difficult to understand, but I think it is important for the American people to know what is happening. A procedure has been utilized recently—the past couple of decades—where the majority leader exercises his rights as leader to take a procedural step which precludes anybody from offering amendments to the bill.

This is an opportunity. The Senate Chamber is empty, which it is frequently, certainly past 7 o'clock on a Thursday evening, but it is very hard

to convey this information so that people would understand why no action is being taken in the Senate. There is no doubt that it is a do-nothing Senate and has been for some time as a result of political gridlock. That is why the ratings of the Senate have plummeted.

We have a situation which really started to percolate back in 1992, and it has been a practice of both Democrats and Republicans. Customarily—really invariably—when there is political blame in this body, it is attributable to both political parties. You can divide it right down the center aisle, and it is evenly split. But this procedure to preclude amendments is of fairly recent origin.

In the 101st Congress of 1989 to 1990, where Senator Mitchell was the leader, he did not use this procedure on any occasion. But by the 103rd Congress, 1993 to 1994, Senator Mitchell employed it on nine occasions. Then it was picked up in the Republican tenure of Senator Lott in the 106th Congress, in 1999 to 2000, when Senator Lott used it nine times. Then, in the 109th Congress, 2005 to 2006, Senator Frist, the majority leader, used it nine times. In this Congress, the 110th, 2007 and partly through 2008, Senator REID has used it 13 times.

What does this mean so that it can be understood by the American people who have such a vital interest in having the Senate function? Let me illustrate it with a bill on climate change which was called up in June of this year.

As soon as the bill was called up, Senator REID exercised his rights as leader to get first recognition. In the Senate, Senators are recognized in terms of who first seeks recognition, but in case of a tie it goes to the leader. He then offers an amendment and then another amendment so that procedurally no other of the 99 Senators can offer any amendment.

The global warming bill was a very important bill. There has been a demand to deal with this issue which poses great threats to our environment. There was legislation pending, legislation which Senator BINGAMAN and I had introduced, the Bingaman-Specter bill, legislation introduced by Senator LIEBERMAN and Senator WARNER on a very complex subject.

Early in the week of June 2, I came to the floor and spoke about some amendments which I wanted to offer. I wanted to offer an amendment on emission caps. I wanted to offer another amendment on cost-containment safety valve—a price cap. I wanted to offer a third amendment on energy-intensive manufacturing competitiveness and a fourth amendment on steel process gas emissions. Of course, that was only one Senator, at the beginning of what I wanted to have considered. But I was foreclosed from offering any of those amendments by the procedure which Senator REID used to fill the tree.

Then Senator REID moved for what is called cloture; that means to cut off debate in order to proceed to final passage of the bill.

I wanted to consider the global warming issue, but I certainly was not about to agree to cutting off debate and proceeding to final passage before I or others had had an opportunity to offer amendments.

Now, what happens as a result? The result is that Republicans complain about what Senator REID has done on precluding amendments, and Senator REID complains about it being another Republican filibuster in response to the Republican's inability to offer amendments.

So there is finger-pointing. That is what we are really good at these days. And the American people do not understand anything except that nothing is being done. Now, we have had consideration this week on a bill called the energy speculation bill. We all wonder why the cost of oil has gone through the roof, causing gasoline prices of more than $4 a gallon.

There is no doubt about the anguish and difficulties that the American people are suffering as a result of these costs, of these prices. And there is concern about the speculators who may be involved. Maybe they are. There are some indicators that part of the problem is caused by speculation.

Well, we haven't dealt with the issue in a logical, factual way; that is, for Senators to come to the floor and address the substance of the bill which is pending or offer amendments to modify the bill which is pending.

Now, Senator REID, the majority leader, has followed the same course of action. He has filed cloture. We are going to have a cloture vote tomorrow. It takes 60 votes for cloture to cut off debate. It will not happen. When the motion for cloture fails, Senator REID is going to go to his podium over there, and he is going to blast the Republicans for shutting down the bill at a time when the American people need relief, at a time when the American people need a decision as to what the speculators are doing.

I want to offer an amendment on bringing OPEC within our antitrust laws; something that I have been pushing for years. Right now, the OPEC combine has an exemption under our antitrust laws. The OPEC nations get into a room, they decide how much the production is going to be, they limit supply, and the price of oil goes up.

They have what is called sovereign immunity. Well, they ought not to have it. The Congress of the United States has the authority to change that. We can bring them within our antitrust laws so that the Attorney General can take action against them.

They are subject to jurisdiction in the United States because they do business here, and they have a lot of assets here. If we brought OPEC within our antitrust laws, you would see a change in their policy. They have argued for a long time—Saudi Arabia—that they cannot have any greater production. But about a month ago, when there were some signs of change in our consumption of oil, some fear that their preeminent position in their monopoly was in some jeopardy, somehow they increased their production.

If they increase their production, if the supply goes up, prices will come down—the inexorable law of supply and demand, one of the few laws that works.

So here we are, with an enormously serious problem with what is happening with the issue of oil prices and gasoline prices, and here we have a bill on the floor which addresses an issue of grave concern to the American people, and my hands are tied. My hands are tied with 99 other Senators because procedurally we are blocked.

Then the next move is going to be to invoke cloture. It is not going to be invoked. Debate is not going to be cut off; 60 votes will not be received. Then the majority leader will remove the bill from the floor, and he is going to blame Republicans for obstructing, and the American people are not going to have any opportunity to understand what went on, except for the few who were watching on C–SPAN.

I made this speech during the consideration of the global warming bill. There was not a word in the newspapers about it. Why? Well, it is too complicated. It is too arcane. It is too ''inside the beltway.'' But until the American people understand it and send a message to Washington that they are not going to tolerate it, we are going to have to continue to have this gridlock.

When the shoe was on the other foot and Republicans controlled the Senate, during the time when Senator Frist was the majority leader, he invoked this procedure on nine occasions. Senator REID and the Democrats were very unhappy about it, as well as Senator DURBIN and Senator DODD.

This is what Senator DODD had to say about it:

> This chamber historically is the place where debate occurs.

And what Senator DODD is referring to is that the Senate, unlike the House of Representatives, Senators have been able to offer any amendment on any subject at any time. And that is one of the great beauties about the Senate because any one of us can bring up an issue and call the attention of the American people to it, and with sufficient public backing, sufficient newspaper coverage, radio, TV, a little broader than C–SPAN2, there can be some action. But that has been foreclosed.

Senator DODD was very emphatic about it back on May 11, 2006, when the Republican leader, Senator First, had filled the tree. Senator DODD had this to say:

> To basically lock out any amendments that might be offered to this proposal runs contrary to the very essence of this body. When the amendment tree has been entirely filled—

He called it filling the tree when the procedure is used—

when the amendment tree has been entirely filled, obviously we are dealing with a process that ought not to be. The Senate ought to be a place where we can offer amendments, have healthy debate over a reasonable time, and then come to closure on the subject matter.

Well, what did Senator REID have to say about this subject on March 2, 2006, when we were debating the PATRIOT Act? Senator REID said:

Do not fill the tree. That is a bad way, in my opinion, to run this Senate.

What did Senator REID have to say about the subject on February 28, 2006, on the PATRIOT Act reauthorization, speaking about filling the tree.

This is a very bad practice. It runs against the basic nature of the Senate. The hallmark of the Senate is free speech and open debate.

What did Senator DURBIN have to say about it, the assistant majority leader for the Democrats, on May 11, 2006, when the Republican majority leader had filled the tree and precluded amendments?

The Republican majority brings a bill to the Senate, fills the tree so no amendments can be offered, and then files cloture which stops debate; we cannot offer amendments.

So Senator DURBIN outlines it as I did: The Republican majority leader fills the tree and then files cloture. Well, cloture was not adopted, and then these important issues are not considered and the American people wonder what is going on.

Well, I have taken a little longer to explain the subject, but it is very hard to get it across. I am going to keep trying. I have acted within the Senate to try to get the rule changed. A year and a half ago, I filed a rule amendment to try to get the rule changed. On February 15, 2007, I introduced S. Res. 83, and so far, I have not been able to get an answer from the chairman of the Rules Committee about what action she intends to take.

I might say to my colleague from Washington that I have been waiting an hour. I have limited time. But I am always a little wary when I see a colleague waiting. But there are some other subjects I want to talk about, so I want to give you some advance notice.

May the record show that Senator MURRAY has graciously given me a hand signal, sort of like the Patriots used in the Jets game, a hand signal, understanding that I am going to talk a little more. I will try to be brief, but there are some subjects I do want to address.

IRAN

I am very encouraged by what the administration has done as noted in the Washington Post within the past few days. The President has sent his first high-level emissary to sit down with Iran and has agreed for the first time to set a time horizon for withdrawing troops from Iraq and has authorized the Secretary of State, Condoleezza Rice, to join the North Korean diplomats at the Six Party talks about ending that country's nuclear weapons program.

I would urge the President, in the course of these talks, to exercise flexibility in the dealings with Iran. There is no doubt that on the international scene the possibility of Iran developing a nuclear weapon is the most serious international threat there is in the world today. No doubt about that. It is intolerable for Iran to have a nuclear weapon when its President talks about wiping Israel off the face of the Earth. And when Iran flouts international law by supporting international terrorists, no doubt about the threat that would pose.

It has been my urging of the administration that the United States not impose a precondition on the talks. The object of the talks is to stop Iran from continuing to process nuclear weapons and to abandon their effort to get nuclear weapons. They should stop their activities on processing uranium.

It seems to me where the object of the talks is to stop Iran from processing nuclear materials, that ought not to be a precondition of the talks. It is very difficult to go to a sovereign nation, it seems to me, and say: Before we begin the talks, we want you to have a freeze on processing nuclear materials, which is the object of our talks.

We have to approach anybody in any situation with a certain amount of dignity, with a certain amount of understanding about the other person's position, if we are to find some way to solve the problem. The administration talks about a freeze for freeze, but the freezes are very different. The freeze demanded by Iran is for them to stop a process which they have been engaged in, which they have asserted they have a right to as a sovereign nation. We don't like what they are doing. If they become a sufficient threat under the U.N. charter, article 51, there are circumstances where the threat is sufficiently imminent to take preemptive action. We all hope we never get to that stage. But until you have that situation, they are a sovereign nation, and they are engaging in activities which sovereign nations do.

The freeze we are offering is a freeze to not impose sanctions to take negative action against Iran. It is the projection of the six powers, led by the United States, that we have suggestions to make to Iran on a package of economic, political, a variety of incentives to stop Iran from processing nuclear material. It seems to me the best way to get on with it is to start to discuss with Iran what we have to offer specifically, to see if what we have to offer will be sufficient on the talks or to engage in the discussions and in the negotiations. We do know that notwithstanding the grave difficulties in dealing with North Korea, that when the United States was willing to engage in bilateral talks with North Korea, we made some progress. We thought the North Korean leadership was impossible, but we were able to work through it.

Similarly, in dealing with Libya and Qadhafi, we were able to work out an arrangement where Libya, Qadhafi, stopped the development of nuclear weapons. Qadhafi is the greatest terrorist in the history of the world; with very heavy competition, the greatest terrorist in the history of the world. He blew up Pan Am 103. It was proved that he did it. He made reparations to the passengers. He blew up a discotheque in Germany, killed American soldiers. Yet through discussions, through talks, he has been brought back into the so-called family of nations. Libya has a seat on the Security Council. It is hard for me, frankly, to understand how we have gone that far with Libya, but that goes to show how far we can go.

As these talks proceed, it would be my hope the United States would show flexibility. When the Secretary of State talks about their having 2 weeks to respond, I don't think that is the way negotiators deal in putting on time limits. Iran responded, apparently, according to the media reports, with a long written statement which was not understandable. But they have quite a number of points which they want to make. I have had the opportunity, and have discussed this on the Senate floor at some length, of having a number of discussions with the current Iranian Ambassador to the U.N. and the previous two Ambassadors. There are people from Iran whom you can talk to in a sensible way. But a demand on a precondition that they stop processing nuclear material, which is the object of the talks, seems to me to be totally counterproductive.

I have raised these issues at some considerable length over the course of the past year and a half, going back to an appropriations hearing on February 27, 2007, when Secretary of State Rice was before the committee, posing the issue with her as to why the precondition. I had an extensive discussion with her, similarly, with Secretary of Defense Gates, in hearings before the Department of Defense Appropriations Subcommittee. It is worth noting that when Secretary of Defense Gates was on the Commission evaluating United States-Iranian relations, he was a party to recommending discussions with Iran. These discussions, these lines of questioning and responses are lengthy.

I ask unanimous consent that the full text of the statement be printed in the RECORD.

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

STATEMENT OF SENATOR ARLEN SPECTER, U.S.–IRANIAN RELATIONS

Mr. President. I have sought recognition to compliment President Bush and Secretary Rice on their initiative to dispatch Undersecretary of State for Political Affairs William Burns to meet directly with Iranian officials this past weekend in Geneva, Switzerland.

On Saturday, July 19, Secretary Burns joined representatives of Russia, China, the

United Kingdom, France, Germany and the European Union in negotiations with Iran's chief negotiator, Saeed Jalili, over Iran's nuclear program. This was one of the highest level meetings between a representative of the U.S. and Iran since the American Embassy was seized in Tehran in 1979, and represents the highest level of American engagement with Tehran during the Bush administration's tenure.

The meeting followed a June 12, 2008 letter from Secretary Rice, European Union foreign minister Javier Solana, and the foreign ministers of China, France, Germany, Russia, and the United Kingdom to Iranian Foreign Minister Manuchehr Mottaki outlining a new set of incentives to encourage Iran to stop enriching uranium. The letter proposed that the six world powers ''will refrain from any new action in the Security Council,'' while Iran ''will refrain from any new nuclear activity, including the installation of any new centrifuges.'' The formula was called ''freeze-for-freeze.'' The letter and accompanying proposal was notable in that it concentrated on incentives rather than proposing new punitive measures.

I spoke with Secretary Burns this week who briefed me on the meeting. While I will not detail our conversation, I commended Secretary Burns for his efforts.

The Administration has long held they would not sit down with the Iranians prior to them agreeing to suspend their nuclear activities. The meeting this weekend at Geneva's City Hall represents a welcomed flexibility in that policy—a flexibility I strongly support and hope will continue.

I have consistently, both publically and privately, urged President Bush, Secretary Rice and Secretary Gates, for the U.S. to have direct talks with the Iranians without preconditions.

During the May 20, 2008 hearing before the Defense Appropriations Subcommittee, I made the following statement: ''I would like to focus on the future and most specifically on Iran and on the critical issue of talks with Iran and whether talking with Iran is really feasible. We have seen our talks with North Korea bear fruition. We have seen the talks with Libya—Qadhafi—bear fruition. Qadhafi, arguably the worst terrorist in the history of the world in a very tough competition with Pan Am 103 and the bombing of the Berlin discotheque, and yet he has given up his nuclear weapons.'' I further stated, ''We have seen the president's comment about appeasement of terrorists, but if we do not have dialogue with Iran, at least in one man's opinion, we're missing a great opportunity to avoid a future conflict.''

This hearing afforded me the opportunity to engage Secretary Gates on the matter. It is important to note that Secretary Gates, prior to his tenure at the Department of Defense, co-chaired a Council on Foreign Relations task force which concluded, ''it is in the interests of the United States to engage selectively with Iran to promote regional stability, dissuade Iran from pursuing nuclear weapons, preserve reliable energy supplies, reduce the threat of terror, and address the 'democracy deficit' that pervades the Middle East as a whole.'' When asked about dialogue and Iran in a questionnaire submitted by members of the Armed Services Committee, Secretary Gates responded that, ''no option that could potentially benefit U.S. policy should be off the table'' and noted that ''in the worst days of the cold war the U.S. maintained a dialogue with the Soviet Union and China.''

Picking up on Secretary Gates' comments about the Soviet Union, I discussed the applicability to Iran:

''Secretary Gates, we have seen that President Reagan identified the Soviet Union as the 'evil empire' and shortly thereafter engaged in direct bilateral negotiations and very, very successfully. As noted before, we have seen President Bush authorize bilateral talks with North Korea, as well as multilateral talks, which produced results. As noted with Libya, on Gadhafi, the talks have produced very positive results. I note that there have been three rounds of bilateral talks where United States Ambassador Crocker has had direct contact with Iranian Ambassador Qomi. So we are not really saying, in practice, that we will not talk to them. The question is to what extent will we talk? I'm very much encouraged, Mr. Secretary, by the statement you made on May 14th of this year that, ''We need to figure out a way to develop some leverage and then sit down and talk with them. If there is to be a discussion then they need something too. We can't go to a discussion and be completely the demander with them not feeling that they need anything from us.''

Continuing with Secretary Gates, I said, ''Now the position taken by the Secretary of State has been 'we won't talk to Iran unless, as a precondition, they stop enriching Uranium.' It seems to me that it is unrealistic to try to have discussions but to say to the opposite party, 'as a precondition to discussions we want the principal concession that we're after.' Do you think it made sense to insist on a concession like stopping enriching Uranium, which is what our ultimate objective is, before we even sit down and talk to them on a broader range of issues?''

I further questioned, ''Isn't it sensible to engage in discussion with somebody to try to find out what it is they are after? We sit apart from them and we speculate. We have all of these learned op-ed pieces and speeches made and we're searching for leverage. But wouldn't it make sense to talk to the Iranians and try to find out what they need as at least one step on the process? We only have one government to deal with. Let me put it to you very bluntly, Mr. Secretary: is President Bush correct when he says that it is appeasement to talk to Iran?''

Secretary Gates responded, ''Well, I don't know—I don't know exactly what the president said. I believe he said it was appeasement to talk to terrorists, to negotiate with terrorists . . .''

I interjected, ''He said in his May 15 address to the members of the Knesset he said, 'some seem to believe that we should negotiate with terrorists and radicals.' He does not say specifically Iran, but I think the inference is unmistakable in light of the entire policy of the administration.''

I concluded by telling Secretary Gates, ''I've had an opportunity to talk to the President about it directly, and I believe he needs to hear more from people like you than people like me, but from both of us and that it's not appeasement and that the analogy to Neville Chamberlain is wrong. We've only got one government to deal with there, and they were receptive in 2003. I've had a chance to talk to the last three Iranian ambassadors to the U.N. and I think there is an opportunity for dialogue. I think we have to be a little courageous about it and take a chance because the alternatives are very, very, very bleak.''

A month prior to my engagement with Secretary Gates, I posed a similar question to Secretary Rice during the April 9, 2008 Foreign Operations Subcommittee hearing:

I told Secretary Rice, ''I want to visit with you a couple of subjects that you and I have talked about extensively both on and off the record, and that is the Iranian issue and later the Syrian issue. We have talked about the initiative of 2003, which has been confirmed by a number of people in the administration, on Iran's effort to initiate bilateral talks with the United States. And I have discussed this with you urging you to do so. We all know that among the many pressing problems the United States faces, none is more important than our relation with Iran and the threat of Iran getting a nuclear weapon. And the multilateral talks and the sanctions in the United Nations are very, very important. But I would again take up and urge the bilateral talks. You were successful on the bilateral talks with North Korea in structuring an agreement. There had to be multilateral talks with China involved and Japan and South Korea and other nations. But Madam Secretary, in the waning days of the administration, in light of the intensity of the problems, why not use the approach taken in North Korea and engage Iran in bilateral talks to try to find some way of coming together with them on the critical issue of their building a nuclear weapon?''

Secretary Rice responded, ''Senator, I think we've made clear that we don't have a problem with the idea of talking to the Iranians. I said at one point in a recent speech that we don't have any permanent enemies, so we don't—''

I told Secretary Rice I was referring to dialogue, ''but without preconditions.''

Secretary Rice replied, ''But I think the problem of doing this, and we do talk with North Korea bilaterally but, of course, in the context of a six-party framework, and we have a six-party framework really for Iran. The reason that the precondition is there—and it's not just an American precondition, it is one that the Europeans set well before we entered this six-party arrangement some two years ago—it's to not allow the Iranians to continue to improve their capabilities while using negotiations as a cover. They have only one thing to do, which is to suspend their enrichment and reprocessing efforts, and then everybody will talk to them. And I've been clear that we're prepared to talk to them about anything, not just about their nuclear.''

I followed up with Secretary Rice, ''They don't need talks to have a cover to proceed with whatever it is they're doing. They're proceeding with that now. I've had some experience. I haven't been secretary of State and I haven't been in the State Department, but I've been on this committee—subcommittee for 28 years and chaired the Intelligence Committee, talked to many foreign leaders, and frankly, I think it's insulting to go to another person or another country and say we're not going to talk to you unless you agree to something in advance. What we want them to do is stop enriching uranium. That's the object of the talks. How can we insist on their agreeing to the object that we want as a precondition to having the talks?''

Secretary Rice replied, ''Well, Senator, we've not told them that we—the talks would be in fact about how to get Iran civil nuclear energy and a whole host of other trade and political benefits, by the way, because the package that the six parties have put forward is actually very favorable to Iran. But they do need to stop—suspend until those talks can begin and those talks can have some substance. They need to stop doing what they're doing, because to allow them to just continue to do it, to say well, we're in negotiations while they continue to do it, I think sends the wrong signal to them and frankly would erode our ability to continue the kind of efforts at sanctions that we're also engaged in.''

On February 27, 2007, I questioned Secretary Rice when she appeared before the Appropriations Committee. I stated that, ''It would be my hope, as you know from our correspondence in the past and our discussion, that there would be more intense one

on one negotiations with the Iranians. . . . And the most famous illustration is President Nixon going to China—used really as an example. If that can be done, that's the way to do it.'' While Undersecretary Burns' recent meeting is not of the same magnitude, it still represents a step in the right direction and perhaps is the initial building block or stepping stone to enhanced bilateral discussions.

Perhaps one of the best opportunities to engage in serious dialogue with Iran came during 2003. Press reports have suggested the existence a document that was passed to the United States through the Swiss Ambassador to Iran and later rejected by the Administration. The document laid out issues for the U.S. and Iran to discuss and parameters for dialogue.

Knowledge of the memorandum existed in the State Department and the National Security Council. However, according to Michael Hirsh of the Washington Post, the memorandum ''was ignored.''

During my May 20, 2008 questioning of Secretary Gates, he appeared to allude to the fact that the U.S. may have missed an opportunity following the 2003 memorandum. I asked Secretary Gates, ''Mr. Secretary, we had leverage in 2003 when we were successful in Afghanistan and Iraq, and the record is pretty clear that we wasted an opportunity to respond to their initiatives.'' Secretary Gates stated, ''I think it was one of the things [Khatami's tenure as President] that created perhaps an opportunity that may or may not have been lost in 2003 and 2004.''

While I believe it is clear that an opportunity to engage Iran was lost in 2003, I agree with Secretary Gates that we need to find ways to generate leverage in dealing with Iran and need to continue to work on a resolution. One proposal which I find promising is the Russian proposal to enrich uranium for Iran's civil nuclear program. It would provide Tehran with the nuclear power it claims is the sole intention of its nuclear program, but would prevent Iran from turning the lowly enriched uranium needed for civil nuclear reactors to the highly enriched uranium needed for nuclear weapons.

During the April 9, 2008 Foreign Operations Subcommittee hearing I raised this issue with Secretary Rice, ''Let me move to another subject, and that is President Putin's proposal to have the Russians enrich their uranium. . . . To what extent has the Putin proposal been pressed? In a sense, if we join with Putin and they refuse what is really a good offer to have somebody else enrich their uranium so they have it for peaceful purposes, but there is a check on using it for military purposes—why hasn't that worked?''

Secretary Rice responded, ''Well, we are fully supportive of it, and the president just told President Putin that again at Shchuchye, that he is fully supportive of the Russian proposal. And in fact, not only did President Putin himself put that proposal to the Iranians when he was in Tehran, his foreign minister went back within a few days and put the same proposition to the Iranians, which makes people suspicious, Senator, that this is not about civil nuclear power but rather about the development of the capabilities for a nuclear weapon . . . Not only did we support the Russians in making their offer, but when the Russians decided to go ahead and shift the fuel for Bushehr saying to the Iranians now that we've shipped the fuel, you certainly have no reason to enrich, we supported that effort too. So I think this really speaks to the intentions of the Iranians.''

I concurred with Secretary Rice, but urged her to press this idea at the highest levels: ''My suggestion would be to try to elevate it. It's been in the media and the press a little, but not very much. So if we could elevate that, I think you'd really put Iran on the spot that they deserve to be on.'' Secretary Rice responded favorably to the suggestion: ''It's a very good idea, Senator. We'll try to do that.''

I have engaged senior Administration officials in meetings, phone conversations and via letters on the Iranian issue. On January 14, 2007, I met Secretary Rice in her office and urged her to undertake an aggressive diplomatic initiative in the Middle East and to engage all regional actors including Iran. One month later during her February 27, 2007 testimony before the Senate Appropriations Committee, she announced an initiative to enhance regional engagement. When I spoke to Secretary Rice via phone on August 14, 2007, she indicated there had been no significant movement on this front. After learning of the lackluster progress, I wrote to Secretary Rice that, ''The U.S. should be willing to engage in dialogue with those whom we consider to be our enemies in order to advance our goals of peace and security. As I have expressed to you in the past, I believe that talks with people—even our most ardent adversaries—hold the potential to yield positive results.''

On September 10, 2007, I wrote a six page letter to Secretary Rice in which I noted, ''Terrorism, military nuclear capabilities, energy security, and the Israeli-Palestinian dilemma are all major issues confronting the U.S. and indeed the world. These challenges cannot be confronted without engaging Iran . . .''

In a March 28, 2007 letter to Secretary Rice, I wrote ''In my view, a renewed focus on dialogue with North Korea and recent participation of the U.S. in an international conference attended by Iran and Syria, hold open the possibility of easing the tensions that exist in our relationship with those countries through diplomacy. . . . On a carefully selective basis, I believe dialogue should be pursued with our adversaries.''

On August 1, 2007, I stated on the Senate floor, ''While we can't be sure that dialogue will succeed, we can be sure that without dialogue there will be failure.''

As the clock runs out on this administration, I urge it to push for resolution of this matter through direct, bilateral, unconditional negotiations with Tehran. The recent talks in Geneva were significant, but I continue to believe that bilateral negotiations may aid in resolving this issue of tremendous importance.

I yield the floor.

SYRIA-ISRAELI NEGOTIATIONS

Mr. SPECTER. Mr. President, there is one further subject I wish to discuss. This will be not relatively brief, but brief. That is a discussion which is pending between Syria and Israel with Turkey acting as an intermediary. It would be my hope and suggestion to the President that he extend the flexibility which he is now showing as to Iran and North Korea and Iraq to assist in the Israeli-Syrian negotiations. The United States was instrumental in negotiations back in 1995, when Prime Minister Rabin almost came to terms with Syria on the Golan Heights. It is a very difficult subject that I don't believe anybody should tell Israel or suggest to Israel or in any way pressure Israel as to what to do about the Golan Heights. It is a decision Israel has to make for itself on their security. But it is a different world than it was in 1967, when Israel took the Golan Heights. Now we have a world of rockets, and security matters are entirely different.

Again, the United States participated extensively in the Syrian-Israeli talks in the year 2000. I have made many trips to Syria since 1984. I got to know President Hafez al-Asad and traveled to the Middle East extensively and recommended to a number of Israeli Prime Ministers the desirability of my view—at least in one man's opinion—to have the negotiations. Right now there is a unique opportunity which could impact on Lebanon. Syria is opening an embassy in Lebanon, treating Lebanon as a sovereign nation which is quite a shift. Syria has enormous influence on Hezbollah. It is a very complex subject in Lebanon, with Hezbollah having significant power in the government, a veto in their Parliament. Syria has considerable influence with Hamas. If the circumstances were right, there is a great opportunity to separate Syria from Iran, a great opportunity to get some assistance with Syria on some major problems. It is unknowable whether that can happen. But I do believe dialog is the way. It would be my hope the President would show he still has muscle. He is going to be in the White House for 6 months. What he has done with respect to North Korea and Iran and Iraq shows he is not taking his last 6 months with a view that there are things he can accomplish. I refer to an extensive article I have written on this subject which summarizes a good many of my activities and views in the Washington Quarterly for 2006–2007.

I thank my colleague from Washington for her patience, if, in fact, she has been patient. It is always difficult with Senators having the right to speak. But it took me more than an hour to get the floor after waiting most of the day. As usual, Senator MURRAY is gracious and nodding in the affirmative. I thank her and the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I assure my colleague from Pennsylvania, I was listening carefully to his comments. He has traveled worldwide, and I am certainly interested in his viewpoints. I hope I didn't make him feel rushed at all, and I appreciate what he had to say.

HOUSING

Mr. President, this week, tens of thousands of homeowners traveled here to the Nation's Capital, and lined up for hours—and even days—in hopes of taking advantage of a mortgage counseling workshop through the Neighborhood Assistance Corporation of America.

These homeowners came from as far away as Boston or Miami—all because they are struggling to hold onto their homes, and they need help with their mortgages. Many others are now steps away from foreclosure because they have seen their mortgage rates rise out of control, or because their mortgage now exceeds the value of their home

because property values have plummeted.

Now, while many of the homeowners who came to DC this week were able to get help, there are millions more across this country in the same position who are still in need of assistance. Nearly 8,500 families file for foreclosure each day. And as many as 2 million homeowners could lose their homes this year. Fortunately, we will have a bill before us soon that will enable the Federal Government to lend a helping hand to many of those families.

The housing package that passed the House on Wednesday includes a variety of provisions that would restore stability to the housing market, provide assistance to communities hurt by this crisis, and help prevent thousands of foreclosures. We have considered much of this package before, but it has been blocked by Republicans who have preferred to drag their feet than to address this crisis. We now have another chance, and I have come to the floor today to urge my colleagues to support this legislation and get help into the hands of the homeowners and communities that need it.

Those of us who go home each weekend to talk to their constituents know how worried our families are about the economy—and about whether something will happen to threaten their ability to keep their homes.

It is hard to overstate how serious the housing crisis has become. There are communities across this country where people are literally abandoning their homes because they can't afford their mortgages, and they can't find a willing buyer. As I said, as many as 2 million families could lose their homes to foreclosure this year. And reports estimate the number of families facing foreclosure is higher than at any time since the Great Depression.

At the beginning of this crisis, many of those people were subprime borrowers who received adjustable-rate loans or who were the victims of loan scams. But as home values have dropped across the country, the problem has spread. Families with strong credit, who received fixed-rate mortgages, have seen their homes drop in value by tens or hundreds of thousands of dollars over the past couple of years. Their mortgages are now under water, and thousands of them are at risk for foreclosure too.

This is a problem even in regions that have been relatively healthy, like my home state of Washington—where more and more people tell me they are worried that they will be stuck with homes they can't afford.

The housing legislation that we will consider soon may be one of the most important steps we take this year to help our faltering economy because it addresses the root of the problem—the housing crisis. So I want to take the next couple of moments to talk about three of the main provisions of this bill to explain why we must act now.

First, the bill provides $180 million to give counseling agencies the resources to reach out and help struggling homeowners. Counseling is one of the most cost-effective tools we have to help families who are on the verge of foreclosure. Counselors can help families negotiate with their lenders, readjust their payments, or learn how to budget their expenses better.

And it is incredibly important that we provide the resources now so that we can help families before they reach the crisis point.

Earlier this year, I had the opportunity to meet a single mother from Ohio who had fallen on hard times, which in turn led her to fall behind on her mortgage. Luckily she was able to talk to a counselor, and she and her children were able to stay in their home. She explained that when she got behind, she was overwhelmed. She told me she didn't know what to do. She said, ''This isn't something they teach you in school.''

This bill would help more families like hers get help. Despite the numbers who traveled to Washington, DC for help this week, far too many homeowners still don't know they have options when they get behind on their mortgages.

I fought alongside Senators MIKULSKI, SCHUMER, and BROWN to include this counseling funding back when this bill was first debated in April. It comes on top of a $180 million initiative that my ranking member, Senator BOND, and I included in the 2008 Transportation-Housing Appropriations Act. And I want to thank Chairman DODD and Ranking Member SHELBY for helping to protect the funding in the most recent package.

Next, the bill makes some important changes to help modernize the Federal Housing Administration and enable it to help more homeowners refinance their mortgages. First, it raises the loan limit to take into account the increase in home prices over the last several years. This is very important because in many communities, home prices are higher than the current loan limits, meaning FHA mortgages aren't an option.

It also provides $300 billion to enable the FHA to back loans and help as many as 400,000 homeowners at risk of foreclosure get more affordable—and less risky—mortgages. These changes will help stabilize the housing market and encourage more mortgage holders to give borrowers a more affordable loan that will enable them to keep their homes.

Now, while I support these measures, I want to add—as chairman of the Transportation and Housing Appropriations Subcommittee—that this bill is also putting a lot of new responsibility into the hands of the FHA. That agency currently has close to 300 vacancies and it has the money to fill them. Unfortunately, it has been burdened by the painfully slow hiring processes at HUD.

It is my understanding that FHA Commissioner Montgomery, and our new HUD Secretary, Steve Preston, are determined to reverse this hiring record and get more people on board soon. I certainly hope they succeed. But I also recognize that as we head into the new fiscal year, we may need to take measures to boost the salary and expense funds provided to the FHA as well as get money to the agency to improve its computing capabilities. I intend to address those needs when the Appropriations Committee marks up the next Supplemental Appropriations bill in September.

Finally, I want to caution my colleagues on the Banking Committee that we will all need to continually monitor the lending activity and the funding balance of the FHA's existing mutual mortgage insurance account as well as the new homeownership preservation entity fund established in this bill. None of us wants to saddle taxpayers with unnecessary risk as we try to help homeowners. This bill establishes a new board that will face the daunting challenge of deciding which homeowners can and can't be helped under this new program.

But Congress will also need to do its part to monitor the fiscal health of both the new and old FHA accounts to ensure that the taxpayer isn't guaranteeing loans that have no hope of being repaid. The whole hope of this legislation is about calming the housing markets and using the FHA guarantee to entice mortgage holders to give borrowers a better break—an affordable loan that will keep them in their home. But we must ensure that taxpayers don't end up holding the bill for unsalvageable loans.

Finally, the bill would take important steps to strengthen Fannie Mae and Freddie Mac by establishing a new regulator. It also provides temporary authority to allow the Treasury Department to take action when needed to keep them stable. Fannie Mae and Freddie Mac are the foundation of our system to finance homeownership in the U.S., and it is absolutely critical that we take decisive action to help quickly restore confidence in them.

We started work on this bill in February because Democrats wanted to get help into the hands of homeowners who need it. But despite the desperation people feel in communities across this country, some Republicans have preferred up to this point to stall and block this bill. Now, I was very happy to see President Bush finally drop his opposition this week. And I hope my Republican colleagues will help us get this bill to his desk as quickly as possible.

Especially when it comes to helping people keep their homes, timing is everything. A family that gets access to housing counseling before they start missing mortgage payments can still save their home. And I hope we will finally be able to make that possible for thousands more families in need.

I hope when we finally get this bill out of here, we will be able to make it

possible for more families to feel secure in this country again.

Mr. President, I thank the Presiding Officer and look forward to the vote tomorrow morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO JEROME HOLTZMAN

Mr. DURBIN. Mr. President, I rise today to pay tribute to a remarkable and legendary Illinoisan, Jerome Holtzman. Mr. Holtzman was a pioneer of baseball writing and renowned for his numerous accomplishments. He passed away on July 19 at the age of 81.

The first official historian of Major League Baseball, Holtzman wrote about the game, but truly he cared about the people. He was known for spending time with umpires before games and was able to bring generations of fans together through his columns.

Jerome Holtzman was a true American success story. In 1943, at the youthful age of 17, he started his newspaper career as a copy boy for the Chicago Times. After 2 years in the U.S. Marine Corps during World War II, he covered high school sports at the Times and Sun-Times.

He started at the bottom, but he impressed many along the way. Holtzman stayed on as a baseball beat writer and columnist at the Chicago Sun-Times for 30 years. It was at the Sun-Times where Holtzman met his wife Marilyn Ryan. With their five children, they lived in Evanston—in a home frequented by baseball fans and Jerome Holtzman fans. He spent the last 10 years of his career writing for the Chicago Tribune.

One of the most distinguished honors Holtzman achieved over his remarkable career was the induction into the writers' wing of the Baseball Hall of Fame in 1989. His colleagues knew him as ''the Dean,'' a nickname given to him by fellow Hall of Famer Billy Williams. The nickname reflects his stature as a baseball-writing ''lifer'' and his loyal dedication to the game.

Among his accomplishments was the creation of the save. Holtzman's save rule became an official Major League Baseball statistic that acknowledges effective relief pitching. Acknowledging his profound influence, former Sun-Times columnist Bill Gleason stated, ''The reality is, he revolutionized baseball.''

In addition to his columns, Holtzman was the author of six books, including a classic titled ''No Cheering in the Press Box.'' Many columnists considered his book required reading and a foundation to baseball writing. Cubs Chairman Crane Kenney remembered Holtzman as ''an accomplished writer who earned respect from both his readers and from those whom he covered.''

Jerome Holtzman will be remembered as a great friend and mentor. Chicago and baseball fans across the Nation have lost a celebrated sportswriter and icon, but future generations will continue to remember his great legacy and influential contributions to the game.

CAPTURE OF RADOVAN KARADZIC

Mr. SPECTER. Mr. President, I have sought recognition today to commend Serbian authorities for apprehending former Republika Srpska president Radovan Karadzic. Earlier this month we marked the 13th anniversary of the genocide at Srebrenica. The arrest this week of Radovan Karadzic, in connection with that crime, shows that it is never too late to seek justice for the terrible crimes committed during the 1992–95 war in Bosnia. Over a decade after being indicted for genocide, crimes against humanity, and war crimes by the International Criminal Tribunal for the former Yugoslavia, ICTY, at The Hague, Radovan Karadzic was arrested on Monday, July 21, outside Belgrade.

Radovan Karadzic's arrest represents a significant breakthrough for international jurisprudence. Serge Brammertz, prosecutor of the war crimes tribunal in The Hague, said, ''This is a very important day for the victims who have waited for this arrest for over a decade.'' ''It is also an important day for international justice because it clearly demonstrates that nobody is beyond the reach of the law and that sooner or later all fugitives will be brought to justice.''

Richard Holbrooke, who brokered the Dayton Accords in 1995 which ended the war in Bosnia, said, ''This is a historic event.'' ''Of the three most evil men of the Balkans, Milosevic, Karadzic and Mladic, I thought Karadzic was the worst. The reason was that Karadzic was a real racist believer. Karadzic really enjoyed ordering the killing of Muslims. . . .

Richard Dicker, director of Human Rights Watch's International Justice Program, said, ''Radovan Karadzic personified impunity for more than a decade, but his efforts to run the clock on justice have failed.'' ''This arrest offers hope to the victims of the horrific crimes that occurred here. We welcome this long-overdue arrest and look forward to his fair trial in The Hague.''

I commend the Serbian Government for the resolve it has demonstrated in arresting Mr. Karadzic. I think it is vital that Mr. Karadzic be transferred to The Hague in due course, and that the search for Republika Srpska military commander General Ratko Mladic continue. It is vital that the international community, including the United States, continue to support efforts to bring justice for these crimes, not just in The Hague, but also at the local level in Bosnia, where lack of resources and other obstacles mean that many victims continue to wait for justice for the crimes committed against them. To that end, local war crimes trials for thousands of other suspected perpetrators from the Bosnia atrocities must receive support to overcome the challenges they face in order to seal any remaining impunity gaps in Bosnia.

To echo a statement I made on the Senate floor on February 11, 1998, it is my sense that if the war crimes tribunal at The Hague is successful, if we can bring the rule of law into the international arena, we may have the most important institutional change in international relations of the past century.

ADVANCING AMERICA'S PRIORITIES ACT

Mr. LEAHY. Mr. Presdient, earlier this week, I joined the majority leader in the introduction of S. 3297, the Advancing America's Priorities Act. The majority leader selected 35 legislative items from the jurisdiction of seven Senate committees, including eight bills from that of the Senate Judiciary Committee, for this effort. These are all measures with bipartisan support and, we believe, the support of a strong bipartisan majority of the Senate. I have moved several through the Judiciary Committee, and several have already passed the House. All have the support of all Democratic Senators, and all were cleared for unanimous Senate passage, but each has been stalled on the Senate floor by Republican objection.

One key bill included in this package is the Emmett Till Unsolved Civil Rights Crime Act. I thank Senator DODD and Congressman LEWIS for their tireless work on this bill over the last 4 years. It will strengthen the ability of the Federal Government to investigate and prosecute unsolved murders from the civil rights era. It would create new cold case units in the Justice Department and FBI dedicated to investigating and prosecuting unsolved cases involving violations of criminal civil rights statutes which resulted in death and occurred before January 1, 1970. The Senate legislation was introduced on February 8, 2007. I was proud to cosponsor Senator DODD's bill. The Judiciary Committee reported it by unanimous consent as amended on June 20, 2007, more than a year ago. The House legislation passed the House on June 20, 2007, more than a year ago, by a vote of 422 to 2. Its Republican cosponsors include Senator COCHRAN,

Senator HATCH, Senator ALEXANDER, and Senator CORNYN.

Yesterday I had the privilege of meeting Emmett Till's cousin, Simeon Wright, who was with him that terrible night. The brutal killing of Emmett Till galvanized this Nation. I want to acknowledge Mr. Wright's courage and his commitment to fight for justice for all these years.

The primary purpose of the Till bill is to track down those whose violent acts during a period of national turmoil remain unpunished. By passing this legislation, we honor Emmett Till and all those who sacrificed their lives advancing civil rights. It is disgraceful that it has taken us so long to take this basic step to pursue justice too long delayed. It is incredible to me that some continue to obstruct these efforts. It reminds me of those who so adamantly opposed a national holiday to recognize the contributions of Dr. Martin Luther King, Jr., and the progress this country has made toward equal justice.

Another important piece of legislation in this bill is the reauthorization of the Runaway and Homeless Youth Act. Many Vermonters have told me how much that act is needed to help young people in Vermont and around the country. I held a hearing in Rutland this year on crime in small cities and towns, which emphasized the need for programs to help young people in difficult circumstances, and held another here in Washington on this measure before the Judiciary Committee reported it in April. The companion House bill passed in June.

In addition, the eight Judiciary Committee related bills include several concerning child pornography, exploitation and drugs. The Effective Child Pornography Prosecution Act passed the House 409 to 0 last November; the Enhancing the Effective Prosecution of Child Pornography provision passed the House 416 to 0 last November; the PROTECT Our Children Act passed the House 415 to 2 last November; the Drug Endangered Children Act passed the House last September 389 to 4. All of these bills have been cleared by all Democratic Senators.

Thus, the Judiciary Committee components in S. 3297 are all measures that should have passed the Senate long ago. Two of the eight have Republican Senators as their lead sponsors. Others have Republican cosponsors.

People are rightly worried about keeping their communities safe and protecting their children. The Judiciary Committee has worked throughout this Congress to advance these priorities of Americans. Sadly, these important efforts have been obstructed by Republican objections. I hope that all Senators will join together tomorrow to pass S. 3297 without further delay.

The bill we will consider tomorrow contains eight Judiciary Committee-related pieces. There were selected from many more bills that have been reported favorably by the Senate Judiciary Committee and that have passed the House. All these bills have the support of every Democratic Senator, and it is Republican objections, usually anonymous objections, that are keeping them from passing.

Let me mention some of the others:

S. 879, No Oil Producing and Exporting Cartels Act of 2007—this bill would make it illegal for any foreign state or any instrumentality or agent of a foreign state to act collectively with another foreign state to limit the production, set the price, or take any other action to restrain trade of oil, natural gas, or any petroleum product. The actions of OPEC to limit production of oil, natural gas, and other petroleum products result in higher prices of crude oil and, thus, gasoline in the United States. These actions are having a harmful effect on American consumers. This legislation will make clear that the actions of nations and their agents to limit supply and fix prices of oil, natural gas, and other petroleum products to affect the U.S. market violates U.S. antitrust law, and it will authorize the Attorney General to enforce antitrust law against such nations and prevent technical legal doctrines such as sovereign immunity and act of state from preventing actions for redress.

S. 368, COPS Improvements Act of 2007—this bill would reauthorize and improve the Department of Justice's Office of Community Oriented Policing Services, COPS. Since 1994, the programs created by the COPS initiative have helped drive down crime rates. The COPS Program would restore vital programs that have been cut at a time when our law enforcement officers need it most. S. 368 would authorize $600 million to hire officers to engage in community policing, intelligence gathering and antiterror initiatives, and to serve as school resource officers. It would authorize $350 million per year for technology grants and $200 million per year to help local district attorneys hire community prosecutors. Also, it would establish the COPS office as an entity within the Department of Justice to carry out these functions and activities under the COPS Program in order to eliminate duplication of efforts.

S. 119/H.R. 400, War Profiteering Prevention Act of 2007—this legislation would strengthen the tools available to Federal law enforcement to combat contracting fraud during times of war, military action, or relief or reconstruction activities. It would also extend extraterritorial jurisdiction in an attempt to reach fraudulent conduct wherever it occurs. The bill would create a new criminal fraud offense in title 18 of the U.S. Code to prohibit fraudulent acts involving the provision of goods or services in connection with a war, military action, or relief or reconstruction activities.

S. 185, Habeas Corpus Restoration Act of 2007—this bill would repeal provisions of the Military Commissions Act of 2006 that eliminated the jurisdiction of any court to hear or consider applications for a writ of habeas corpus filed by aliens who have been determined by the United States to have been properly detained as enemy combatants. Passage of this bill would restore the basic and essential right to challenge arbitrary detention by the Government to noncitizens, including the 12 million lawful permanent residents currently in this country, who under current law may be held forever with no recourse to challenge their detention in court. This legislation will contribute to renewed global respect for American values and the rule of law.

S. 2511, a bill to amend the grant program for law enforcement armor vests to provide for a waiver of or reduction in the matching funds requirement in the case of fiscal hardship—this bill would amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Director of the Bureau of Justice Assistance to waive, in whole or in part, matching fund requirements applicable to the grant program for the purchase of armor vests for law enforcement officers.

S. 2344, Internet Safety Education Act of 2007—this bill would create a competitive grant program for eligible organizations to carry out free, age-appropriate programs that promote Internet safety for children. This would give educators and parents the tools necessary to teach proper online interactions and promote safe Internet usage to their students and children in an age-appropriate manner.

H.R. 3095, to amend the Adam Walsh Child Protection and Safety Act of 2006 to modify a deadline relating to a certain election by Indian tribes—this bipartisan bill would provide Indian tribes a 1-year extension in which to decide how to comply with the requirements of the Adam Walsh Child Protection and Safety Act of 2006. The Adam Walsh Act enacted new requirements for States and Indian tribes to maintain sex offender registration information, post such information on the Internet, and share such information among States and other Indian tribes. The Justice Department proposed detailed regulations for States and Indian tribes to comply with the Adam Walsh Act, but those regulations are not yet final. The Indian tribes cannot make an informed decision on how to comply with the act until those regulations are final. This 1-year extension would give Indian tribes sufficient time to make appropriate choices.

S. 267/H.R. 545, Native American Methamphetamine Enforcement and Treatment Act—this bill would ensure that Indian tribes are able to apply for grant programs authorized by the Combat Methamphetamine Epidemic Act. When Congress passed the Combat Methamphetamine Epidemic Act, tribes were unintentionally left out as eligible applicants in some of these programs. This bill would clarify that

territories and Indian communities are eligible to receive the resources they need to fight methamphetamine use.

S. 877, Controlling the Abuse of Prescriptions Act of 2007—this bill seeks to crack down on performance-enhancing drugs by putting human growth hormone on the same list of controlled substances as anabolic steroids. Classifying human growth hormone, HGH, as a schedule III controlled substance would subject the drug to more Government regulation and stiffer penalties for illegal distribution.

S. 1027, PACT Act—this bill would help combat cigarette trafficking by updating existing antitrafficking laws and introducing new tools to combat illegal remote sales, such as those conducted over the Internet. The legislation closes loopholes in current tobacco trafficking laws, enhances penalties for violations, and provides law enforcement with new tools to combat the innovative new methods being used by cigarette traffickers to distribute their products. By strengthening criminal laws governing cigarette trafficking and empowering Federal, State, and local law enforcement with the powers to investigate and prosecute the cigarette traffickers of the 21st century, the PACT Act can help disrupt terrorist groups and other organized criminal enterprises.

S. 627, Safe Babies Act of 2007—this bill would amend the Juvenile Justice and Delinquency Prevention Act of 1974 to require the Office of Juvenile Justice and Delinquency Prevention to award a grant to a national early childhood development organization to establish a National Court Teams Resource Center. The goals of the Center would be to promote the well-being of maltreated infants and toddlers and their families, help prevent the recurrence of abuse and neglect of children, and promote timely reunification of families.

H.R. 5569, to extend for 5 years the EB–5 Regional Center Pilot Program, and for other purposes—this bill would extend the EB–5 Regional Center Program for 5 years. This program allows entrepreneurs from around the country to apply for Regional Center designation with the U.S. Citizenship and Immigration Services, which in turn allows project managers to attract foreign investment to discrete projects within specified geographic areas, many of which are rural areas in need of economic stimulation. Over the years, this program has resulted in foreign capital investment of billions of dollars and the creation of thousands of jobs in American communities. This important program is set to expire on September 30, 2008, and its reauthorization is critical for the many Americans who depend upon this program to make positive economic changes to their communities.

S. 442, John R. Justice Prosecutors and Defenders Incentive Act of 2007—this bill would establish a student loan repayment program for qualified attorneys who agree to remain employed for at least 3 years in certain public sector employment. This targeted student loan repayment assistance program will bolster the ranks of attorneys in the criminal justice system, enhancing the quality of that system and the public's confidence in it.

S. 3296, to extend the authority of the U.S. Supreme Court Police to protect court officials off the Supreme Court grounds and change the title of the Administrative Assistant to the Chief Justice—this bill would extend for 5 years the authority of the U.S. Supreme Court Police to protect Supreme Court Justices when they leave the Supreme Court grounds. In January of this year, the Court Security Improvement Act was signed into law to authorize additional resources to protect Federal judges, personnel, and courthouses. This additional legislation would extend the authority of the U.S. Supreme Court Police to protect the Supreme Court Justices on and off Court grounds. It would also change the title of the Chief Justice's senior advisor from ''Administrative Assistant'' to ''Counselor.''

S. 3106, a bill to amend chapter 13 of title 17, United States Code, relating to the vessel hull design protection, to clarify the definitions of a hull and a deck—this bill would give the Department of Defense full assurance that Government and defense designs will not be subject to unwarranted restrictions. In 1998, Congress passed the Vessel Hull Design Protection Act to recognize the significant time, effort, and innovation that figure into ship design. Recent action in the courts has made it clear that in order to be effective, this law needs to be clarified and refined. This bill does exactly that by clarifying the definition of ''hull'' and ''deck,'' to ensure that the intellectual property rights of vessel hull designers would be protected.

H.R. 6344, Responsive Government Act of 2008—this bill would provide the Federal courts and the Director of the Patent and Trademark Office, PTO, with needed emergency authority to delay judicial proceedings or statutory deadlines in the event of a natural disaster or other emergency situation which makes it impractical for parties, including the United States, to comply with certain filing conditions or to protect the rights and privileges of people affected by certain emergencies or a major disaster. We have recently observed how the ravages of natural disasters disrupt the lives of our fellow citizens, which can impede the ability to comply with strict statutory deadlines. Thus the Responsive Government Act provides critical flexibility to the courts and the PTO to help ameliorate the practical difficulties caused by these emergency situations.

S. 621, Wartime Treatment Study Act—this bill would establish two fact-finding commissions to supplement the work done in the 1980s by the Commission on Wartime Relocation and Internment of Civilians, which studied the treatment of Japanese Americans during World War II. The act would create one commission to review the U.S. Government's treatment of German Americans, Italian Americans, and European Latin Americans during World War II, and another commission to review the U.S. Government's treatment of Jewish refugees fleeing Nazi persecution during World War II.

S. 2942, a bill to authorize funding for the National Advocacy Center—this bill would authorize the National District Attorneys Association to use the National Advocacy Center in Columbia, SC, for a national training program to improve the professional skills of State and local prosecutors and to enhance the ability of Federal, State, and local prosecutors to work together.

I hope that those Republican Senators who are holding up these measures will work with me by coming forward and letting me know what it is in the bill that they find objectionable. That way, we might be able to work something out to accommodate them. But when they object anonymously and do not come forward to work with us, it seems they are only interested in obstruction.

NOMINATION OF JAMES A. WILLIAMS

Mr. GRASSLEY. Mr. President, today I rise to express my opposition to the nomination of Mr. James A. Williams to be the Administrator of the General Services Administration, GSA. My concerns are based on my investigation of a dubious GSA contract with Sun Microsystems. In 2006 and 2007, my oversight staff conducted a thorough inquiry into the GSA Multiple Award Schedule contract with Sun Microsystems for computer products and services. GSA inspector general, IG, auditors had alerted GSA's top management of alleged fraud on this contract as early as 2005.

In 2006, Mr. Williams became the Commissioner of the GSA Federal Acquisition Service, FAS. His office was directly responsible for this questionable contract with Sun Microsystems. He and Administrator Doan were alterted to the alleged fraud and the referral of the matter to the Department of Justice, DOJ.

I previously made the findings of my inquiry known in a floor statement on October 17, 2007.

In a nutshell, all the evidence developed in my oversight investigation appears to indicate that top-level GSA management, including Administrator Doan and FAS Commissioner Williams, may have improperly interfered in the ongoing contract negotiations with Sun Microsystems in May–September 2006; and Administrator Doan and Mr. Williams pressured the GSA contracting officer to approve the new Sun contract even though they both knew that the IG had detected alleged fraud on the existing Sun contract and had

referred the matter to the DOJ for possible prosecution/litigation. This case is now pending in Federal court.

The facts appear to show Mr. Williams, as FAS Commissioner, failed to act in the best interest of the American taxpayer. He had the opportunity to put an end to or bring into compliance a contract that was allegedly fraudulent, but in the end he could not do it. Instead, he sided with former Administrator Doan by taking steps to remove the GSA contracting officer. When the final contract was signed with Sun Microsystems by a newly appointed contracting officer, he chose to look the other way. He didn't even try to have the IG audit or examine the terms of the proposed contract. At the very least, this was a very poor management decision by Mr. Williams. It was a deplorable error in judgment that he probably regrets today.

We need a strong leader at GSA. The responsibilities of GSA Administrator require an individual who will stand up to anyone to protect the financial interests of hard-working American taxpayers. Although I agree he is well qualified and a devoted civil servant, I don't believe Mr. Williams has the bureaucratic and intestinal fortitude to make the tough decisions at GSA when it matters.

Reports of alleged fraud on the Sun contract surfaced on his watch. He knew about the alleged fraud. The taxpayers may have been cheated out of tens of millions of dollars. As FAS Commissioner, he was the top GSA official responsible for making the tough calls, and he chose not to protect the taxpayers. He made the wrong choice. He is now accountable for that decision. Because he failed to protect the taxpayers at a crucial moment, we should not elevate Mr. Williams to high office.

For all these reasons, I oppose his nomination to be GSA Administrator.

Mr. Williams's nomination is now before the Homeland Security and Governmental Affairs Committee. On July 22, I wrote to the chairman, Senator LIEBERMAN, laying out the reasons behind my opposition to this nomination.

I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, July 22, 2008.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR LIEBERMAN, I am writing to express opposition to the nomination of Mr. Jim Williams to be the Administrator of the General Services Administration (GSA).

My opposition to Mr. Williams' nomination is rooted in an in-depth oversight investigation conducted by my staff in 2006–2007. This investigation focused on the re-negotiation of a Multiple Award Schedule contract with Sun Microsystems, Inc. for computer products and services. The contract was initially awarded to the company in 1999. Sales on this contract totaled $268,987,689.00.

The results of this investigation were presented in three separate reports in October 2007. These reports were provided to your committee, Administrator Doan, the House Oversight Committee, the White House Chief of Staff, and GSA Inspector General (IG). In addition, there was a follow-up report issued by the U.S. Postal Service in May 2008. None of these reports have been released to the public. However, on October 17, 2007, I spoke about the findings in these reports in very general terms on the floor of the Senate. My remarks appear on pages S12952–12954 of the Congressional Record.

At the time of my investigation, Mr. Williams was the Commissioner of GSA's Federal Acquisition Service (FAS).

In a nutshell, all the evidence developed in my oversight investigation appears to indicate that: 1) top-level GSA management, including Administrator Doan and FAS Commissioner Williams, may have improperly interfered in the ongoing contract negotiations with Sun Microsystems in May-September 2006; and 2) Administrator Doan and Mr. Williams pressured the GSA contracting officer to approve the new Sun contract even though they both knew that the IG had detected alleged fraud on existing Sun contract and had referred the matter to the Department of Justice (DOJ) for possible prosecution/litigation.

The IG auditors first blew the whistle on alleged fraud on the Sun contract in 2005—at least a year before Mr. Williams became FAS Commissioner.

The GSA IG auditors had the Sun contract under a microscope for several years. They had uncovered extensive contract violations, including potential civil and criminal fraud. These problems were first reported to GSA acquisition management in February 2005. The IG auditors briefed DOJ on the alleged fraud on April 20, 2006. In April 2007, DOJ charged Sun in a False Claims Act suit. That case is now pending in the Arkansas Federal Court District (Norman Rille and Neal Roberts vs Sun Microsystems, Inc.).

The GSA IT Acquisition Center staff was briefed on these issues on May 2, 2006. FAS Commissioner Williams ''grilled'' the IG auditors about the alleged fraud and DOJ referral during the contract ''Impasse'' briefing on August 14, 2006. On August 29, 2006, Administrator Doan was briefed by the IG audit team on the decision to refer the Sun contract to DOJ for possible prosecution/litigation. Mr. Williams and Ms. Doan discussed the alleged fraud on the Sun contract on several different occasions in August 2006.

Despite the red warning flags raised by the IG auditors, according to my findings, Administrator Doan and Mr. Williams pressured the GSA contracting officer to sign the contract. When that person refused to sign the contract, they had the contracting officer removed and replaced under duress.

The record shows that Mr. Williams played a key role in the removal of the contracting officer as follows:

A high-level meeting—known as the ''Baltimore Conference Call''—was held on August 31, 2006. All the key players participated, including Commissioner Williams. According to interviews with a number of participants, Mr. Williams made it very clear that the Sun contract was of ''strategic importance'' in Administrator Doan's view, and it had to be awarded. Still, the contracting officer refused to back down in the face of mounting pressure from the very top. He had dug in his heels and refused to sign what he considered a bad contract. During interviews, the contracting officer told my staff that he thought the price reduction clause, discounts, and maintenance deals offered by Sun were ''essentially worthless,'' and he said he was equally concerned about the alleged fraud referral to DOJ. Mr. Williams then asked the contracting officer if he wished to step down, and the contracting officer accepted the offer.

Under standard GSA procedures, contracting officers make the final decision on whether or not to sign a contract. They have ''Go No Go'' authority. No other person is authorized to preempt or otherwise interfere with that authority. So when the contracting officer said ''No'' on the Sun contract, why didn't that mean ''No''? Why didn't the story end there?

One of Mr. Williams' directors suggested that the ''Impasse'' in the negotiations was caused by the intimidation of the contracting officer by IG auditors. On September 5, 2006, in response to that complaint, Mr. Williams lodged a quasi-formal complaint with the IG, alleging that the IG auditors had made threatening statements to GSA contracting officers.

Mr. Williams' complaint of IG auditor intimidation came just five days after the contracting officer was removed and four days before the new contract was signed. Mr. Williams also passed these allegations to Administrator Doan.

Mr. Williams' allegations of IG auditor intimidation were examined in detail by the GSA IG, by my staff, and by the U.S. Postal Service IG. There is not one shred of evidence to support those allegations. They appear to have been bogus allegations. A senior official in the IG's office suggested that Mr. Williams' allegations regarding IG auditor intimidation were ''a smokescreen for things going on in the agency itself.''

After forcing the contracting officer to step down, GSA management appointed a new one. It took her just nine days to negotiate a final deal with Sun. In interviews, the new contracting officer claimed that she did not need to talk to the IG auditors who had years of knowledge on the contract. She said that she could solve the impasse in the negotiations by listening to the contractor. Many of the provisions she accepted were ones steadfastly opposed by the previous contracting officer—the very same terms that led to the so-called ''impasse'' and the removal of the previous contracting officer. She even admitted during questioning that she did not fully understand key provisions in the contract she signed. She admitted making ''big oversights'' in some of the contract terms. I found these revelations very disturbing. They raised questions about the motives behind her appointment. She later received a $1,400 cash award for signing off on the Sun contract.

Following my staff's interview of the new contracting officer, I had grave concerns about the new contract. Was Sun continuing to cheat on government discounts mandated by the price reduction clause—as feared by the IG auditors? I thought I would be remiss in not asking more questions. Consequently, on June 5, 2007, I asked the IG to conduct an audit of the new contract. Since Sun claimed it was such a ''good deal for America,'' I felt sure the company would rush to cooperate. How wrong I was! For three months straight, Sun stonewalled and procrastinated. Sun withheld information. Sun fought the audit tooth and nail every step of the way. They even lashed out at the GSA IG. Then suddenly and unexpectedly, on September 13, 2008, Sun canceled the contract. What happened? Why would Sun cancel a contract it had fought so hard to get? Was Sun trying to avoid the audit? Did Sun have something to hide? Something about this just does not smell right.

Mr. Chairman, Mr. Williams was the Commissioner of GSA's Federal Acquisition Service at the time of the Sun/GSA contract debacle. That made him the top dog overseeing and managing the procurement of

computer equipment and services for the whole government. The Sun Microsystems contract was being re-negotiated right under his nose. He was the top official accountable for that contract. When he was informed in August 2006 by IG auditors about the alleged fraud on the Sun contract and the DOJ referral decision, he should have brought the Sun contract negotiations to a screeching halt. He should have called for a comprehensive, independent review and/or audit and assessment of Sun's corrective action plan. He should have carefully weighed the gravity of the fraud allegations before proceeding any further.

Mr. Chairman, instead of heeding all the IG's warning signals, Mr. Williams pushed the throttle to the firewall at Administrator Doan's direction. The record shows pressure was put on the contracting officer to sign a potentially bad contract. When the contracting officer refused to bend under pressure, Mr. Williams involved himself directly in the contracting process. He participated in the decision to remove that contracting officer from the Sun contract negotiations. His actions eliminated the last standing barrier to contract approval. In doing these things, he may have improperly interfered in the contracting process and hurt the taxpayers.

The alleged contract violations and alleged fraud on the Sun contract, which supposedly occurred over a long period of time, may have wasted tens of millions of dollars in taxpayer money. Mr. Chairman, there must be more accountability in the government contracting process. Elevating those who have been detrimental to this process would certainly be anti-accountability and anti-taxpayer. That would clearly send the wrong message to the whole contracting community.

For these reasons, I intend to oppose the nomination of Mr. Williams to be the next Administrator at GSA, and would expect your Committee to do so, too.

Your careful consideration of my concerns would be appreciated.

Sincerely,

CHARLES E. GRASSLEY,
Ranking Member.

CYPRUS

Mr. MENENDEZ. Mr. President, on July 20, 1974, Turkey invaded Cyprus. Thirty four years later, Turkish troops continue to occupy 37 percent of the land on Cyprus. During the occupation, some 180,000 Cypriots became refugees and over 5,000 Cypriots were murdered.

The European Court of Human Rights recently found Turkey guilty of violating the European Convention on Human Rights. Notably, 26 year-old Solomos Solomou, was killed on August, 14, 1996 after being shot three times by Turkish snipers while trying to climb a pole in order to remove a Turkish flag from its mast. The killing happened after the funeral of his cousin, Tassos Isaak, who was himself beaten to death on August 11, 1996 by a Turkish mob while taking part in an anti-occupation demonstration.

On March 12th of this year, I sent a congratulatory letter to the newly elected Cypriot President Christofias. In addition to a new President in the Republic of Cyprus, his election represents a new direction for the Republic of Cyprus. I commend President Christofias for the intensification of efforts to reach a just, viable, and functional solution to the Cyprus problem. I believe this is a unique time to capitalize on the commitment made to find a solution and I am optimistic that the working groups and technical committees will prepare the necessary groundwork for full-fledged negotiation. However, I also believe that any solution that will reunite the island, its people, its institutions and its economy and must come from the Cypriots themselves.

On September 25, 2007, I introduced S. Res. 331, which calls on the United States Government to initiate a new effort to help Turkey understand the benefits that will accrue to it as a result of ending its military occupation of Cyprus. In addition, the resolution urges the Government of Turkey to immediately begin the withdrawal of its military occupation forces. Ultimately, it is on their shoulders to prove their good will and I hope they do so promptly.

As Cypriot-Americans join with Cypriots from throughout the world to help to rebuild their homeland, and as they seek to secure an economically prosperous state free of illegal occupation, I will stand by them. I will work to ensure that the Turkish occupation comes to an end.

This week, we remember those who perished on Cyprus, and honor those who survived and who continue to live under Turkish occupation. We have not forgotten and our thoughts and prayers are with them and their families.

Remembering together the events of July 20, 1974 in solidarity gives reverence to historical events we cannot afford to forget as we move forward to a peaceful, just solution and a hopeful tomorrow.

REMEMBERING SENATOR JESSE HELMS

Mr. CORKER. Mr. Presdient, today we remember and celebrate the life of the great Senator from North Carolina, Jesse Helms.

Senator Helms dedicated much of his life to serving his country and the people of North Carolina. He developed a lasting legacy as a man who held to his convictions and championed the causes he believed in so deeply.

He began his career in the U.S. Navy during World War II, where he was assigned as a recruiter. After the war, he became involved in North Carolina politics and campaigned for Senator Willis Smith, later serving on his staff. Senator Helms continued to establish himself, working as a political commentator for local Raleigh newspapers and radio stations. In 1957, Senator Helms was elected to the Raleigh city council, where he served with the same conviction that he would later bring to the Senate.

He was first elected to the Senate in 1972 and was reelected four more times, making him the longest serving U.S. Senator in North Carolina history. He quickly became known for his unfailing dedication to uphold traditional American values and protect freedom. He said, ''The challenge is always before us. Whenever we lose sight of the principles that mattered to our founders we run into trouble.''

During his tenure in the Senate, Helms served on the Senate Foreign Relations Committee and was chairman from 1995 to 2001. Under his leadership, the committee played a powerful role in setting U.S. foreign policy.

Senator Helms will be greatly missed and remembered as one of the most influential Senators of his time.

TRIBUTE TO DON MITCHELL

Mr. BOND. Mr. President, last week marked the end of a distinguished and honorable career in Government service for one of the most widely respected professional staff members on the Senate Select Committee on Intelligence. Today, I wish to pay tribute to this gentleman—Mr. Don Mitchell.

For over 24 years, Don Mitchell devoted his life to public service. Remarkably, except for a 2-year period when he served as the Director of Intelligence Programs for the National Security Council, 22 of those years were spent here in the Senate, first as a national security legislative assistant for Senator John Glenn and then as a professional staff member for the Intelligence Committee. Senator Glenn knew a good thing when he saw it, so in 1989, he asked Don to move to the Intelligence Committee staff. As they say, the rest is history .

In a world where politics often seems to define who we are and with whom we associate, Don transcended those barriers. He earned the respect of Members and colleagues on both sides of the aisle. His work ethic—often evidenced by long days and late nights—was admired by all. It comes as no surprise that Don's reputation is well known not only here in the Senate but throughout the intelligence community with whom he worked so closely through the years. During my tenure on the Intelligence Committee, and in particular since becoming the vice chairman, I have benefited from Don's expertise and seasoned judgment in analyzing some of our most sensitive national security programs. We have been fortunate to have him for so many years.

We all know that the demands of working here in Congress often take the greatest toll on those who support us and sustain us in life—our families. For selflessly giving Don to us for so many years, his wife Grace, son Logan, and daughter Ella deserve our gratitude. We thank them for their sacrifices through these many years.

Ensuring our great Nation's security is a high calling and one of tremendous responsibility. Through his service to the Intelligence Committee, the Senate, and the United States of America, Don Mitchell has answered this call

with characteristic professionalism, integrity, and perseverance. We wish him the very best in his future pursuits. May God bless him and his family.

''PLANET'S'' WORK AT ARLINGTON NATIONAL CEMETERY

Mr. BURR. Mr. President, this week marked the 11th anniversary of the Professional Landcare Network's ''Renewal and Remembrance'' event. Each year for more than a decade, hundreds of lawn care, landscape and tree care specialists from the Professional Landcare Network, PLANET, donate their time and expertise to refurbish the grounds of Arlington National Cemetery.

Arlington National Cemetery is one of the most hallowed places in all of America. President Lincoln established the grounds at Arlington as a military cemetery in 1864. By the end of the Civil War, Arlington housed 16,000 graves. It now serves as the final resting place for over 300,000 of our Nation's most distinguished service personnel and public officials, including hundreds of distinguished North Carolinians. Veterans from all of the Nation's wars are interred at Arlington, from the American Revolution through the present wars in Iraq and Afghanistan. The gravesites of these men and women span an area of 624 acres.

The beauty and simple elegance of Arlington's grounds is renowned throughout the world, drawing hundreds of thousands of visitors, mourners, and tourists every year. The work that goes into maintaining Arlington is a reflection of the honor and reverence that America has for our veterans and leaders. The members of PLANET share in this reverence. Through their work at Arlington each year, they have demonstrated a special level of commitment to the memory of our countrymen who have made some of the greatest sacrifices.

Many PLANET members who volunteered their time and expertise this past week have a personal connection to Arlington, either through relatives or friends who are buried there or through their own military service. But whether or not they have a family or service connection to the cemetery, all of the volunteers care deeply about maintaining Arlington as a place of dignity and respect in recognition of those who have served the public good and those who have made the ultimate sacrifice.

Their work does not go unnoticed by the family members of those who are buried at Arlington, nor does it go unnoticed by the membership of the U.S. Senate. I applaud the generosity of the PLANET members who devoted their work to honor our Nation's servicemembers.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent that today's letters be printed in the RECORD.

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

Not affected much yet. But then we operate on a CASH basis around here, so we are not drowning in credit card debt while the cost of gas and food skyrockets. Do not drive 45 miles to Sandpoint just to shop anymore.

DOROTHY.

I want to thank you for keeping us informed of what is going on from your point of view. I, myself, am very disappointed in the lack of positive actions that affect the ''people'' of this great nation with regards to fuel. We have been listening to lots of talk and promises for years since the shot across the bow by foreign oil in the seventies. We are the father of nuclear power and seem to be last in the world to take advantage of it. Let us get with the program. There are far too many environmental laws that do not allow us to develop as we should. Let us look at these laws or, better yet, suspend all environmental considerations during this emergency until the economy and prices get back to normal. Let us start tomorrow and take advantage of our own resources in this country and get away from foreign oil, we can do it and do it fast. Let private industry do what they are capable of and let the government get out of the way other than to remove regulations that stop progress. There are too many regulations on the books now and, in many cases, they contradict each other.

[Some examples:] hydrogen fuel cells for housing and transportation, and solar energy for heating water and electricity. Every new house built in this nation should be required from now on to use solar and wind power as much as possible and be capable of upgrade as new technologies come on line. The power grid as we now know it is in big trouble, so let us start getting off of it. Do not even think about getting rid of hydroelectric power from our dams. We should be adding more as we should to supply the growing demands and not buckle under to a handful of tree huggers as was the case in Boise County on the Payette River a few years ago.

I think your estimate of $200 a month for fuel is real conservative; in many cases, it is double that. I have watched mushroom soup go from $.32 a can to $1.50+, and that is totally unacceptable. To me, making fuel out of our food supply is a little crazy. Let us not get carried away with the biofuel stuff until we know more about it. As I understand ethanol, it is not good for the environment and it takes more fuel to make it than it will produce. Petroleum and corn are the main ingredients in many, many, many everyday items I do not think most Americans are aware of; we can do better.

I have been personally hit by this fuel and food crisis as I just retired from my state job to be able to visit my grandkids and relatives and peruse our family tree and to get a break. I joined the U.S. Navy in 1963 when I was seventeen and have been going like hell ever since. I was medically retired from the US Navy with a medical discharge and VA disability. I am now one of the folks on a fixed income, and these prices did not appear on the horizon when the plans to retire were made. I am not sure how this will affect the big picture, but I do know I cannot travel as I had planned, and that is sad for the whole family. I have folks from Wisconsin to all the states in the Northwest to California. I did a short trip to Winnemucca, Nevada, from Boise, Idaho, for a softball game my granddaughter was in; round trip gas was $225 for my camper; it used to be $50. Where will it stop? I thank you for your letter and please put pressure on whoever is in the way to immediate progress to get out of the way. Remember the Manhattan Project and the first moon shot; it CAN be done.

HAL, *Boise.*

My husband is a logger and, because of the high price of gas, he has been off from work for six months. I wish every Congressman had to live on the same amount of money a week that we have tried to live on $300. We only go into town once every 8 to 10 days, and when we do go to town, we never go anywhere that is not on our list. Last month it cost us over $100 just to go into town four times. It [seems that Congress doesn't have] regard for the working man's life. [Perhaps] they should [try living the same way] we do and I am sure their outlook on our future would be different. We need to drill for oil in our own country and then do not let the gas companies sell the oil to other countries. It is time for a change and please let the change start soon.

RUBY.

I do not like the high gas prices, but what I detest is that, for years, it seems that many have preferred to posture and bicker about drilling/not drilling for oil, expanding/limiting refinery growth, paying lip service to yet-to-be-available alternative energy sources, and demonizing the oil companies rather than making adult, farsighted decisions about our energy needs and creating a responsible policy to meet our needs.

The same actions that could have—and should have—been taken 10, 15, 20 years ago to put us in a better place today are still being proposed today and ignored again, often by the same people who made the faulty decisions about them originally. It is something that wouldn't be tolerated in the private sector, where leadership would have been fired long ago for such incompetence. Congress needs to put the energy needs and associated security aspects of our country first and take prompt, forceful action or have the decency to get out of the way for someone who will.

If we are not currently knowledgeable enough or committed enough to quickly develop a full-blown, workable energy policy, here's a temporary policy until we do:

Drilling may not be the answer, but it is what we need to do while we discover or develop the answer.

Spread the word, Senator, and leave behind the short-term thinking of the past!

GREGORY.

The fuel prices are totally out of control. My husband and I run a charter fishing business, which means we have to use hundreds of gallons of fuel every day. The most disappointing part of the whole process is that the government could change things in a

heartbeat. I am tired of hearing that car manufacturers have until 2015 to come up with vehicles which will be improved to give around 35 miles per gallon. That is the way the government tries to ''ease'' the citizens' concerns of skyrocketing fuel prices and allay fears of global warming. Right now, as I type this, there is a solution to the problem, an almost immediate solution, and I know there is not only one of them out there. One gentleman in Idaho has invented a carburetor which can be used on any type of vehicle and will increase fuel efficiency to around 70 miles to the gallon. So why, I ask with tears in my eyes, does the government not take a stand and mass produce the carburetors? Is not that a novel idea. . . . . imagine what effect that would have on the demand for fuel and therefore the quantity of fuel we would need to purchase from price gougers? The USA can put people on the moon but coming up with fuel efficient transportation is just way beyond their scope of capabilities. Why not take a stand and insist on an immediate improvement in fuel efficiency standards? That would at least be a start. Maybe it wouldn't solve our demand for fuel but it might cut the demand in half. What about this story below—that explains how the government manipulates the public—it is a joke:

Ron Brandt: 90 MPG Carburetor—Ron Brandt is the inventor of the perm-mag motor. He is of retirement age. When he was a young man, he invented a 90-mpg carburetor. He was paid a visit by a man from Standard Oil, another man, and two men wearing U.S. Marshal uniforms. They told him that if he ever made another carburetor, they would kill him, his wife, and two young children. He was quickly persuaded that his life wasn't worth a ''damn'' carburetor. He happened to think to memorize the badge numbers of the two U.S. Marshals, and so had an attorney in Washington, DC check with the U.S. Marshal's office. They had no record of the two badge numbers.

RENE.

I normally go to Colorado to get my grandchildren for the summer; however, this year I have had to put it off for a while. Because my parents are both in their late 80s and my mother had cancer last year, I go to Florida every year around Thanksgiving. Having to save more for airline tickets means I do not have money for the local trips I normally take during the summer. I have even had to curtail my fishing. I have had to stop or go less often to my various camping spots. We generally have a family get together, but we are not this year because of the expense some would experience in traveling here. In short, we are traveling less, going less distance when we do travel and spending less at hotels and restaurants, but we are seeing less of our extended family.

SHEILA.

I am not surprised by the ''high'' prices for fuel. Most of Europe has paid these prices for years; when I was in Germany in the mid-80s the price was about $4/gallon. We have kept the fuel prices artificially low here in the U.S. for various reasons. This has led to waste (Hummers, Escalades, etc.) and disincentive for change/improvements in our fuel/transportation situation. I am happy to see the prices climb, as this will force conservation, alternative energy types and improvements in fuel mileage, etc. We declared that this situation would never occur again in the early 70s with the OPEC slowdown on oil production—seems that our collective memories are rather short.

GUSTAF, *Moscow.*

All of my family is being hit very hard by the gas prices. I do not understand why anyone would stand against us drilling oil on our own land and/or working towards any type of energy that would make us self-sufficient against our enemies. I am ready to drill here in the U.S. Please support us. Another question: why, if we are spending billions of dollars supporting and rebuilding IRAQ, are we not getting some of their oil?

CINDI.

As soon as the price of fossil fuels, and the electorate's reaction to it, drives the political will in Washington and the rest of the world's capitals to get serious about making policy that threatens to bring about the conversion of our energy paradigm to self-renewing, non polluting, less profitable energy sources, which are available, simple, plentiful and inexhaustible, look for oil to drop to $30 and gasoline prices to drop back below $2/gallon. Through long experience, those who put profits above the health and well-being of future generations have learned how to milk the most possible money out of the market without killing the milk cow. The reason [some have] always been opposed to the REAL emphasis on self-renewing energy technologies that is needed to help those burgeoning industries get a level playing field with the fossil fuels powerhouses is that they are [financially connected to the oil, gas and coal industries. Recent presidential administrations have not set an example, regardless of the party affiliation of the president.] And THAT, Senator, is why you now have a special email address for remarks about fossil fuel prices. Thanks for your concern. Wish it had come many years earlier!

WILLIAM, *Tetonia.*

Thank you for your email information on your stand on the economy and its ever-increasing price increases.

I am a business owner and self employed. I care for two adult handicapped women and I am a co-partner in our painting business with my husband. We know that the increase of one major product strongly affects all products and services, specifically oil and electricity. I grew up in Alaska, and lived there for 18 years, especially at the time the Alaska Pipeline was put in place. My husband worked in the oil fields of Wyoming in the early 1980s. We have personally seen the expansion and development of natural resources. We now reside in Eastern Idaho. We have seen the increased use of wind towers to generate wind electricity. Knowing the days of wind compared to the days of no wind in Eastern Idaho, we appreciate the justification of tapping this source of energy.

I have seen inventions that create more economical use of the gasoline powered vehicles, and then the invention is halted, or made to disappear, because it gets people too good gas mileage. Hydro engines are an example, and gasoline engines that get 50 or more miles to the gallon. I witnessed the electrical price increases every year for the last 15 years. While the average citizen just has to sit by and take it, I think it is criminal how those who govern the sources of electricity and oil consider their resources a priceless commodity, and are encouraged to increase the price of them at a drop of a suggestion. It is interesting how we create the need and dependency for electricity and oil, only to have created a destructive power to control the price and supply of the need.

Sometimes I consider the foresight of our forefathers recognizing the impact that greed and pride which puts one's value above another, how this concept seems to be the ever-increasing normal opinion of controlling business, and how they can take advantage of those who contribute to their wealth. I believe the answers are already there, the solutions of resource and need have already been developed, but the pride of those who control outweighs the circumstance of financial availability for the everyday person.

It is great to acknowledge that gas prices went ridiculously high, but the reasons for them are at best made to protect those who imposed the increases. I am constantly reminded of the gas shortage of the late 1970s. People lined up, only being allowed to purchase a few dollars of gas to get to work. The biggest pretense for the reasoning power behind this was to increase gas prices; there was NO shortage then, there is NO shortage now. Those who have seen and know the process of control understand how a little information is necessary, but the full puzzle pieces kept from being put in place can create loopholes and safety nets for those in the controlling power of supply and demand. The public of America does not know the amount of capped off and reserved oil wells drilled 20, 30 or more years ago, here in America. We, as a public, are not informed as to the actual amount of oil that truly goes out of Alaska. One could surmise to the extent, because of the 'dividend' cash given to its residents for over 20 years now.

America's, Idaho citizens see what is really going on; we have just been conditioned to have the feeling we have no power or say in how it goes in our favor. We have been taught by the public system that government and its process are left to elected officials; that supply and demand concepts are in the control of those with the most material wealth and power.

If our elected officials really want to help make a difference, then say what needs to be done and the process to make it happen. The power of wealth may be strong, but the power of numbers may overturn that philosophy one day. History repeats itself often. America became America because a repressed people sought to be free of ''tyranny.'' It is a process of greed and power that creates tyranny, and so the process will continue until the greed and power of those who impose it on others cease.

I appreciate your time in hearing my thoughts on the matter.

Sincerely,

ANNETTE.

We are on fixed income (retired). Our annual income is about $50,000. All our vehicles are debt-free, but they are 1999 models. Our car gets 31 mpg, and the pickup gets 16 mpg. We cannot afford to buy new more energy-efficient vehicles, so if the auto industry suddenly produces a car that gets 40 mpg, we cannot afford to buy it.

We have family in Denver and Alaska. We had planned to travel to both places periodically, but cannot due to the energy prices.

We do not have a choice to buy our gas at a reduction in that all the stations in our town are basically at the same rate per gallon (price fixing??).

Our house cost and household energy costs are rather stable at this time so the excess funds needed for gas/diesel has to be taken from our grocery bill and optional health care elections that we may need.

The rhetoric about how Congress is going to fix matters—it is not as simple as waving a magic wand. Nothing I have heard thus far is immediate unless our Middle East ''friends'' decide to be compassionate toward a country that has volunteered to free them from the enslaving control of dictators.

We need immediate relief . . . not platitudes about ''plans on the horizon.'' Unfortunately, no one has made long range energy plans and now we are paying for it.

Congress has succumbed to the environmentalists and has forgotten ''Joe Average Citizen.'' This is my opinion, but nevertheless is true.

ROBERT, *Idaho Falls.*

ADDITIONAL STATEMENTS

TRIBUTE TO HERBERT R. FISCHER

● Mrs. BOXER. Mr. President, I am pleased to ask my colleagues to join me in recognizing Herb Fischer as he retires from a long and distinguished career in education. His service and commitment to California's schoolchildren, and to his community, have provided an example for us all.

Dr. Fischer received his undergraduate degree in business administration from California Polytechnic San Luis Obispo. He later earned his teaching credential, master's degree, and doctorate from the University of California, Riverside. Dr. Fischer served his 38-year career in education in San Bernardino County, beginning as a classroom teacher. He later served as a principal and district administrator in the San Bernardino City Unified School District, where he remained for 22 years. One of his chief accomplishments was his administrative support for San Bernardino City Unified's Desegregation and Integration Magnet School Program. This has been a model in providing quality programs for all students and offers parents and students more educational choices. Dr. Fischer also served as superintendent of the Colton Joint Unified School District for 7 years. There he directed a staff of over 2,500 employees. In 1998 Dr. Fischer was elected to serve as County Superintendent, where he oversees the programs and operations of the County Superintendent of Schools Office, which has an annual operating budget of $250 million.

Under Dr. Fischer's leadership, the County Superintendent of Schools Office has prioritized services to support school districts' efforts to improve student performance and accountability. This has included closing achievement and access gaps for underperforming schools and underrepresented students, improving postsecondary education and career readiness, and ensuring safe school campuses.

Among other accomplishments during Dr. Fischer's tenure, the County Superintendent of Schools Office lead a county-wide emphasis to improve student performance collectively with district superintendents, resulting in increased scores on the State Academic Performance Index for 7 consecutive years. He also was responsible for the construction of the county's first permanent school site, the Dorothy Gibson County High School in Ontario, and six additional schools to improve housing for the 6,000-plus special and alternate education students served by the county. Dr. Fischer also established three regional councils to provide seamless education, and close access and achievement gaps for students, and launched the Alliance for Education initiative that has over 1,500 business, labor, community, and faith-based partners working with public schools to improve the college, career, and labor readiness of students.

For his outstanding leadership and contributions to education and the community, Dr. Fischer has been recognized by many organizations. He was awarded the University of California, Riverside Alumni Association's prestigious Alumni Public Service Award for his service to the public sector. He has been recognized by the Rialto/Fontana Chapter of the NAACP, the Victor Valley African American, and Inland Empire Hispanic Chambers of Commerce for building collaborative relationships to benefit the education of all students throughout San Bernardino County. Most recently, the Mount Baldy Chapter of the Building Industry Association recognized Dr. Fischer for his leadership in developing partnerships with business leaders.

Throughout his long career in education and public service, Dr. Herbert R. Fischer has consistently provided for stronger communities and higher educational attainment, and he has provided a model of exemplary service to us all. I am pleased to ask my colleagues to join me in congratulating him on his retirement.●

PRAISE FOR THANKSUSA AND TENNESSEE SONGWRITERS

● Mr. CORKER. Mr. President, today I praise the efforts of ThanksUSA and two of Tennessee's outstanding songwriters, Leslie Satcher and Monty Holmes. This weekend, these parties will join together to perform a charity concert for our country's Armed Forces.

ThanksUSA is a nonpartisan charitable endeavor to encourage Americans of all ages to ''thank'' the men and women of the United States Armed Forces by providing academic scholarships for their children and spouses. ThanksUSA offers two interconnected programs: the national treasure hunt and the military family scholarship program. The treasure hunt raises awareness and money for the scholarship program.

This weekend's charity concert would not be possible without the talent and performances of Ms. Leslie Satcher and Mr. Monty Holmes. In the traditional Tennessee spirit, Ms. Satcher and Mr. Holmes have volunteered to perform their own country music hits to entertain the attendees.

With dreams of making it big in country music, Satcher moved to Nashville to put her song writing skills to the test. After a church friend encouraged her to show her work to Larry Strickland and Naomi Judd, Satcher's career in country music officially began, and her dreams became a reality. Leslie is no stranger to charity concerts as she is frequently found on stage performing for benefits with other country music celebrities.

Another gifted songwriter and performer, Monty Holmes, will join Satcher in the evening's benefit concert. At a young age, country music was instilled in Monty Holmes. With a grandfather who played the fiddle, guitar and piano, Monty grew up with a love of music. As a young adult, Holmes moved to Nashville and quickly gained a reputation for both his voice and his words. Writing songs for some of country music's greatest artists, Holmes quickly earned a prominent place in country music.

It is a privilege to serve in the Senate on behalf of Tennesseans such as Leslie Satcher and Monty Holmes, who personify the voluntarism and patriotism of Tennessee. Leslie and Monty have shared many stories, memories, and inspirations through the mouthpiece of country music. I thank them and ThanksUSA for their efforts. I cannot think of a more valuable way to express our gratitude for our troops than with the gift of education.●

TRIBUTE TO JUDY GORMAN

● Mr. JOHNSON. Mr. President, today I wish to offer my heartfelt congratulations to a South Dakotan who has been very committed to the educational well-being of the young people in my State.

For the past 6 years, Judy Gorman has served as executive director of the Department of Defense program, STARBASE. Exclusively designed for young adults, STARBASE provides science, math, technology and engineering skills through hands-on experience in aviation and space-related fields. She has served as an effective liaison with schools, military, community, and business leaders and has worked tirelessly to develop a superb curriculum in the community of the Black Hills.

In early August, Judy will retire from the program she has worked so hard to promote and foster. While executive director she has overseen 191 STARBASE classes of over 4,800 students, 2 manufacturing classes of 35 students, and 5 ''Feel the Power'' graduate classes. Her dedication to the STARBASE program was grounded in a 23-year career as an elementary counselor, special educator, and fourth grade teacher in the Rapid City Area Schools and Meade School District. She also has served as the administrator for Project Achieve, a summer youth program for at-risk teens in the Rapid City area. For many years she supported and guided her husband, Mike Gorman, in his excellent leadership as the Adjutant General of the South Dakota National Guard.

I commend Judy for her years of great stewardship with the STARBASE program. I had the privilege of touring the facilities a few years ago, witnessing first-hand the importance of the program and commitment Judy brings to her students. There are few better rewards for an educator than witnessing countless students expanding their horizons, applying science, math, and engineering in aviation and space-related fields of study. You may expect this from high school, college,

or graduate students, but Judy has been able to ''plant the seeds of learning'' in the minds of fourth graders. Those seeds will undoubtedly result in a bright future as these youngsters grow up to pursue their dreams and goals. Many will look fondly to Judy's great guidance and tutorship.

On the occasion of her retirement, I want to wish Judy all the best. I want to thank her for her tireless work and dedication to the STARBASE program and her commitment to the youth of South Dakota. The legacy of her work will rest in the minds of these young people, for which I thank her for her service on behalf of all South Dakotans, and wish her well in her retirement.●

HONORING COUNCILMAN KEVIN KINGSTON

● Mr. VITTER. Mr. President, I wish to acknowledge Councilman Kevin Kingston, Sr. of Slidell for his dedicated service to the State of Louisiana. I would like to take a few moments to remark on his accomplishments.

Mr. Kingston was born in Bay St. Louis, Mississippi, but resided in Slidell since 1979. His nickname was ''Kingfish,'' and he was truly a man of the people. He owned Kingfish Seafood Market on Pontchartrain Drive and also ran Lil' Ray's Seafood Restaurant for 18 years until the 1990s. Mr. Kingston had gusto for life and food; however, it was his service on the City Council that gave him his greatest pleasure. He was elected in 1998 in District D representing west-northwest Slidell and in 2006 was elected to serve as Councilman-at-Large representing the entire city. In the past year, he took a special interest in helping a handful of residents replace their storm-damaged mobile homes. His measure, which passed on the council's third try in almost 2 years, amended a section in the city's zoning code that prohibited people from placing new trailers in the city even if the old ones were destroyed by an act of God. A popular public servant and caregiver, he would often pay people's water and light bills, gestures that displayed his big heart and kind spirit.

Kevin Kingston passed away Thursday, July 3, after a long battle with liver disease that included a liver transplant in 2003. He is survived by not only family members but also the grateful city of Slidell and council who have lost a great man and great leader. Mr. Kingston opened his heart to everyone he came in contact with and his generosity and friendship will be deeply missed.

Thus, today, I honor a fellow Louisianan, Kevin Kingston, Sr., and thank him and his family for his dedicated service to our State and Nation.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:16 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 364. Concurrent resolution recognizing the Significance of National Caribbean-American Heritage Month.

The message also announced that pursuant to section 214(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), the Minority Leader reappoints the following member to the Election Assistance Commission Board of Advisors: Mr. Thomas A. Fuentes of Lake Forest, California.

At 2:39 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H. R. 6532. An act to amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance.

H. R. 6545. An act to require the Director of National Intelligence to conduct a national intelligence assessment on national security and energy security Issues.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 395. Concurrent resolution authorizing the printing of an additional number of copies of the 23rd edition of the pocket version of the United States Constitution.

At 7:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 5501) 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.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5235. An act to establish the Ronald Reagan Centennial Commission; to the Committee on the Judiciary.

H.R. 6532. An act to amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance; to the Committee on Finance.

H.R. 6545. An act to require the Director of National Intelligence to conduct a national intelligence assessment on national security and energy security issues; to the Committee on Intelligence.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 364. Concurrent resolution recognizing the Significance of National Caribbean-American Heritage Month; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3335. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2617. A bill to increase, effective as of December 1, 2008, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans (Rept. No. 110-430).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GREGG (for himself and Mr. SUNUNU):

S. 3323. A bill to provide weatherization and home heating assistance to low income households, and to provide a heating oil tax credit for middle income households; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. COLEMAN):

S. 3324. A bill to provide leadership regarding science, technology, engineering, and mathematics education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself, Mr. SPECTER, Mr. BAYH, Mr. VOINOVICH, Mrs. FEINSTEIN, and Mr. CORNYN):

S. 3325. A bill to enhance remedies for violations of intellectual property laws, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 3326. A bill to authorize the Secretary of Education to award grants to local education agencies to improve college access; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself and Mr. GRASSLEY):

S. 3327. A bill to amend title XIX of the Social Security Act to improve the State plan amendment option for providing home and community-based services under the Medicaid program, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 3328. A bill to amend the Homeland Security Act of 2002 to provide for a one-year extension of other transaction authority; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SALAZAR:

S. 3329. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to

improve the procedures for providing compensation, and to improve transparency, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mr. SMITH):

S. 3330. A bill to amend the Internal Revenue Code of 1986 to modify the deduction for domestic production activities for film and television productions, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. CRAPO):

S. 3331. A bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly; to the Committee on Finance.

By Mr. BAYH (for himself and Mr. LUGAR):

S. 3332. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide comprehensive health care to children of Vietnam veterans born with Spina Bifida, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 3333. A bill to amend the Whaling Convention Act so that it expressly applies to aboriginal subsistence whaling, and in particular, authorizes the Secretary of Commerce to set bowhead whale catch limits in the event that the IWC fails to adopt such limits; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 3334. A bill to strengthen communities through English literacy, civic education, and immigrant integration programs; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. REID):

S. 3335. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BIDEN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Mr. CARDIN, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SESSIONS, Mr. SPECTER, Mr. VITTER, Mr. WARNER, and Mr. WICKER):

S. Res. 622. A resolution designating the week beginning September 7, 2008, as ''National Historically Black Colleges and Universities Week''; to the Committee on the Judiciary.

By Mr. ENZI (for himself and Mr. BARRASSO):

S. Res. 623. A resolution recognizing the importance of the role of the Lander Trail in the settlement of the American West on the 150th anniversary of the Lander Trail; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 439

At the request of Mr. REID, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 439, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 535

At the request of Mr. DODD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 535, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 573

At the request of Ms. STABENOW, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 573, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 604

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 604, a bill to amend title 10, United States Code, to limit increases in the certain costs of health care services under the health care programs of the Department of Defense, and for other purposes.

S. 638

At the request of Mr. ROBERTS, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 785

At the request of Mr. DODD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 785, a bill to amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 999

At the request of Mr. COCHRAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 999, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1512

At the request of Mrs. BOXER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1512, a bill to amend part E of title IV of the Social Security Act to expand Federal eligibility for children in foster care who have attained age 18.

S. 1638

At the request of Mr. LEAHY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1638, a bill to adjust the salaries of Federal justices and judges, and for other purposes.

S. 1942

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1942, a bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

S. 2140

At the request of Mr. DORGAN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2140, a bill to award a Congressional Gold Medal to Francis Collins, in recognition of his outstanding contributions and leadership in the fields of medicine and genetics.

S. 2270

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2270, a bill to include health centers in the list of entities eligible for mortgage insurance under the National Housing Act.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2433

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 2433, a bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

At the request of Mr. WEBB, his name was added as a cosponsor of S. 2433, supra.

S. 2668

At the request of Mr. ENSIGN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2668, a bill to amend the Internal

Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2681

At the request of Mr. INHOFE, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 2681, a bill to require the issuance of medals to recognize the dedication and valor of Native American code talkers.

S. 2720

At the request of Mr. BYRD, his name was added as a cosponsor of S. 2720, a bill to withhold Federal financial assistance from each country that denies or unreasonably delays the acceptance of nationals of such country who have been ordered removed from the United States and to prohibit the issuance of visas to nationals of such country.

S. 2908

At the request of Mr. BROWN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2908, a bill to amend title II of the Social Security Act to prohibit the display of Social Security account numbers on Medicare cards.

S. 3070

At the request of Mr. SESSIONS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 3070, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America, and for other proposes.

S. 3080

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. 3080, a bill to ensure parity between the temporary duty imposed on ethanol and tax credits provided on ethanol.

S. 3114

At the request of Mr. LIEBERMAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3114, a bill to provide safeguards against faulty asylum procedures, to improve conditions of detention for detainees, and for other purposes.

S. 3142

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 3142, a bill to amend the Public Health Service Act to enhance public health activities related to stillbirth and sudden unexpected infant death.

S. 3186

At the request of Mr. SANDERS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Pennsylvania (Mr. SPECTER), the Senator from California (Mrs. BOXER), the Senator from Arkansas (Mr. PRYOR), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 3186, a bill to provide funding for the Low-Income Home Energy Assistance Program.

S. 3287

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3287, a bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions.

S. 3291

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 3291, a bill to amend the Internal Revenue Code of 1986 to treat certain income and gains relating to fuels as qualifying income for publicly traded partnerships.

S. 3310

At the request of Mr. WYDEN, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 3310, a bill to provide benefits under the Post-Development/Mobilization Respite Absence program for certain periods before the implementation of the program.

S. 3311

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 3311, a bill to amend the Public Health Service Act to improve mental and behavioral health services on college campuses.

S.J. RES. 44

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 44, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule set forth as requirements contained in the August 17, 2007, letter to State Health Officials from the Director of the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services and the State Health Official Letter 08–003, dated May 7, 2008, from such Center.

S. CON. RES. 93

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 93, a concurrent resolution supporting the goals and ideals of ''National Sudden Cardiac Arrest Awareness Month''.

S. RES. 502

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 502, a resolution commemorating the 25th anniversary of the Space Foundation.

S. RES. 618

At the request of Mr. LUGAR, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 618, a resolution recognizing the tenth anniversary of the bombings of the United States embassies in Nairobi, Kenya and Dar es Salaam, Tanzania, and memorializing the citizens of the United States, Kenya, and Tanzania whose lives were claimed as a result of the al Qaeda led terrorist attacks.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Vermont (Mr. LEAHY) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 4979 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5105

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of amendment No. 5105 intended to be proposed to S. 3268, a bill to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes.

AMENDMENT NO. 5108

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of amendment No. 5108 intended to be proposed to S. 3268, a bill to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes.

At the request of Mr. SUNUNU, his name was added as a cosponsor of amendment No. 5108 intended to be proposed to S. 3268, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. SPECTER, Mr. BAYH, Mr. VOINOVICH, Mrs. FEINSTEIN, and Mr. CORNYN):

S. 3325. A bill to enhance remedies for violations of intellectual property laws, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, before I was a Senator, I was a prosecutor, as the Chittenden County State's Attorney for 8 years, I prosecuted all varieties of crime in Vermont. I know first hand how important it is for criminal investigators, and the lawyers who prosecute those cases, to have a full arsenal of legal tools to ensure that justice is done. I also know how important the intellectual property industries are to our economy, and to our position as a global leader. In Vermont, Hubbardton Forge makes beautiful, trademarked lamps. The Vermont Teddy Bear Company relies heavily on its patented products. Likewise, SB Electronics needs patents for its film capacitor products. Burton's snowboards and logo are protected by trademarks and patents.

While Vermont is closest to my heart, every state in the Nation has such companies, and every community

in the United States is home to creative and productive people. Intellectual property—copyrights, patents, and trademarks—is critical to our fiscal health and to our continuing dominance of the world economy. This valuable property is also terribly vulnerable; by its very nature, it is subject to numerous types of thievery and misappropriation. The Internet has brought great and positive change to all our lives, but it is also an unparalleled tool for piracy. The increasing inter-connectedness of the globe, and the efficiencies of sharing information quickly and accurately between continents, has made foreign piracy and counterfeiting operations profitable in numerous countries. Americans suffer when their intellectual property is stolen, they suffer when those counterfeit goods displace sales of the legitimate products, and they suffer when counterfeit products actually harm them, as is sometimes the case with fake pharmaceuticals and faulty electrical products.

The time has come to bolster the Federal effort to protect this most valuable and vulnerable property, to give law enforcement the resources and the tools it needs to combat piracy and counterfeiting, and to make sure that the many agencies that deal with intellectual property enforcement have the opportunity and the incentive to talk with each other, to coordinate their efforts, and to achieve the maximum effects for their efforts. The Enforcement of Intellectual Property Rights Act of 2008 does just that.

First, it gives the Department of Justice the ability to bring civil actions against anyone whose conduct constitutes criminal copyright infringement. Many times, a criminal sanction is simply too severe for the harm done. This provision, the concept of which has passed the Senate on three separate occasions as the PIRATE Act, gives the Department of Justice an extra tool.

Second, the bill enhances civil intellectual property rights law by eliminating unnecessary burdens to instituting a suit; improving remedies; and applying the copyright and trademark laws not only to imported goods, but also to exported and transshipped items.

Third, the bill improves and harmonizes the forfeiture provisions in copyright and counterfeiting cases.

Fourth, the bill addresses concerns that the current governmental structure to coordinate intellectual property rights enforcement among agencies and departments is impeding the Government from reaching its full potential. It creates a Coordinator within the Executive Office of the President to chair an inter-agency committee that will produce a Joint Strategic Plan to combat piracy and counterfeiting.

Finally, the bill will increase the resources available to Federal, state and local law enforcement.

We are not addressing theoretical concerns with this bill, nor are we making grandiose policy proclamations. We are synthesizing the real-world experiences of our many constituents who develop and monetize intellectual property—the individuals and companies that turn their creative and innovative efforts into jobs, goods, and services—with the daily frustrations of law enforcement agents who lack the laws, and the resources, to vindicate those property rights.

I was once a prosecutor. I am now a Senator. But I have always been a fan of movies. My cameo in the latest Batman movie, The Dark Knight, was priceless to me, but we can put real numbers on the value of that production to the economy. The Dark Knight shot for 65 days in Chicago, pouring almost $36 million into the local economy. Seventeen million dollars went to nearly 800 local vendors that were critical to the production of the movie. For example, one local lumber supplier employing 40 people played a central role in the set construction that helped transform Chicago into the mythical ''Gotham City.'' In order to fulfill the production needs of the film, the lumber company worked closely with 15 other Illinois-based companies. Those 15 suppliers employed an additional 350 workers.

All of that value is threatened by piracy. Just in the movie industry, piracy costs 140,000 U.S. jobs and $5.5 billion in wages each year. Piracy costs cities, towns and states an estimated $837 million in additional tax revenue each year. The movie industry alone produces $30.2 billion each year in revenue for 160,000 vendors all across the Nation, and 85 percent of those vendors employ 10 people or fewer.

This is a well balanced bill, drawn from numerous conversations with all manner of interested parties. It brings together the best of numerous proposals, including important legislation I introduced earlier this year with Senator CORNYN. His support on intellectual property matters is critical to our success moving forward. I thank him, and all the cosponsors of this legislation for their efforts and support. This bill will improve the enforcement of our Nation's intellectual property laws, bolster our intellectual property-based economy, and protect American jobs.

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. 3325

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 ''Enforcement of Intellectual Property Rights Act of 2008''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Reference.
Sec. 3. Definition.
TITLE I—AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL
Sec. 101. Civil penalties for certain violations.
TITLE II—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS
Sec. 201. Registration of claim.
Sec. 202. Civil remedies for infringement.
Sec. 203. Treble damages in counterfeiting cases.
Sec. 204. Statutory damages in counterfeiting cases.
Sec. 205. Transshipment and exportation of goods bearing infringing marks.
Sec. 206. Importation, transshipment, and exportation.
TITLE III—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS
Sec. 301. Criminal copyright infringement.
Sec. 302. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging for works that can be copyrighted.
Sec. 303. Unauthorized fixation.
Sec. 304. Unauthorized recording of motion pictures.
Sec. 305. Trafficking in counterfeit goods or services.
Sec. 306. Forfeiture, destruction, and restitution.
Sec. 307. Forfeiture under Economic Espionage Act.
Sec. 308. Technical and conforming amendments.
TITLE IV—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND PIRACY
Sec. 401. Intellectual property enforcement coordinator.
Sec. 402. Definition.
Sec. 403. Joint strategic plan.
Sec. 404. Reporting.
Sec. 405. Savings and repeals.
Sec. 406. Authorization of appropriations.
TITLE V—DEPARTMENT OF JUSTICE PROGRAMS
Sec. 501. Local law enforcement grants.
Sec. 502. Improved investigative and forensic resources for enforcement of laws related to intellectual property crimes.
Sec. 503. Additional funding for resources to investigate and prosecute criminal activity involving computers.
Sec. 504. International intellectual property law enforcement coordinators.
Sec. 505. Annual reports.
Sec. 506. Authorization of appropriations.

SEC. 2. REFERENCE.

Any reference in this Act to the ''Trademark Act of 1946'' refers to the Act entitled ''An Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 3. DEFINITION.

In this Act, the term ''United States person'' means—

(1) any United States resident or national,

(2) any domestic concern (including any permanent domestic establishment of any foreign concern), and

(3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United

States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).

TITLE I—AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL

SEC. 101. CIVIL PENALTIES FOR CERTAIN VIOLATIONS.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by inserting after section 506 the following:

''SEC. 506a. CIVIL PENALTIES FOR VIOLATIONS OF SECTION 506.

''(a) IN GENERAL.—In lieu of a criminal action under section 506, the Attorney General may commence a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 506. Upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty under section 504 which shall be in an amount equal to the amount which would be awarded under section 3663(a)(1)(B) of title 18 and restitution to the copyright owner aggrieved by the conduct.

''(b) OTHER REMEDIES.—

''(1) IN GENERAL.—Imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, injunctive, common law, or administrative remedy, which is available by law to the United States or any other person.

''(2) OFFSET.—Any restitution received by a copyright owner as a result of a civil action brought under this section shall be offset against any award of damages in a subsequent copyright infringement civil action by that copyright owner for the conduct that gave rise to the civil action brought under this section.''.

(b) DAMAGES AND PROFITS.—Section 504 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting '', or the Attorney General in a civil action,'' after ''The copyright owner''; and

(ii) by striking ''him or her'' and inserting ''the copyright owner''; and

(B) in the second sentence by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''; and

(B) in paragraph (2), by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by inserting after the item relating to section 506 the following:

''Sec. 506a. Civil penalties for violations of section 506.''.

TITLE II—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

SEC. 201. REGISTRATION OF CLAIM.

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting ''**CIVIL**'' before ''**INFRINGEMENT**'';

(2) in subsection (a)—

(A) in the first sentence, by striking ''no action'' and inserting ''no civil action''; and

(B) in the second sentence, by striking ''an action'' and inserting ''a civil action'';

(3) by redesignating subsection (b) as subsection (c);

(4) in subsection (c), as so redesignated by paragraph (3), by striking ''506 and sections 509 and'' and inserting ''505 and section''; and

(5) by inserting after subsection (a) the following:

''(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

''(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

''(B) the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

''(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 412 of title 17, United States Code, is amended by striking ''411(b)'' and inserting ''411(c)''.

(2) The item relating to section 411 in the table of sections for chapter 4 of title 17, United States Code, is amended to read as follows:

''Sec. 411. Registration and civil infringement actions.''.

SEC. 202. CIVIL REMEDIES FOR INFRINGEMENT.

(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended—

(1) by striking ''and of all plates'' and inserting '', of all plates''; and

(2) by striking the period and inserting '', and of records documenting the manufacture, sale, or receipt of things involved in such violation. The court shall enter, if appropriate, a protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to ensure that confidential information contained in such records is not improperly disclosed to any party.''.

(b) PROTECTIVE ORDERS FOR SEIZED RECORDS.—Section 34(d)(1)(A) of the Trademark Act (15 U.S.C. 1116(d)(1)(A)) is amended by adding at the end the following: ''The court shall enter, if appropriate, a protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to ensure that confidential information contained in such records is not improperly disclosed to any party.''.

SEC. 203. TREBLE DAMAGES IN COUNTERFEITING CASES.

Section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117(b)) is amended to read as follows:

''(b) In assessing damages under subsection (a) for any violation of section 32(1)(a) of this Act or section 220506 of title 36, United States Code, in a case involving use of a counterfeit mark or designation (as defined in section 34(d) of this Act), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever amount is greater, together with a reasonable attorney's fee, if the violation consists of—

''(1) intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act), in connection with the sale, offering for sale, or distribution of goods or services; or

''(2) providing goods or services necessary to the commission of a violation specified in paragraph (1), with the intent that the recipient of the goods or services would put the goods or services to use in committing the violation.

In such a case, the court may award prejudgment interest on such amount at an annual interest rate established under section 6621(a)(2) of the Internal Revenue Code of 1986, beginning on the date of the service of the claimant's pleadings setting forth the claim for such entry of judgment and ending on the date such entry is made, or for such shorter time as the court considers appropriate.''.

SEC. 204. STATUTORY DAMAGES IN COUNTERFEITING CASES.

Section 35(c) of the Trademark Act of 1946 (15 U.S.C. 1117) is amended—

(1) in paragraph (1)—

(A) by striking ''$500'' and inserting ''$1,000''; and

(B) by striking ''$100,000'' and inserting ''$200,000''; and

(2) in paragraph (2), by striking ''$1,000,000'' and inserting ''$2,000,000''.

SEC. 205. TRANSSHIPMENT AND EXPORTATION OF GOODS BEARING INFRINGING MARKS.

Title VII of the Trademark Act of 1946 (15 U.S.C. 1124) is amended—

(1) in the title heading, by inserting after ''**IMPORTATION**'' the following: ''**TRANSSHIPMENT, OR EXPORTATION**''; and

(2) in section 42—

(A) by striking ''imported''; and

(B) by inserting after ''customhouse of the United States'' the following: '', nor shall any such article be transshipped through or exported from the United States''.

SEC. 206. IMPORTATION, TRANSSHIPMENT, AND EXPORTATION.

(a) IN GENERAL.—The heading for chapter 6 of title 17, United States Code, is amended to read as follows:

''CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, TRANSSHIPMENT, AND EXPORTATION''.

(b) AMENDMENT ON EXPORTATION.—Section 602(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking ''(a)'' and inserting ''(a) INFRINGING IMPORTATION, TRANSSHIPMENT, OR EXPORTATION.—

''(1) IMPORTATION.—'';

(3) by striking ''This subsection does not apply to—'' and inserting the following:

''(2) IMPORTATION, TRANSHIPMENT, OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United States, transshipment through the United States, or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of copyright or would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

''(3) EXCEPTIONS.—This subsection does not apply to—'';

(4) in paragraph (3)(A) (as redesignated by this subsection) by inserting ''or exportation'' after ''importation''; and

(5) in paragraph (3)(B) (as redesignated by this subsection)—

(A) by striking ''importation, for the private use of the importer'' and inserting ''importation or exportation, for the private use of the importer or exporter''; and

(B) by inserting ''or departing from the United States'' after ''United States''.

(c) CONFORMING AMENDMENTS.—(1) Section 602 of title 17, United States Code, is further amended—

(A) in the section heading, by inserting ''**OR EXPORTATION**'' after ''**IMPORTATION**''; and

(B) in subsection (b)—

(i) by striking ''(b) In a case'' and inserting ''(b) IMPORT PROHIBITION.—In a case'';

(ii) by striking ''the United States Customs Service'' and inserting ''United States Customs and Border Protection''; and

(iii) by striking ''the Customs Service'' and inserting ''United States Customs and Border Protection''.

(2) Section 601(b)(2) of title 17, United States Code, is amended by striking ''the United States Customs Service'' and inserting ''United States Customs and Border Protection''.

(3) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

''6. MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION ..... 601''.

TITLE III—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

SEC. 301. CRIMINAL COPYRIGHT INFRINGEMENT.

(a) FORFEITURE AND DESTRUCTION; RESTITUTION.—Section 506(b) of title 17, United States Code, is amended to read as follows:

''(b) FORFEITURE, DESTRUCTION, AND RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323 of title 18, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

(b) SEIZURES AND FORFEITURES.—

(1) REPEAL.—Section 509 of title 17, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by striking the item relating to section 509.

SEC. 302. TRAFFICKING IN COUNTERFEIT LABELS, ILLICIT LABELS, OR COUNTERFEIT DOCUMENTATION OR PACKAGING FOR WORKS THAT CAN BE COPYRIGHTED.

Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking ''Whoever'' and inserting ''(1) Whoever'';

(2) by amending subsection (d) to read as follows:

''(d) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''; and

(3) by striking subsection (e) and redesignating subsection (f) as subsection (e).

SEC. 303. UNAUTHORIZED FIXATION.

(a) Section 2319A(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

(b) Section 2319A(c) of title 18, United States Code, is amended by striking the second sentence and inserting: ''The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.''.

SEC. 304. UNAUTHORIZED RECORDING OF MOTION PICTURES.

Section 2319B(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 305. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''WHOEVER'' and inserting ''OFFENSE.—''

''(1) IN GENERAL.—Whoever;'';

(B) by moving the remaining text 2 ems to the right; and

(C) by adding at the end the following:

''(2) SERIOUS BODILY HARM OR DEATH.—

''(A) SERIOUS BODILY HARM.—If the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for not more than 20 years, or both.

''(B) DEATH.—If the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for any term of years or for life, or both.''.

(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Section 2320(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 306. FORFEITURE, DESTRUCTION, AND RESTITUTION.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 2323. FORFEITURE, DESTRUCTION, AND RESTITUTION.

''(a) CIVIL FORFEITURE.—

''(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States Government:

''(A) Any article, the making or trafficking of which is, prohibited under section 506 or 1204 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

''(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A), except that property is subject to forfeiture under this subparagraph only if the United States Government establishes that there was a substantial connection between the property and the violation of an offense referred to in subparagraph (A).

''(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

''(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

''(b) CRIMINAL FORFEITURE.—

''(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 or 1204 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

''(2) PROCEDURES.—

''(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

''(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

''(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

''(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

''(c) RESTITUTION.—When a person is convicted of an offense under section 506 or 1204 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 2323. Forfeiture, destruction, and restitution.''.

SEC. 307. FORFEITURE UNDER ECONOMIC ESPIONAGE ACT.

Section 1834 of title 18, United States Code, is amended to read as follows:

''SEC. 1834. CRIMINAL FORFEITURE.

''Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 308. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—

(1) Section 109 (b)(4) of title 17, United States Code, is amended by striking ''505, and 509'' and inserting ''and 505''.

(2) Section 111 of title 17, United States Code, is amended—

(A) in subsection (b), by striking ''and 509'';

(B) in subsection (c)—

(i) in paragraph (2), by striking ''and 509'';

(ii) in paragraph (3), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(iii) in paragraph (4), by striking ''and section 509''; and

(C) in subsection (e)—

(i) in paragraph (1), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(ii) in paragraph (2), by striking ''and 509''.

(3) Section 115(c) of title 17, United States Code, is amended—

(A) in paragraph (3)(G)(i), by striking ''and 509''; and

(B) in paragraph (6), by striking ''and 509''.

(4) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (6), by striking ''sections 509 and 510'' and inserting ''section 510'';

(B) in paragraph (7)(A), by striking ''and 509'';

(C) in paragraph (8), by striking ''and 509''; and

(D) in paragraph (13), by striking ''and 509''.

(5) Section 122 of title 17, United States Code, is amended—

(A) in subsection (d), by striking ''and 509'';

(B) in subsection (e), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(C) in subsection (f)(1), by striking ''and 509''.

(6) Section 411(b) of title 17, United States Code, is amended by striking ''sections 509 and 510'' and inserting ''section 510''.

(b) OTHER AMENDMENTS.—Section 596(c)(2)(c) of the Tariff Act of 1950 (19 U.S.C. 1595a(c)(2)(c)) is amended by striking ''or 509''.

TITLE IV—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND PIRACY

SEC. 401. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.

(a) INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, an Intellectual Property Enforcement Coordinator (in this title referred to as the ''IPEC'') to serve within the Executive Office of the President. As an exercise of the rulemaking power of the Senate, any nomination of the IPEC submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary.

(b) DUTIES OF IPEC.—

(1) IN GENERAL.—The IPEC shall—

(A) chair the interagency intellectual property enforcement advisory committee established under subsection (b)(3)(A);

(B) coordinate the development of the Joint Strategic Plan against counterfeiting and piracy by the advisory committee under section 403;

(C) assist in the implementation of the Joint Strategic Plan by the departments and agencies listed in subsection (b)(3)(A);

(D) report directly to the President and Congress regarding domestic and international intellectual property enforcement programs;

(E) report to Congress, as provided in section 404, on the implementation of the Joint Strategic Plan, and make recommendations to Congress for improvements in Federal intellectual property enforcement efforts; and

(F) carry out such other functions as the President may direct.

(2) LIMITATION ON AUTHORITY.—The IPEC may not control or direct any law enforcement agency in the exercise of its investigative or prosecutorial authority.

(3) ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are, or are appointed by, the respective heads of those departments and agencies:

(i) The Office of Management and Budget.

(ii) The Department of Justice.

(iii) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

(iv) The Office of the United States Trade Representative.

(v) The Department of State, the United States Agency for International Development, and the Bureau of International Narcotics Law Enforcement.

(vi) The Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

(vii) The Food and Drug Administration of the Department of Health and Human Services.

(viii) The United States Copyright Office.

(ix) Any such other agencies as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and piracy.

(B) FUNCTIONS.—The advisory committee established under subparagraph (A) shall develop the Joint Strategic Plan against counterfeiting and piracy under section 403.

(c) COMPENSATION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: ''United States Intellectual Property Enforcement Coordinator.''.

SEC. 402. DEFINITION.

For purposes of this title, the term ''intellectual property enforcement'' means matters relating to the enforcement of laws protecting copyrights, patents, trademarks, other forms of intellectual property, and trade secrets, both in the United States and abroad, including in particular matters relating to combating counterfeit and pirated goods.

SEC. 403. JOINT STRATEGIC PLAN.

(a) PURPOSE.—The objectives of the Joint Strategic Plan against counterfeiting and piracy that is referred to in section 401(b)(1)(B) (in this section referred to as the ''joint strategic plan'') are the following:

(1) Reducing counterfeit and pirated goods in the domestic and international supply chain.

(2) Identifying and addressing structural weaknesses, systemic flaws, or other unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or pirated goods.

(3) Ensuring that information is identified and shared among the relevant departments and agencies, to the extent permitted by law and consistent with law enforcement protocols for handling information, to aid in the objective of arresting and prosecuting individuals and entities that are knowingly involved in the financing, production, trafficking, or sale of counterfeit or pirated goods.

(4) Disrupting and eliminating domestic and international counterfeiting and piracy networks.

(5) Strengthening the capacity of other countries to protect and enforce intellectual property rights, and reducing the number of countries that fail to enforce laws preventing the financing, production, trafficking, and sale of counterfeit and pirated goods.

(6) Working with other countries to establish international standards and policies for the effective protection and enforcement of intellectual property rights.

(7) Protecting intellectual property rights overseas by—

(A) working with other countries and exchanging information with appropriate law enforcement agencies in other countries relating to individuals and entities involved in the financing, production, trafficking, or sale of pirated or counterfeit goods;

(B) using the information described in subparagraph (A) to conduct enforcement activities in cooperation with appropriate law enforcement agencies in other countries; and

(C) building a formal process for consulting with companies, industry associations, labor unions, and other interested groups in other countries with respect to intellectual property enforcement.

(b) TIMING.—Not later than 12 months after the date of the enactment of this Act, and not later than December 31 of every third year thereafter, the IPEC shall submit the joint strategic plan to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and to the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(c) RESPONSIBILITY OF THE IPEC.—During the development of the joint strategic plan, the IPEC—

(1) shall provide assistance to, and coordinate the meetings and efforts of, the appropriate officers and employees of departments and agencies represented on the advisory committee appointed under section 401(b)(3) who are involved in intellectual property enforcement; and

(2) may consult with private sector experts in intellectual property enforcement in furtherance of providing assistance to the members of the advisory committee appointed under section 401(b)(3).

(d) RESPONSIBILITIES OF OTHER DEPARTMENTS AND AGENCIES.—In the development and implementation of the joint strategic plan, the heads of the departments and agencies identified under section 401(b)(3) shall—

(1) designate personnel with expertise and experience in intellectual property enforcement matters to work with the IPEC and other members of the advisory committee; and

(2) share relevant department or agency information with the IPEC and other members of the advisory committee, including statistical information on the enforcement activities of the department or agency against counterfeiting or piracy, and plans for addressing the joint strategic plan.

(e) CONTENTS OF THE JOINT STRATEGIC PLAN.—Each joint strategic plan shall include the following:

(1) A detailed description of the priorities identified for carrying out the objectives in the joint strategic plan, including activities of the Federal Government relating to intellectual property enforcement.

(2) A detailed description of the means and methods to be employed to achieve the priorities, including the means and methods for improving the efficiency and effectiveness of the Federal Government's enforcement efforts against counterfeiting and piracy.

(3) Estimates of the resources necessary to fulfill the priorities identified under paragraph (1).

(4) The performance measures to be used to monitor results under the joint strategic plan during the following year.

(5) An analysis of the threat posed by violations of intellectual property rights, including the costs to the economy of the United States resulting from violations of intellectual property laws, and the threats to public health and safety created by counterfeiting and piracy.

(6) An identification of the departments and agencies that will be involved in implementing each priority under paragraph (1).

(7) A strategy for ensuring coordination between the IPEC and the departments and agencies identified under paragraph (6), including a process for oversight by the executive branch of, and accountability among, the departments and agencies responsible for carrying out the strategy.

(8) Such other information as is necessary to convey the costs imposed on the United States economy by, and the threats to public health and safety created by, counterfeiting and piracy, and those steps that the Federal Government intends to take over the period covered by the succeeding joint strategic plan to reduce those costs and counter those threats.

(f) ENHANCING ENFORCEMENT EFFORTS OF FOREIGN GOVERNMENTS.—The joint strategic plan shall include programs to provide training and technical assistance to foreign governments for the purpose of enhancing the efforts of such governments to enforce laws against counterfeiting and piracy. With respect to such programs, the joint strategic plan shall—

(1) seek to enhance the efficiency and consistency with which Federal resources are expended, and seek to minimize duplication, overlap, or inconsistency of efforts;

(2) identify and give priority to those countries where programs of training and technical assistance can be carried out most effectively and with the greatest benefit to reducing counterfeit and pirated products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries;

(3) in identifying the priorities under paragraph (2), be guided by the list of countries identified by the United States Trade Representative under section 182(a) of the Trade Act of 1974 (19 U.S.C. 2242(a)); and

(4) develop metrics to measure the effectiveness of the Federal Government's efforts to improve the laws and enforcement practices of foreign governments against counterfeiting and piracy.

(g) DISSEMINATION OF THE JOINT STRATEGIC PLAN.—The joint strategic plan shall be posted for public access on the website of the White House, and shall be disseminated to the public through such other means as the IPEC may identify.

SEC. 404. REPORTING.

(a) ANNUAL REPORT.—Not later than December 31 of each calendar year beginning in 2009, the IPEC shall submit a report on the activities of the advisory committee during the preceding fiscal year. The annual report shall be submitted to Congress, and disseminated to the people of the United States, in the manner specified in subsections (b) and (g) of section 403.

(b) CONTENTS.—The report required by this section shall include the following:

(1) The progress made on implementing the strategic plan and on the progress toward fulfillment of the priorities identified under section 403(e)(1).

(2) The progress made in efforts to encourage Federal, State, and local government departments and agencies to accord higher priority to intellectual property enforcement.

(3) The progress made in working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the financing, production, trafficking, and sale of counterfeit and pirated goods.

(4) The manner in which the relevant departments and agencies are working together and sharing information to strengthen intellectual property enforcement.

(5) An assessment of the successes and shortcomings of the efforts of the Federal Government, including departments and agencies represented on the committee established under section 401(b)(3).

(6) Recommendations for any changes in enforcement statutes, regulations, or funding levels that the advisory committee considers would significantly improve the effectiveness or efficiency of the effort of the Federal Government to combat counterfeiting and piracy and otherwise strengthen intellectual property enforcement, including through the elimination or consolidation of duplicative programs or initiatives.

(7) The progress made in strengthening the capacity of countries to protect and enforce intellectual property rights.

(8) The successes and challenges in sharing with other countries information relating to intellectual property enforcement.

(9) The progress made under trade agreements and treaties to protect intellectual property rights of United States persons and their licensees.

SEC. 405. SAVINGS AND REPEALS.

(a) REPEAL OF COORDINATION COUNCIL.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed.

(b) CURRENT AUTHORITIES NOT AFFECTED.—Except as provided in subsection (a), nothing in this title shall alter the authority of any department or agency of the United States (including any independent agency) that relates to—

(1) the investigation and prosecution of violations of laws that protect intellectual property rights;

(2) the administrative enforcement, at the borders of the United States, of laws that protect intellectual property rights; or

(3) the United States trade agreements program or international trade.

(c) REGISTER OF COPYRIGHTS.—Nothing in this title shall derogate from the duties and functions of the Register of Copyrights.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

TITLE V—DEPARTMENT OF JUSTICE PROGRAMS

SEC. 501. LOCAL LAW ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Section 2 of the Computer Crime Enforcement Act (42 U.S.C. 3713) is amended—

(1) in subsection (b), by inserting after ''computer crime'' each place it appears the following: '', including infringement of copyrighted works over the Internet''; and

(2) in subsection (e)(1), relating to authorization of appropriations, by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2009 through 2013''.

(b) GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants to eligible State or local law enforcement entities, including law enforcement agencies of municipal governments and public educational institutions, for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes (in this subsection referred to as ''IP–TIC grants''), in accordance with the following:

(1) USE OF IP–TIC GRANT AMOUNTS.—IP–TIC grants may be used to establish and develop programs to do the following with respect to the enforcement of State and local true name and address laws and State and local criminal laws on anti-piracy, anti-counterfeiting, and unlawful acts with respect to goods by reason of their protection by a patent, trademark, service mark, trade secret, or other intellectual property right under State or Federal law:

(A) Assist State and local law enforcement agencies in enforcing those laws, including by reimbursing State and local entities for expenses incurred in performing enforcement operations, such as overtime payments and storage fees for seized evidence.

(B) Assist State and local law enforcement agencies in educating the public to prevent, deter, and identify violations of those laws.

(C) Educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(D) Establish task forces that include personnel from State or local law enforcement entities, or both, exclusively to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(E) Assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analyses of evidence in matters involving those laws.

(F) Facilitate and promote the sharing, with State and local law enforcement officers and prosecutors, of the expertise and information of Federal law enforcement agencies about the investigation, analysis, and prosecution of matters involving those laws and criminal infringement of copyrighted works, including the use of multijurisdictional task forces.

(2) ELIGIBILITY.—To be eligible to receive an IP–TIC grant, a State or local government entity shall provide to the Attorney General—

(A) assurances that the State in which the government entity is located has in effect laws described in paragraph (1);

(B) an assessment of the resource needs of the State or local government entity applying for the grant, including information on the need for reimbursements of base salaries and overtime costs, storage fees, and other expenditures to improve the investigation, prevention, or enforcement of laws described in paragraph (1); and

(C) a plan for coordinating the programs funded under this section with other federally funded technical assistance and training programs, including directly funded local programs such as the Edward Byrne Memorial Justice Assistance Grant Program authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(3) MATCHING FUNDS.—The Federal share of an IP–TIC grant may not exceed 90 percent of the costs of the program or proposal funded by the IP–TIC grant, unless the Attorney General waives, in whole or in part, the 90 percent requirement.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There is authorized to be appropriated to carry out this subsection the sum of $25,000,000 for each of fiscal years 2009 through 2013.

(B) LIMITATION.—Of the amount made available to carry out this subsection in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

SEC. 502. IMPROVED INVESTIGATIVE AND FORENSIC RESOURCES FOR ENFORCEMENT OF LAWS RELATED TO INTELLECTUAL PROPERTY CRIMES.

(a) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes related to the theft of intellectual property—

(1) create an operational unit of the Federal Bureau of Investigation—

(A) to work with the Computer Crime and Intellectual Property section of the Department of Justice on the investigation and coordination of intellectual property crimes that are complex, committed in more than 1 judicial district, or international;

(B) that consists of at least 10 agents of the Bureau; and

(C) that is located at the headquarters of the Bureau;

(2) ensure that any unit in the Department of Justice responsible for investigating computer hacking or intellectual property crimes is assigned at least 2 agents of the Federal Bureau of Investigation (in addition to any agent assigned to such unit as of the date of the enactment of this Act) to support such unit for the purpose of investigating or prosecuting intellectual property crimes; and

(3) implement a comprehensive program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to intellectual property crimes;

(B) that includes relevant forensic training related to investigating and prosecuting intellectual property crimes; and

(C) that requires such agents who investigate or prosecute intellectual property crimes to attend the program annually.

(b) ORGANIZED CRIME TASK FORCE.—Subject to the availability of appropriations to carry out this subsection, and not later than 120 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys' Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, shall create a Task Force to develop and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $12,000,000 for each of fiscal years 2009 through 2013.

SEC. 503. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE CRIMINAL ACTIVITY INVOLVING COMPUTERS.

(a) ADDITIONAL FUNDING FOR RESOURCES.—

(1) AUTHORIZATION.—In addition to amounts otherwise authorized for resources to investigate and prosecute criminal activity involving computers, there are authorized to be appropriated for each of the fiscal years 2009 through 2013—

(A) $10,000,000 to the Director of the Federal Bureau of Investigation; and

(B) $10,000,000 to the Attorney General for the Criminal Division of the Department of Justice.

(2) AVAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

(b) USE OF ADDITIONAL FUNDING.—Funds made available under subsection (a) shall be used by the Director of the Federal Bureau of Investigation and the Attorney General, for the Federal Bureau of Investigation and the Criminal Division of the Department of Justice, respectively, to—

(1) hire and train law enforcement officers to—

(A) investigate crimes committed through the use of computers and other information technology, including through the use of the Internet; and

(B) assist in the prosecution of such crimes; and

(2) procure advanced tools of forensic science to investigate, prosecute, and study such crimes.

SEC. 504. INTERNATIONAL INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATORS.

(a) DEPLOYMENT OF ADDITIONAL COORDINATORS.—Subject to the availability of appropriations to carry out this section, the Attorney General shall, within 180 days after the date of the enactment of this Act, deploy 5 Intellectual Property Law Enforcement Coordinators, in addition to those serving in such capacity on such date of enactment. Such deployments shall be made to those countries and regions where the activities of such a coordinator can be carried out most effectively and with the greatest benefit to reducing counterfeit and pirated products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries. The mission of all International Intellectual Property Law Enforcement Coordinators shall include the following:

(1) Acting as liaison with foreign law enforcement agencies and other foreign officials in criminal matters involving intellectual property rights.

(2) Performing outreach and training to build the enforcement capacity of foreign governments against intellectual property-related crime in the regions in which the coordinators serve.

(3) Coordinating United States law enforcement activities against intellectual property-related crimes in the regions in which the coordinators serve.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary for the deployment and support of all International Intellectual Property Enforcement Coordinators of the Department of Justice, including those deployed under subsection (a).

SEC. 505. ANNUAL REPORTS.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on actions taken to carry out this title.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

Mr. SPECTER. Mr. President, I am pleased to speak today on the introduction of the Enforcement of Intellectual Property Rights Act of 2008, which I am sponsoring with Senator LEAHY.

The United States has always placed a high value on creativity and innovation. As a result, we rank number 1 for innovation in the World Economic Forum's Global Competition Report. Yet, the U.S. does not even make it into the ''top 20'' countries when it comes to the protection of intellectual property. When you consider that intellectual property contributes over $5 trillion annually to our national economy, this is not acceptable.

If we want to profit from our intellectual property, then we must protect it. Counterfeiting and piracy, though, are on the rise. Counterfeiting, which at one time involved mainly ''knocking off' products in the high end and luxury goods markets, is now much more pervasive. According to FBI, Interpol, World Customs Organization and International Chamber of Commerce estimates, roughly 7–8 percent of world trade every year is in counterfeit goods. That is the equivalent of as much as $512 billion in global lost sales. Of that amount, U.S. companies annually lose between $200 billion and $250 billion in sales.

Counterfeiting, piracy, and the theft of intellectual property, are not victimless crimes. Exporters face unfair competition abroad. Non-exporters face counterfeit imports at home. Businesses face legal, health and safety risks from the threat of counterfeit goods entering their supply chains. Consumers, too, face serious health and safety risks.

For every legitimate product on the market, one can find a counterfeit version, being passed off as the same quality at a fraction of the cost. Counterfeit products run the gamut from low end products such as razor blades, shampoos, batteries, and cigarettes to more specialized products like auto and plane parts. Although these products may look real, they are not subjected to the same quality protocols as their legitimate counterparts and a consumer—be they knowing or not—uses the product at their own risk. Counterfeit products that are substandard goods have been the subject of public recalls and seizures in industries ranging from food products both human and pet consumables, pharmaceuticals both lifestyle and life-saving drugs, aircraft or automobile parts, toys and baby furniture, and building and manufacturing components. The potential for harm is very serious. Every day, our newspapers are filled with stories of the damage that counterfeit products have caused.

Further, each counterfeit item that is manufactured overseas and distributed in the United States costs American workers their jobs. According to the U.S. Chamber of Commerce, overall intellectual property theft costs 750,000 U.S. jobs a year. These are losses that directly impact each and every person listening to my voice by inhibiting the growth of the American economy. Although private industry is more vigilant than ever in pursuing infringers civilly and devoting enormous amounts of human and financial capital to combat violations of their intellectual property rights, the U.S. Government must do its part to protect one of our Nation's most valuable assets.

Building on the work of the House with the Prioritizing Resources and Organization of Intellectual Property Act of 2007, better known as the PRO-IP Act, and Senators BAYH and VOINOVICH with the Intellectual Property Rights Enforcement Act, Senators LEAHY and I have crafted a comprehensive intellectual property that responds to that need.

This bill will provide the current and future administrations with the additional tools it needs to combat intellectual property theft by, amongst other things: Giving the Attorney General the authority, in lieu of a criminal action, to pursue a civil action for intellectual property infringement and collect damages and profits resulting from infringement; enhancing the civil and criminal penalties for intellectual property violations in order to deter new criminal organizations from entering into ''the business'' of counterfeiting and piracy; elevating the intergovernmental coordination of intellectual property enforcement efforts; and authorizing funding for State and local governments for pursuing intellectual property related investigations.

Alan Greenspan stated in ''The Age of Turbulence'' that, ''Arguably, the single most important economic decision our lawmakers and courts will face in the next twenty-five years is to clarify the rules of intellectual property.''

Great legislation does not happen overnight—nor should it. When considering any reforms to something as valuable as our intellectual property assets—whether it is reforms to our Nations patents, trademarks, or more relevantly to this group, copyright laws—we must act cautiously and with a careful understanding of the effects that any such changes will have on the interested industries. That said, I believe that we can work together in the few remaining days that is left in this Congress in not just a bipartisan but a nonpartisan manner to pass and send this bill to the President this Congress.

By Mr. LIEBERMAN (for himself and Mr. COLEMAN):

S. 3324. A bill to provide leadership regarding science, technology, engineering, and mathematics education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, the United States has been the most innovative, technologically capable economy in the world. Yet our science, technology, engineering, and mathematics, STEM, education system is failing to ensure that children in our great Nation are entering the workforce with the skills and knowledge required for success in the global economy of the 21st century. Meanwhile, the rest of the world is catching up. I rise today on behalf of myself and Senator COLEMAN to introduce the Science, Technology, Engineering, and Mathematics Education for the 21st Century Act. This legislation seeks to promote and coordinate existing science and technology education efforts and to improve the communication among various stakeholders so that tomorrow's workforce will be prepared to continue the American tradition of innovation and enterprise. There are three pieces to this legislation, which is based largely on the recommendations found in the National Science Board's action plan on STEM education.

First, this legislation charters a new, independent, and non-Federal National Council for Science, Technology, Engineering, and Mathematics Education, which will coordinate and facilitate STEM education initiatives across the Nation and inform policymakers and the public on the state of STEM education across the United States. This council will be housed in the National Academy of Sciences and will have a Board of Directors comprised of representatives from the various State and local governments, organizations, businesses, and industries that have a stake in the success of STEM education. This includes current and former governors, chief State school officers, representatives from local school boards, classroom teachers, school administrators, representatives from institutions of higher education, private foundations, and representatives of businesses and industries.

Much of the innovation and success in improving STEM education throughout the country is being done locally, in the State's counties, and school systems, often partnering with businesses and industry in need of a STEM-educated workforce. The Council will bring together these various stakeholders to facilitate and coordinate the flow of information on STEM education systems to various stakeholders; to independently evaluate the success of Federal and non-Federal STEM initiatives; to fairly determine and promote best STEM classroom practices; to encourage the acquisition and retention of highly effective STEM teachers; and to inform policymakers and the general public on the state of STEM education across the United States. More specifically, the Council will also be responsible for issuing an annual report on the state of STEM education in America to the States, Congress, the Federal Government, and the general public; disseminating results from research on teaching and learning in STEM fields to State educational agencies; helping the States establish their own Science, Technology, Engineering, and Mathematics Education boards or councils; proposing models for the effective professional development of teachers in STEM fields; and launching and updating a publicly available website that hosts a database consisting of information on scholarships, fellowships, grants, internships, and summer programs for both students and teachers.

Second, this bill authorizes a full standing Committee on Science, Technology, Engineering, and Mathematics Education within the National Science and Technology Council, NSTC, which is part of the Executive Office of the President. This committee would be responsible for coordinating STEM education across all the Federal agencies involved in such efforts, including the National Laboratories, the Department of Commerce, the Environmental Protection Agency, the National Science Foundation, and NASA. Currently, the NSTC Committee on Science has a Subcommittee on Education and Workforce Development with jurisdiction over issues relating to STEM education. However, this subcommittee has been largely inactive: it rarely meets and has not been effective in coordinating the efforts of these different agencies. Senator COLEMAN and I believe that the state of STEM education in the Nation today warrants a full committee at the NSTC that will meet regularly to assess the effectiveness of such Federal efforts.

Finally in this legislation we direct the Secretary of Education to undergo a comprehensive review of all programs within the Department of Education relating to education in science, technology, engineering, and mathematics fields, and to evaluate them for their effectiveness. We want to make sure that the current panoply of such programs are effective, target the students they are intended to target, are not unnecessarily redundant, complement State and local educational agencies, and are promoted effectively so that students, teachers, and parents know about these efforts. We also direct the Department to submit to Congress a plan for addressing the challenges they identify in this review.

I believe this legislation will help science, technology, engineering, and mathematics education in this country, and will help students, parents, teachers, and other educators as we strive to prepare tomorrow's workforce for the global economy of the 21st century.

Mr. President, I ask unanimous consent 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. 3324

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 ''Science, Technology, Engineering, and Mathematics Education for the 21st Century Act of 2008''.

SEC. 2. NATIONAL COUNCIL FOR SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION.

(a) ESTABLISHMENT.—There is established a federally chartered corporation to be known as the National Council for Science, Technology, Engineering, and Mathematics Education (referred to in this section as the ''STEM Council'') which shall be incorporated under the laws of the District of Columbia and which shall have the powers granted in this section. Notwithstanding any other provision of law, the STEM Council is a private entity and is not an agency, instrumentality, authority, entity, or establishment of the United States Government.

(b) MISSION.—The mission of the STEM Council is to—

(1) provide guidance and coordinate and facilitate the flow of information about science, technology, engineering, and mathematics (referred to in this section as ''STEM'') education among State, local, and private entities, as well as the general public;

(2) provide leadership by identifying critical deficiencies in the Nation's STEM education systems and proposing strategies for members of the STEM Council to collaborate to address such deficiencies;

(3) serve as a primary focal point for Federal agencies to improve their coordination with, and service to, State and local school systems; and

(4) promote STEM fields and educate the general public about the value of a STEM education.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The management of the STEM Council shall be vested in a Board of Directors composed of 23 voting members and 10 nonvoting members, who shall meet not less frequently than quarterly.

(2) INITIAL APPOINTMENTS.—The Director of the National Science Foundation, in consultation with the Chairmen and Ranking Members of the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committee on Science and Technology of the House of Representatives, shall appoint, in accordance with this subsection, the initial voting members of the Board of Directors of the STEM Council.

(3) APPOINTMENTS.—The Director of the National Science Foundation, in consultation with the STEM Council, shall appoint, in accordance with this subsection, a new voting member of the Board of Directors of the STEM Council after a voting member has completed service on the STEM Council.

(4) REPRESENTATIVES ON THE STEM COUNCIL.—

(A) VOTING SEATS.—The Board of Directors of the STEM Council shall consist of the following voting members:

(i) Two State Governors or former Governors.

(ii) Two chief State school officers.

(iii) One local school board representative.

(iv) One representative from the National Science Board.

(v) One active classroom teacher in science or mathematics.

(vi) One active classroom teacher in engineering.

(vii) One school administrator.

(viii) One representative from organizations representing community colleges.

(ix) One representative from organizations representing research universities.

(x) One representative from technological institutes or organizations representing technological institutes.

(xi) One representative from informal STEM education organizations.

(xii) Three representatives from local school boards, State legislatures, and other State and local officials.

(xiii) Two representatives from various teacher, parent-teacher, and STEM education organizations.

(xiv) Three representatives from various organizations representing industry and business associations with an interest in hiring a STEM-educated workforce.

(xv) Two representatives from various organizations that support educational initiatives, the Nation's global competitiveness, or STEM education specifically.

(B) NONVOTING SEATS.—The Board of Directors of the STEM Council shall consist of nonvoting members for the following seats:

(i) The two co-chairs of the STEM Committee established under section 3.

(ii) One representative from the majority party and 1 representative from the minority party from each of the following committees:

(I) The Committee on Health, Education, Labor, and Pensions of the Senate.

(II) The Committee on Commerce, Science, and Transportation of the Senate.

(III) The Committee on Education and Labor of the House of Representatives.

(IV) The Committee on Science and Technology of the House of Representatives.

(C) CO-CHAIRS.—The Board of Directors of the STEM Council shall have 2 co-chairs who shall be a Governor, or former Governor, and a chief State school officer appointed by the Director of the National Science Foundation in consultation with the Chairmen and Ranking Members of the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committee on Science and Technology of the House of Representatives.

(5) NATIONAL ACADEMY OF SCIENCES SUPPORT.—The Director of the National Science Foundation shall enter into an agreement with the National Academy of Sciences—

(A) to provide staff support to the Board of Directors of the STEM Council; and

(B) to carry out any projects proposed by the Board of Directors or required under this Act.

(d) ACTIVITIES.—

(1) MANDATORY ACTIVITIES.—

(A) IN GENERAL.—The STEM Council shall carry out the following activities:

(i) Provide leadership by identifying critical deficiencies in the Nation's STEM education systems and proposing strategies for members of the STEM Council to collaborate to address such deficiencies.

(ii) Not later than 18 months after the date of enactment of this Act, and annually thereafter, the STEM Council shall submit a report that highlights the status of STEM education in the Nation and the States to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Education and Labor of the House of Representatives, the Committee on Science and Technology of the House of Representatives, the Governor of each of the 50 States, and the STEM Committee established in section 3. Each report submitted under this clause shall be widely available to the public and posted on the website of the STEM Council.

(iii) Evaluate progress toward the goals described in the National Action Plan of the National Science Board on a regular and sustained basis, including the effectiveness of the STEM Committee, established under section 3, in coordinating kindergarten through graduate-level Federal STEM education programs.

(iv) Serve as a national resource by disseminating through the Department of Education to State and local educational agencies information on research on teaching and learning, including best educational practices, and encouraging the adoption of such practices.

(v) Help States establish or strengthen existing P–16 or P–20 STEM councils and serve as a technical resource center for P–16 or P–20 STEM councils.

(vi) Utilize scientifically valid studies to determine programs that raise student achievement or interest in STEM fields.

(vii) Direct the Department of Education to promote the programs described in clause (vi) to State educational agencies and local educational agencies.

(viii) Work with all stakeholders to address—

(I) the removal of barriers that exist throughout the Nation in recruiting and retaining effective STEM educators; and

(II) the removal of barriers imposed by local educational agencies on the movement of STEM educators between local educational agencies both within and across States.

(ix) Propose models for effective teacher professional development.

(x) Launch a public education initiative to—

(I) promote STEM fields to the general public, especially to stakeholders that represent individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a, 1885b); and

(II) raise awareness that STEM education is essential for the Nation's success.

(B) DATABASE ON FEDERAL AND NON-FEDERAL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATIONAL INITIATIVES.—

(i) ESTABLISHMENT AND MAINTENANCE OF DATABASE.—

(I) DATABASE.—The STEM Council shall establish and maintain, on a public website of the STEM Council, a database consisting of information on Federal scholarships, fellowships, and other Federal STEM and relevant non-STEM education programs recommended by the STEM Committee established under section 3, as well as non-Federal STEM and relevant non-STEM programs that have been recommended by the Board of Directors of the STEM Council. The database may include information on grants, fellowships, internships, and summer programs at the primary through graduate levels.

(II) SPECIFIC INFORMATION.—The database established under subclause (I) shall include specific information on any programs of financial assistance that are targeted to individuals of a particular gender, ethnicity, or other demographic group, especially individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b)

(ii) DISSEMINATION OF INFORMATION ON DATABASE.—The STEM Council shall take such actions as may be necessary on an ongoing basis, including sending notices to educational institutions, to disseminate information on the database established and maintained under this subparagraph.

(iii) LISTING DIRECT CONTACT INFORMATION.—The database established under clause (i) shall provide contact information for awards, including the sponsor's website.

(iv) APPROVAL.—The STEM Council shall review submissions for inclusion on the database established under clause (i) from prospective sponsors to exclude fraudulent scholarship offers and scholarship programs that require the payment of an application fee or other charge. The STEM Council may—

(I) remove information from the database if the STEM Council determines the information is not in accordance with the purpose of the database; or

(II) promote those programs most effective at improving student achievement or interest in STEM fields.

(v) ACCURACY.—Information on scholarships included in the database established under clause (i) shall be updated not less often than quarterly in order to provide current and accurate information regarding available scholarships.

(vi) LINKS.—The database established under clause (i) may have links to other privately operated online tools designed to help students find scholarships and educational opportunities that are approved by the STEM Council.

(2) PERMISSIVE ACTIVITIES.—The STEM Council may carry out any of the following activities:

(A) Coordinate the development and maintenance of integrated data management systems to consolidate and share information among States on STEM educational practices, research, and outcomes, including student assessment results, teacher quality measures, and high school graduation requirements.

(B) Assemble a database of opportunities for teachers interested in summer research in a STEM field in a Government research laboratory, institution of higher education, or STEM-related business or industry.

(C) Assemble a database of grants and other funding opportunities for STEM classroom resources to be used by teachers and local educational agencies.

(e) CORPORATE POWERS.—Not later than 1 year after the date of enactment of this Act, the STEM Council shall become a body corporate and as such shall have the authority to do the following:

(1) To adopt and use a corporate seal.

(2) To have succession until dissolved by an Act of Congress.

(3) To appoint, through the actions of its Board of Directors, officers and employees of the STEM Council, to define their duties and responsibilities, fix their compensations, and to dismiss at will such officers or employees.

(4) To prescribe, through the actions of its Board of Directors, bylaws not inconsistent with Federal law and the laws of the District of Columbia, regulating the manner in which its general business may be conducted and

the manner in which the privileges granted to it by law may be exercised.

(5) To exercise, through the actions of its Board of Directors, all powers specifically granted by the provisions of this section, and such incidental powers as shall be necessary.

(6) To develop a source of revenue that is in addition to Federal funds provided under this section and that extends later than fiscal year 2013.

(7) To pay for a small personnel staff, office space, equipment, and travel, including employing not less than 1 executive staff member and 2 professional staff members.

(f) CORPORATE FUNDS.—

(1) DEPOSIT OF FUNDS.—The Board of Directors shall deposit all funds of the STEM Council in federally chartered and insured depository institutions until such funds are disbursed under paragraph (2).

(2) DISBURSEMENT OF FUNDS.—Funds of the STEM Council may be disbursed only for purposes that are—

(A) approved by the chief executive of the STEM Council; and

(B) in accordance with the mission of the STEM Council as specified in subsection (b).

(g) USE OF MAILS.—The STEM Council may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App) shall not apply to the STEM Council.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the STEM Council to carry out this section $2,000,000 for each of fiscal years 2009 through 2013.

SEC. 3. COMMITTEE ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION.

(a) ESTABLISHMENT.—There is established within the National Science and Technology Council a standing committee on science, technology, engineering, and mathematics education (referred to in this section as the ''STEM Committee'').

(b) MEMBERS.—

(1) IN GENERAL.—The STEM Committee shall be composed of representatives from all Federal departments and agencies involved in STEM education, including the National Laboratories.

(2) CO-CHAIRS.—The STEM Committee shall have 2 co-chairs—

(A) one of whom shall be a representative from the National Science Foundation; and

(B) one of whom shall be the Secretary of Education or a designee of the Secretary.

(c) DUTIES AND RESPONSIBILITIES.—The STEM Committee shall—

(1) coordinate all programs related to education in science, technology, engineering, and mathematics (referred to in this section as ''STEM'') fields funded or administered by the Federal Government;

(2) conduct an ongoing inventory and assessment of the effectiveness of all Federal education initiatives related to STEM fields, especially with regard to how the initiatives are serving those individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a, 1885b);

(3) disseminate the annual report received from the STEM Council under section 2(d)(1)(A)(ii) to each Federal Agency engaged in STEM education efforts;

(4) coordinate among all Federal departments and agencies involved in STEM education research and programs to inventory and assess the effectiveness and coherence of Federally funded STEM education programs; and

(5) represent all Federal agencies on the National Council for STEM Education and coordinate the STEM education efforts of the Federal government with State and local governments through the National Council for STEM Education.

(d) MEETINGS.—The STEM Committee shall meet not less frequently than quarterly.

SEC. 4. EVALUATION OF SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS PROGRAMS OF THE DEPARTMENT OF EDUCATION.

(a) IN GENERAL.—The Secretary of Education shall conduct, directly or though contract, a comprehensive evaluation of all science, technology, engineering, and mathematics education (referred to in this section as ''STEM education'') programs of the Department of Education.

(b) PROGRAMS TO EVALUATE.—The STEM education programs that shall be evaluated under subsection (a) shall include the following:

(1) The Mathematics and Science Partnerships program.

(2) The Math Now for Elementary School and Middle School Students program.

(3) The Math Skills for Secondary School Students program.

(4) The Minority Science and Engineering Improvement program.

(5) The Teachers for a Competitive Tomorrow program.

(6) The National Science and Mathematics Access to Retain Talent grant program (the National SMART grant program).

(7) The Teacher Education Assistance for College and Higher Education Grants program (the TEACH Grants program).

(8) The Academic Competitiveness Grant program.

(9) Grant programs authorized under the Carl D. Perkins Career and Technical Education Act of 2006.

(c) CONTENT OF EVALUATION.—The evaluation conducted under subsection (a) shall—

(1) examine the coherence of the Department of Education in administering STEM education programs, including identifying unnecessary or harmful overlap;

(2) identify the unmet State and local education needs that could be filled with reorganization or expansion of STEM education programs existing on the date of the evaluation;

(3) evaluate the ease of access to information on STEM education programs by students, educators, and others target populations;

(4) evaluate the ability of the Department of Education to disseminate information from the STEM Council established under section 2; and

(5) propose how the Department of Education can address any needs or problems identified in paragraphs (2), (3), and (4).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Education, or the entity with whom the Secretary contracts to conduct the evaluation under subsection (a), shall submit to Congress a report of such evaluation.

By Mr. DURBIN:

S. 3326. A bill to authorize the Secretary of Education to award grants to local education agencies to improve college access; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I rise today to introduce legislation designed to make it easier for students to reach college and to succeed in college. An educated workforce is crucial to the success of the American economy, but too many students are not receiving a college education. Of students who were in eighth grade in 2000, only 20 percent of the lowest-income students will earn a college degree by 2012, compared to 68 percent of the highest income group. Every student who wants to go to college should have that opportunity, and we should provide them with the tools they need. Today, I am introducing the Pathways to College Act, which creates grants for school districts to help them increase the number of low-income students who are entering and succeeding in college.

Lack of guidance and information about college has a real effect on students in poor schools. The Consortium on Chicago School Research recently released a report called ''Potholes on the Road to College.'' This report examines the difficulties faced by Chicago Public School students during the college application process. The Consortium discovered that only 41 percent of Chicago Public School students who wanted to go to college took the steps necessary to apply to and enroll in a 4-year college. Only one-third of students enrolled in a college that matched their qualifications. Of the students who had the grades and test scores to attend a selective college, 29 percent went to a community college or skipped college entirely.

But the most heartbreaking parts of this report are the profiles of smart, ambitious students who find themselves helplessly lost in the college admissions process. One student, Amelia, worked hard in her classes at Silverstein High School and dreamed of studying criminal justice. Amelia never received the help she needed to achieve her goal. The wait was two weeks to see a guidance counselor, and so Amelia learned about the process on her own. She did not apply for federal financial aid and ended up at a local community college where she described the classes as easy and ''just like high school.''

The Pathways to College Act would create a grant program for school districts serving low-income students to increase their college-enrollment rates. The Consortium's ''Potholes'' report found that the most important factor in whether students enroll in a four-year college is if they attended a school where teachers create a strong college-going culture and help students with the process of applying. The Pathways to College Act would provide the funding to help school districts improve the college-going culture in schools and guide students through the college admissions process.

A school with a strong college culture is a school where the expectation throughout the school is that every single student will go to college. Administrators, teachers, and staff members embrace and act on that goal every day. With a grant through the Pathways to College Act, schools could train student leaders, integrate college planning into the curriculum, and provide opportunities for college fairs, college tours, and workplace visits. Most

importantly, teachers and counselors would be trained in post-secondary advising so that they can motivate their students to reach for high goals. Every school in the school district would incorporate these elements and others into a school-wide plan of action to strengthen the college-going culture.

KIPP Ascend Charter School in Chicago is a school that does this well. A few weeks ago, a group of eighth grade students from KIPP came to my constituent coffee here in Washington. Each one was wearing a shirt that said ''I am college bound.'' Every child and each teacher believed the message on those shirts, and I did too. The facts prove we are all right. Eighty percent of students in the KIPP program nation-wide attend college. KIPP accomplishes this by training teachers to constantly reinforce high college expectations. If you walk into a KIPP classroom, you see college posters on the walls and hear college discussed as part of the day's lesson. If you ask the students about going to college, they will answer without hesitation and might tell you about their last field trip to a local university. When you combine those clear, high expectations with KIPP's rigorous college-preparatory curriculum, you can understand their enormous success.

The Pathways to College Act will also give school districts the tools they need to help students meet their high aspirations. Participating school districts would provide each high school freshman with at least one meeting with an advisor to discuss their goals post-graduation and create a plan to reach those goals. School districts would also educate students and families about the intricacies of the college application process and the federal financial aid application process. The average student-to-counselor ratio in high schools is 315 to one, but schools could use grant money to hire more counselors and form partnerships with community groups to help students with college applications and financial aid forms. School districts also consider could create college planning classes or establish a college access center in their school.

The Pathways to College Act provides flexibility to school districts to achieve higher college enrollment rates, but requires that each school accurately track their results so we can learn from what works. Chicago Public Schools is doing a great job—both in tackling the problem and in documenting progress. Under the leadership of CEO Arne Duncan, Chicago Public Schools responded aggressively to the ''Potholes'' report. A team of postsecondary coaches were deployed in high schools to work with students and counselors. To ensure that financial aid is not a roadblock, FAFSA completion rates are tracked so that counselors can follow-up with students. A spring-break college tour took 500 students to see colleges across the country. Because Chicago Public Schools tracks its college enrollment rates, we know that their efforts are working. Half of the 2007 graduating class enrolled in college, an increase of 6.5 percent in four years. The national increase was less than one percent in the same time-frame. Nationally, the number of African-American graduates going to college has decreased by six percent over the last four years while the Chicago rate has increased by almost eight percent.

Applying to college is not easy. Low-income students often need the most help to achieve their college dreams. When schools focus on college and provide the tools to get there, students make the connection between the work they are doing now and their future goals in college and life. Students in those schools are more likely enroll in college and are also more likely to work hard in high school to be prepared for college when they arrive. The bill I am introducing today tries to ensure that lack of information never prevents a student from achieving his or her college dream.

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. 3326

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 ''Pathways to College Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) An educated workforce is crucial to the success of the United States economy. Access to higher education for all students is critical to maintaining an educated workforce. More than 80 percent of the 23,000,000 jobs that will be created in the next 10 years will require postsecondary education. Only 36 percent of all 18- to 24-year olds are currently enrolled in postsecondary education.

(2) Workers with bachelor's degrees earn on average $17,000 more annually than workers with only high school diplomas. Workers who earn bachelor's degrees can be expected to earn $1,000,000 more over a lifetime than those who only finished high school.

(3) The ACT recommends that schools—

(A) provide student guidance to engage students in college and career awareness; and

(B) ensure that students enroll in a rigorous curriculum to prepare for postsecondary education.

(4) The Department of Education reports that the average student-to-counselor ratio in high schools is 315:1. This falls far above the ratio recommended by the American School Counselor Association, which is 250:1. While school counselors at private schools spend an average of 58 percent of their time on postsecondary education counseling, counselors in public schools spend an average of 25 percent of their time on postsecondary education counseling.

(5) While just 57 percent of students from the lowest income quartile enroll in college, 87 percent of students from the top income quartile enroll. Of students who were in eighth grade in 2000, only 20 percent of the lowest-income students are projected to attain a bachelor's degree by 2012, compared to 68 percent of the highest income group, according to the Advisory Committee on Student Financial Assistance in 2006.

(6) A recent report by the Consortium on Chicago School Research found that only 41 percent of Chicago public school students who aspire to go to college took the steps necessary to apply to and enroll in a 4-year institution of higher education. The report also reveals that only ⅓ of Chicago students who want to attend a 4-year institution of higher education enroll in a school that matches their qualifications. Even among students qualified to attend a selective college, 29 percent enrolled in a community college or did not enroll at all.

(7) The Consortium found that many Chicago public school students do not complete the Free Application for Federal Student Aid, even though students who apply for Federal financial aid are 50 percent more likely to enroll in college. Sixty-five percent of public secondary school counselors at low-income schools believe that students and parents are discouraged from considering college as an option due to lack of knowledge about financial aid.

(8) Low-income and first-generation families often overestimate the cost of tuition and underestimate available aid; students from these backgrounds have access to fewer college application resources and financial aid resources than other groups, and are less likely to fulfill their postsecondary plans as a result.

(9) College preparation intervention programs can double the college-going rates for at-risk youth, can expand students' educational aspirations, and can boost college enrollment and graduation rates.

SEC. 3. GRANT PROGRAM.

(a) DEFINITIONS.—In this Act:

(1) ESEA DEFINITIONS.—The terms ''local educational agency'' and ''Secretary'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency in which a majority of the secondary schools served by the agency are high-need secondary schools.

(3) HIGH-NEED SECONDARY SCHOOL.—The term ''high-need secondary school'' means a secondary school in which not less than 50 percent of the students enrolled in the school are—

(A) eligible for a school lunch program under the Richard B. Russell National School Lunch Act;

(B) eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

(C) in families eligible for assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(b) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The Secretary is authorized to award grants, on a competitive basis, to eligible local educational agencies to carry out the activities described in this section.

(c) DURATION.—Grants awarded under this section shall be 5 years in duration.

(d) DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure that the grants are distributed among the different geographic regions of the United States, and among eligible local educational agencies serving urban and rural areas.

(e) APPLICATIONS.—

(1) IN GENERAL.—Each eligible local educational agency desiring a grant under this section shall submit an application to the

Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of the program to be carried out with grant funds and—

(A) a description of the secondary school population to be targeted by the program, the particular college-access needs of such population, and the resources available for meeting such needs;

(B) an outline of the objectives of the program, including goals for increasing the number of college applications submitted by each student, increasing Free Application for Federal Student Aid completion rates, and increasing school-wide college enrollment rates across the local educational agency;

(C) a description of the local educational agency's plan to work cooperatively with programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.), including the extent to which the agency commits to sharing facilities, providing access to students, and developing compatible record-keeping systems;

(D) a description of the activities, services, and training to be provided by the program, including a plan to provide structure and support for all students in the college search, planning, and application process;

(E) a description of the methods to be used to evaluate the outcomes and effectiveness of the program;

(F) an assurance that grant funds will be used to supplement, and not supplant, any other Federal, State, or local funds available to carry out activities of the type carried out under the grant;

(G) an explanation of the method used for calculating college enrollment rates for each secondary school served by the eligible local educational agency that is based on externally verified data, and, when possible, aligned with existing State or local methods; and

(H) a plan to make the program sustainable over time, including the use of matching funds from non-Federal sources.

(3) METHOD OF CALCULATING ENROLLMENT RATES.—

(A) IN GENERAL.—A method included in an application under paragraph (2)(G)—

(i) shall, at a minimum, track students' first-time enrollment in institutions of higher education; and

(ii) may track progress toward completion of a postsecondary degree.

(B) DEVELOPMENT IN CONJUNCTION.—An eligible local educational agency may develop a method pursuant to paragraph (2)(G) in conjunction with an existing public or private entity that currently maintains such a method.

(f) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to applications from eligible local educational agencies serving schools with the highest percentages of poverty.

(g) USE OF FUNDS.—

(1) IN GENERAL.—An eligible local educational agency that receives a grant under this section shall develop and implement, or expand, a program to increase the number of low-income students who enroll in postsecondary educational institutions, including institutions with competitive admissions criteria.

(2) REQUIRED USE OF FUNDS.—Each program funded under this section shall—

(A) provide professional development to secondary school teachers and counselors in postsecondary education advising;

(B) ensure that each student has not less than 1 meeting, not later than the first semester of the first year of secondary school, with a school counselor, college access personnel (including personnel involved in programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.)), trained teacher, or other professional or organization, such as a community-based organization, approved by the school, to discuss postsecondary options, outline postsecondary goals, and create a plan to achieve those goals;

(C) provide information to all students enrolled in the secondary schools served by the eligible local educational agency and parents beginning in the first year of secondary school on—

(i) the economic and social benefits of higher education;

(ii) college expenses, including information about expenses by institutional type, differences between sticker price and net price, and expenses beyond tuition;

(iii) paying for college, including the availability, eligibility, and variety of financial aid; and

(iv) the forms and processes associated with applying for financial aid; and

(D) ensure that each secondary school served by the eligible local educational agency develops a comprehensive, school-wide plan of action to strengthen the college-going culture within the school.

(3) ALLOWABLE USE OF FUNDS.—Each program funded under this section may—

(A) establish mandatory postsecondary planning classes for secondary school seniors to assist the seniors in the college preparation and application process;

(B) hire and train postsecondary coaches with expertise in the college-going process;

(C) increase the number of counselors who specialize in the college-going process serving students;

(D) train student leaders to assist in the creation of a college-going culture in their schools;

(E) provide opportunities for students to explore postsecondary opportunities outside of the school setting, such as college fairs, career fairs, college tours, workplace visits, or other similar activities;

(F) assist students with test preparation, college applications, Federal financial aid applications, and scholarship applications;

(G) establish partnerships with programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.)), and with community and nonprofit organizations to increase college-going rates at secondary schools served by the eligible local educational agency;

(H) provide long-term postsecondary follow up with graduates of the secondary schools served by the eligible local educational agencies, including increasing alumni involvement in mentoring and advising roles within the secondary school;

(I) create and maintain a postsecondary access center in the school setting that provides information on colleges and universities, career opportunities, and financial aid options and provide a setting in which professionals working in programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.)), can meet with students;

(J) deliver college and career planning curriculum as a stand-alone course, or embedded in other classes, for all students in secondary school; and

(K) increase parent involvement in preparing for postsecondary opportunities.

(h) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds available to carry out the activities described in this section.

(i) TECHNICAL ASSISTANCE.—The Secretary, directly or through contracting through a full and open process with 1 or more organizations that have demonstrated experience providing technical assistance to raise school-wide college enrollment rates in local educational agencies in not less than 3 States, shall provide technical assistance to grantees in carrying out this section. The technical assistance shall—

(1) provide assistance in the calculation and analysis of college-going rates for all grant recipients;

(2) provide semi-annual analysis to each grant recipient recommending best practices based on a comparison of the recipient's data with that of secondary schools with similar demographics; and

(3) provide annual best practices conferences for all grant recipients.

(j) EVALUATION AND REPORTING REQUIREMENTS.—

(1) MEASURE ENROLLMENT AND TRACK DATA.—Each eligible local educational agency that receives a grant under this section shall—

(A) measure externally verified school-wide college enrollment; and

(B) track data that leads to increased college going, including college applications sent and Free Application for Federal Student Aid forms filed.

(2) EVALUATIONS BY GRANTEES.—Each eligible local educational agency that receives a grant under this section shall—

(A) conduct periodic evaluations of the effectiveness of the activities carried out under the grant toward increasing school-wide college-going rates;

(B) use such evaluations to refine and improve activities conducted with the grant and the performance measures for such activities; and

(C) make the results of such evaluations publicly available, including by providing public notice of such availability.

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report concerning the results of—

(A) the evaluations conducted under paragraph (2); and

(B) an evaluation conducted by the Secretary to analyze the effectiveness and efficacy of the activities conducted with grants under this section.

By Mr. KERRY (for himself and Mr. GRASSLEY):

S. 3327. A bill amend title XIX of the Social Security Act to improve the State plan amendment option for providing home and community-based services under the Medicaid program, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, every day millions of Americans are faced with significant challenges when it comes to meeting their own personal needs or caring for a loved one who needs significant support. Many elderly Americans and individuals of all ages with disabilities need long-term services and supports, such as assistance with dressing, bathing, preparing meals, and managing chronic conditions. They prefer to live and work in their community, and it is time that the Federal

Government and states act as better partners to provide improved access to home- and community-based long-term care services HCBS.

The Medicaid program, administered by the states but jointly financed with the Federal Government, is our Nation's largest payer for long-term care services. Medicaid spends about $100 billion per year on long-term services. Despite recognizing that per person spending is much lower in community settings, and that people generally prefer community services, Medicaid still spends 61 percent of its long-term services spending in institutional settings. This disparity is due, in large part, to a strong access and payment bias in the program for institutional care.

Where Medicaid does offer HCBS, it is often in short supply, with more than 280,000 Medicaid beneficiaries on waiting lists for HCBS waiver services. Further, eligibility for HCBS waiver services requires beneficiaries to already have a very significant level of disability before gaining access they must meet a level of functional need that qualifies them for a nursing home. This not only contributes to the unmet needs of those in the community but it also prevents states from providing services that can help prevent beneficiaries from one day requiring high-cost institutional care. While institutionalized care may be an appropriate choice for some, it should be just that: a choice that individuals and families are allowed to make about the most appropriate setting for their own care.

The result of Medicaid's ''institutional bias'' is that, according to the Georgetown Health Policy Institute, ''one in five persons living in the community with a need for assistance from others has unmet needs, endangering their health and demeaning their quality of life.'' This is simply unacceptable.

The lack of long-term care options available to families has a significant impact on their lives. Many of my constituents are affected, as are countless Americans across the country. Take the parents living in Newton who continue to wait for their physically disabled daughter, Julia, to have the opportunity to live independently. Julia is a young adult and instead of starting out on her own, she must watch as her peers move away and begin their independent lives- something she yearns to do as well. Growing up, Julia was able to attend Newton schools and keep a similar schedule to other children in the community but now has limited social interaction, as there is no other option but to live at home with her parents. Julia's parents are her full time caregivers and would like to see her able to live in an environment more conducive to both her needs and their own. Community based care or home based care in an apartment she could share with a roommate are options Julia and her parents would mutually benefit from. As the opportunities for the future grow for her peers, Julia's options continue to shrink because housing and home based supports for adults with disabilities are limited at best. I have heard many stories similar to that of Julia, which emphasizes the urgency in which HCBS is needed. In addition to individual lives being put on hold, entire families must deal with the consequences of inadequate services available to their family members.

Access to HCBS affects individuals in all stages of life, including Americans dealing with conditions such as Alzheimer's. Take Ann Bowers and Jay Sweatman for example. Without access to HCBS services, Jay, who suffers from early onset Alzheimer's, was forced to first move into assisted living and then a nursing home. By the time Jay was approved for HCBS it was too late and he was no longer able to live independently. Ann had worked tirelessly to coordinate her husband's care and get additional HCBS support but the process was so difficult that by the time help came, it was simply too late. This is just one case of many where early HCBS intervention would have not only saved time, money, and stress for family members, but would have made a significant impact on the quality of life and personal independence for Jay and Ann.

So today, I am introducing with my colleague from the Finance Committee, Senator GRASSLEY, the Empowered at Home Act, a bill that increases access to home and community based services by giving states new tools and incentives to make these services more available to those in need. It has four basic parts.

First, it will improve the Medicaid HCBS State Plan Amendment Option by giving states more flexibility in determining eligibility for which services they can offer under the program, which will create greater options for individuals in need of long-term supports. In return we ask that states no longer cap enrollment and that services be offered throughout the entire state.

Second, the bill ensures that the same spousal impoverishment protections offered for new nursing home beneficiaries will be in place for those opting for home and community based services. In addition, low-income recipients of home and community based services will be able to keep more of their assets when they become eligible for Medicaid, allowing them to stay in their community as long as possible.

Third, the Empowered at Home Act addresses the financial needs of spouses and family members caring for a loved one by offering tax-related provisions to support family caregivers and promote the purchase of meaningful private long-term care insurance.

Finally, the bill seeks to improve the overall quality of home and community based services available by providing grants for states to invest in organizations and systems that can help to ensure a sufficient supply of high quality workers, promote health, and transform home and community based care to be more consumer-centered.

I want to say a word about the Community Choice Act, legislation long-championed by Senator HARKIN that would make HCBS a mandatory benefit in Medicaid. I am a strong supporter and co-sponsor of this landmark legislation, and look forward to working for its enactment as soon as possible. The legislation I am introducing today seeks to supplement—not supplant—the Community Choice Act by increasing access to HCBS for those who are disabled but not at a sufficient level of need to qualify for nursing home services. These two complimentary bills will finally make HCBS a right while vastly improving HCBS availability to vulnerable citizens of varying levels of disability.

I would also like to thank a number of organizations who have been integral to the development of the Empowered at Home Act and who have endorsed it today, including the National Council on Aging, the Arc of the United States, United Cerebral Palsy, the American Association of Homes and Services for the Aging, the Alzheimer's Association, the National Association of Area Agencies on Aging, the American Geriatrics Society, ANCOR, the Trust for America's Health, and SEIU.

Improving access to a range of long term care services for the elderly and Americans of all ages with disabilities is an issue that must not stray from the top of our Nation's health care priorities. I believe this legislation can move forward in a bi-partisan manner to dramatically improve access to high-quality home- and community-based care for the millions of Americans who are not receiving the significant supports and services they need.

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. 3327

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 ''Empowered at Home Act of 2008''.

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

Sec. 1. Short title; table of contents.

TITLE I—STRENGTHENING THE MEDICAID HOME AND COMMUNITY-BASED STATE PLAN AMENDMENT OPTION

Sec. 101. Removal of barriers to providing home and community-based services under State plan amendment option for individuals in need.

Sec. 102. State option to provide home and community-based services to individuals for whom such services are likely to prevent, delay, or decrease the likelihood of an individual's need for institutionalized care.

Sec. 103. Implementation assistance grants for States electing to provide home and community-based services under Medicaid through the State plan amendment option.

TITLE II—STATE GRANTS TO FACILITATE HOME AND COMMUNITY-BASED SERVICES AND PROMOTE HEALTH

Sec. 201. Reauthorization of medicaid transformation grants and expansion of permissible uses in order to facilitate the provision of home and community-based and other long-term care services.

Sec. 202. Health promotion grants.

TITLE III—LONG TERM CARE INSURANCE

Sec. 301. Treatment of premiums on qualified long-term care insurance contracts.

Sec. 302. Credit for taxpayers with long-term care needs.

Sec. 303. Treatment of premiums on qualified long-term care insurance contracts.

Sec. 304. Additional consumer protections for long-term care insurance.

TITLE IV—PROMOTING AND PROTECTING COMMUNITY LIVING

Sec. 401. Mandatory application of spousal impoverishment protections to recipients of home and community-based services.

Sec. 402. State authority to elect to exclude up to 6 months of average cost of nursing facility services from assets or resources for purposes of eligibility for home and community-based services.

TITLE V—MISCELLANEOUS

Sec. 501. Improved data collection.

Sec. 502. GAO report on Medicaid home health services and the extent of consumer self-direction of such services.

TITLE I—STRENGTHENING THE MEDICAID HOME AND COMMUNITY-BASED STATE PLAN AMENDMENT OPTION

SEC. 101. REMOVAL OF BARRIERS TO PROVIDING HOME AND COMMUNITY-BASED SERVICES UNDER STATE PLAN AMENDMENT OPTION FOR INDIVIDUALS IN NEED.

(a) PARITY WITH INCOME ELIGIBILITY STANDARD FOR INSTITUTIONALIZED INDIVIDUALS.—Paragraph (1) of section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)) is amended by striking ''150 percent of the poverty line (as defined in section 2110(c)(5))'' and inserting ''300 percent of the supplemental security income benefit rate established by section 1611(b)(1)''.

(b) ADDITIONAL STATE OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES TO INDIVIDUALS ELIGIBLE FOR SERVICES UNDER A WAIVER.—Section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)) is amended by adding at the end the following new paragraph:

''(6) STATE OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES TO INDIVIDUALS ELIGIBLE FOR SERVICES UNDER A WAIVER.—

''(A) IN GENERAL.—A State that provides home and community-based services in accordance with this subsection to individuals who satisfy the needs-based criteria for the receipt of such services established under paragraph (1)(A) may, in addition to continuing to provide such services to such individuals, elect to provide home and community-based services in accordance with the requirements of this paragraph to individuals who are eligible for home and community-based services under a waiver approved for the State under subsection (c), (d), or (e) or under section 1115 to provide such services, but only for those individuals whose income does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1).

''(B) APPLICATION OF SAME REQUIREMENTS FOR INDIVIDUALS SATISFYING NEEDS-BASED CRITERIA.—Subject to subparagraph (C), a State shall provide home and community-based services to individuals under this paragraph in the same manner and subject to the same requirements as apply under the other paragraphs of this subsection to the provision of home and community-based services to individuals who satisfy the needs-based criteria established under paragraph (1)(A).

''(C) AUTHORITY TO OFFER DIFFERENT TYPE, AMOUNT, DURATION, OR SCOPE OF HOME AND COMMUNITY-BASED SERVICES.—A State may offer home and community-based services to individuals under this paragraph that differ in type, amount, duration, or scope from the home and community-based services offered for individuals who satisfy the needs-based criteria established under paragraph (1)(A), so long as such services are within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and do not include room or board.''.

(c) REMOVAL OF LIMITATION ON SCOPE OF SERVICES.—Paragraph (1) of section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)), as amended by subsection (a), is amended by striking ''or such other services requested by the State as the Secretary may approve''

(d) OPTIONAL ELIGIBILITY CATEGORY TO PROVIDE FULL MEDICAID BENEFITS TO INDIVIDUALS RECEIVING HOME AND COMMUNITY-BASED SERVICES UNDER A STATE PLAN AMENDMENT.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (XVIII), by striking ''or'' at the end;

(B) in subclause (XIX), by adding ''or'' at the end; and

(C) by inserting after subclause (XIX), the following new subclause:

''(XX) who are eligible for home and community-based services under needs-based criteria established under paragraph (1)(A) of section 1915(i), or who are eligible for home and community-based services under paragraph (6) of such section, and who will receive home and community-based services pursuant to a State plan amendment under such subsection;''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting ''1902(a)(10)(A)(ii)(XX),'' after ''1902(a)(10)(A)(ii)(XIX),''.

(B) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(i) in clause (xii), by striking ''or'' at the end;

(ii) in clause (xiii), by adding ''or'' at the end; and

(iii) by inserting after clause (xiii) the following new clause:

''(xiv) individuals who are eligible for home and community-based services under needs-based criteria established under paragraph (1)(A) of section 1915(i), or who are eligible for home and community-based services under paragraph (6) of such section, and who will receive home and community-based services pursuant to a State plan amendment under such subsection,''.

(e) ELIMINATION OF OPTION TO LIMIT NUMBER OF ELIGIBLE INDIVIDUALS OR LENGTH OF PERIOD FOR GRANDFATHERED INDIVIDUALS IF ELIGIBILITY CRITERIA IS MODIFIED.—Paragraph (1) of section 1915(i) of such Act (42 U.S.C. 1396n(i)) is amended—

(1) by striking subparagraph (C) and inserting the following:

''(C) PROJECTION OF NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.—The State submits to the Secretary, in such form and manner, and upon such frequency as the Secretary shall specify, the projected number of individuals to be provided home and community-based services.''; and

(2) in subclause (II) of subparagraph (D)(ii), by striking ''to be eligible for such services for a period of at least 12 months beginning on the date the individual first received medical assistance for such services'' and inserting ''to continue to be eligible for such services after the effective date of the modification and until such time as the individual no longer meets the standard for receipt of such services under such pre-modified criteria''.

(f) ELIMINATION OF OPTION TO WAIVE STATEWIDENESS.—Paragraph (3) of section 1915(i) of such Act (42 U.S.C. 1396n(3)) is amended by striking ''section 1902(a)(1) (relating to statewideness) and''.

(g) EFFECTIVE DATE.—The amendments made by this section take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 102. STATE OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES TO INDIVIDUALS FOR WHOM SUCH SERVICES ARE LIKELY TO PREVENT, DELAY, OR DECREASE THE LIKELIHOOD OF AN INDIVIDUAL'S NEED FOR INSTITUTIONALIZED CARE.

(a) STATE PLAN AMENDMENT REQUIRED.—

(1) IN GENERAL.—Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

''(k) STATE PLAN AMENDMENT OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES TO INDIVIDUALS FOR WHOM SUCH SERVICES ARE LIKELY TO PREVENT, DELAY, OR DECREASE THE LIKELIHOOD OF AN INDIVIDUAL'S NEED FOR INSTITUTIONALIZED CARE.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State that has an approved State plan amendment under subsection (i) may provide, through a State plan amendment for the provision of medical assistance for home and community-based services that are within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and do not include room or board to individuals—

''(A) who are not otherwise eligible for medical assistance under the State plan or under a waiver of such plan;

''(B) whose income does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1); and

''(C) who satisfy such needs-based criteria for determining eligibility for medical assistance for such services as the State shall establish in accordance with paragraph (2).

''(2) REQUIREMENT FOR NEEDS-BASED CRITERIA.—In establishing needs-based criteria for purposes of determining eligibility for medical assistance for home and community-based services under this subsection, a State shall specify the specific physical, mental, cognitive, or intellectual impairments, or the inability of an individual to perform 1 or more specific activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities, for which the State determines that the provision of home and community-based services are reasonably expected to prevent, delay, or decrease the likelihood of an individual's need for institutionalized care.

''(3) APPLICATION OF SAME REQUIREMENTS FOR PROVIDING HOME AND COMMUNITY-BASED

SERVICES UNDER SUBSECTION (i).—Subject to paragraphs (4) and (5), a State shall provide home and community-based services to individuals under this paragraph in the same manner and subject to the same requirements as apply to the provision of home and community-based services to individuals under subsection (i).

''(4) AUTHORITY TO LIMIT NUMBER OF INDIVIDUALS.—A State may limit the number of individuals who are eligible to receive home and community-based services under this subsection and may establish waiting lists for the receipt of such services.

''(5) AUTHORITY TO OFFER DIFFERENT TYPE, AMOUNT, DURATION, OR SCOPE OF HOME AND COMMUNITY-BASED SERVICES.—A State may offer home and community-based services to individuals under this subsection that differ in type, amount, duration, or scope from the home and community-based services offered for individuals under paragraph (1)(A) of subsection (i) and, if applicable, under paragraph (6) of such subsection.''.

(2) OPTIONAL CATEGORICALLY NEEDY GROUP; STATE OPTION TO LIMIT BENEFITS TO HOME AND COMMUNITY-BASED SERVICES OR TO PROVIDE FULL MEDICAL ASSISTANCE.—

(A) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(i) in subparagraph (A)(ii), as amended by section 101(d)(1)—

(I) in subclause (XIX), by striking ''or'' at the end;

(II) in subclause (XX), by adding ''or'' at the end; and

(III) by inserting after subclause (XX), the following new subclause:

''(XXI) who are eligible for home and community-based services under section 1915(k) and who will receive home and community-based services pursuant to a State plan amendment under such subsection;''; and

(ii) in the matter following subparagraph (G)—

(I) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(II) by inserting '', and (XV) at the option of the State, the medical assistance made available to an individual described in section 1915 (k) who is eligible for medical assistance only because of subparagraph (A)(ii)(XXI) may be limited to medical assistance for home and community-based services described in a State plan amendment submitted under that section'' before the semicolon.

(B) CONFORMING AMENDMENTS.—

(i) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)), as amended by section 101(d)(2)(A), is amended in the matter preceding subparagraph (A), by inserting ''1902(a)(10)(A)(ii)(XXI),'' after ''1902(a)(10)(A)(ii)(XX),''.

(ii) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 101(d)(2)(B), is amended in the matter preceding paragraph (1)—

(I) in clause (xiii), by striking ''or'' at the end;

(II) in clause (xiv), by adding ''or'' at the end; and

(iii) by inserting after clause (xiv) the following new clause:

''(xv) who are eligible for home and community-based services under section 1915(k) and who will receive home and community-based services pursuant to a State plan amendment under such subsection,''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 103. IMPLEMENTATION ASSISTANCE GRANTS FOR STATES ELECTING TO PROVIDE HOME AND COMMUNITY-BASED SERVICES UNDER MEDICAID THROUGH THE STATE PLAN AMENDMENT OPTION.

(a) AUTHORITY TO AWARD GRANTS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall award grants to eligible States to provide incentives to States for the implementation of State plan amendments that meet the requirements of section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)).

(b) ELIGIBLE STATE.—For purposes of this section, an eligible State is a State that—

(1) has an approved State plan amendment described in subsection (a); and

(2) submits an application to the Secretary, in such form and manner as the Secretary shall require, specifying the costs the State will incur in implementing such amendment and such additional information as the Secretary may require.

(c) AMOUNT AND DURATION OF GRANTS.—

(1) AMOUNT.—The Secretary shall determine the amount to be awarded all eligible States under this section for a fiscal year based on the applications submitted by such States and the amount available for such fiscal year under subsection (d).

(2) LIMITATION ON DURATION OF AWARD.—A State may receive a grant under this section for not more than 3 consecutive fiscal years.

(d) APPROPRIATIONS.—There are appropriated, from any funds in the Treasury not otherwise appropriated, $40,000,000 for each of fiscal years 2009 through 2013 for making grants to States under this section. Funds appropriated under this subsection for a fiscal year shall remain available for expenditure through September 30, 2013.

TITLE II—STATE GRANTS TO FACILITATE HOME AND COMMUNITY-BASED SERVICES AND PROMOTE HEALTH

SEC. 201. REAUTHORIZATION OF MEDICAID TRANSFORMATION GRANTS AND EXPANSION OF PERMISSIBLE USES IN ORDER TO FACILITATE THE PROVISION OF HOME AND COMMUNITY-BASED AND OTHER LONG-TERM CARE SERVICES.

(a) 2-YEAR REAUTHORIZATION; INCREASED FUNDING.—Section 1903(z)(4)(A) of the Social Security Act (42 U.S.C. 1396b(z)(4)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by inserting after clause (ii), the following new clauses:

''(iii) $150,000,000 for fiscal year 2009; and

''(iv) $150,000,000 for fiscal year 2010.''.

(b) EXPANSION OF PERMISSIBLE USES.—Section 1903(z)(2) of the Social Security Act (42 U.S.C. 1396b(z)(2)) is amended by adding at the end the following new subparagraphs:

''(G)(i) Methods for ensuring the availability and accessibility of home and community-based services in the State, recognizing multiple delivery options that take into account differing needs of individuals, through the creation or designation (in consultation with organizations representing elderly individuals and individuals of all ages with physical, mental, cognitive, or intellectual impairments, and organizations representing the long-term care workforce, including organized labor, and health care and direct service providers) of one or more statewide or regional public entities or nonprofit organizations (such as fiscal intermediaries, agencies with choice, home care commissions, public authorities, worker associations, consumer-owned and controlled organizations (including representatives of individuals with severe intellectual or cognitive impairment), area agencies on aging, independent living centers, aging and disability resource centers, or other disability organizations) which may —

''(I) develop programs where qualified individuals provide home- and community-based services while solely or jointly employed by recipients of such services;

''(II) facilitate the training and recruitment of qualified health and direct service professionals and consumers who use services;

''(III) recommend or develop a system to set wages and benefits, and recommend commensurate reimbursement rates;

''(IV) with meaningful ongoing involvement from consumers and workers (or their respective representatives), develop procedures for the appropriate screening of workers, create a registry or registries of available workers, including policies and procedures to ensure no interruption of care for eligible individuals;

''(V) assist consumers in identifying workers;

''(VI) act as a fiscal intermediary;

''(VII) assist workers in finding employment, including consumer-directed employment;

''(VIII) provide funding for disability organizations, aging organizations, or other organizations, to assume roles that promote consumers' ability to acquire the necessary skills for directing their own services and financial resources; or

''(IX) create workforce development plans on a regional or statewide basis (or both), to ensure a sufficient supply of qualified home and community-based services workers, including reviews and analyses of actual and potential worker shortages, training and retention programs for home and community-based services workers (which may include, as determined appropriate by the State, allowing participation in such training to count as an allowable work activity under the State temporary assistance for needy families program funded under part A of title IV), and plans to assist consumers with finding and retaining qualified workers.

''(ii) Nothing in clause (i) shall be construed as prohibiting the use of funds made available to carry out this subparagraph for start-up costs associated with any of the activities described in subclauses (I) through (IX), as requiring any consumer to hire workers who are listed in a worker registry developed with such funds, or to limit the ability of consumers to hire or fire their own workers.

''(H) Methods for providing an integrated and efficient system of long-term care through a review of the Federal, State, local, and private long-term care resources, services, and supports available to elderly individuals and individuals of all ages with physical, mental, cognitive, or intellectual impairments and the development and implementation of a plan to fully integrate such resources, services, and supports by aggregating such resources, services, and supports to create a consumer-centered and cost-effective resource and delivery system and expanding the availability of home and community-based services, and that is designed to result in administrative savings, consolidation of common activities, and the elimination of redundant processes.''.

(c) ALLOCATION OF FUNDS.—

(1) ELIMINATION OF CURRENT LAW REQUIREMENTS FOR ALLOCATION OF FUNDS.—Section 1903(z)(4)(B) of the Social Security Act (42 U.S.C. 1396b(z)(4)(B)) is amended by striking the second and third sentences.

(2) ASSURANCE OF FUNDS TO FACILITATE THE PROVISION OF HOME AND COMMUNITY-BASED SERVICES AND INTEGRATED SYSTEMS OF LONG-

TERM CARE.—Section 1903(z)(4)(B) of the Social Security Act (42 U.S.C. 1396b(z)(4)(B)), as amended by paragraph (1), is amended by inserting after the first sentence the following new sentence: ''Such method shall provide that 50 percent of such funds shall be allocated among States that design programs to adopt the innovative methods described in subparagraph (G) or (H) (or both) of paragraph (2).''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2008.

SEC. 202. HEALTH PROMOTION GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE MEDICAID BENEFICIARY.—The term ''eligible Medicaid beneficiary'' means an individual who is enrolled in the State Medicaid plan under title XIX of the Social Security Act and—

(A) has attained the age of 60 and is not a resident of a nursing facility; or

(B) is an adult with a physical, mental, cognitive, or intellectual impairment.

(2) ELIGIBLE STATE.—The term ''eligible State'' means a State that submits an application to the Secretary for a grant under this section, in such form and manner as the Secretary shall require.

(3) EVIDENCE- AND COMMUNITY-BASED HEALTH PROMOTION PROGRAM.—The term ''evidence- and community-based health promotion program'' means a community-based program (such as a program for chronic disease self-management, physical or mental activity, falls prevention, smoking cessation, or dietary modification) that has been objectively evaluated and found to improve health outcomes or meet health promotion goals by preventing, delaying, or decreasing the severity of physical, mental, cognitive, or intellectual impairment and that meets generally accepted standards for best professional practice.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) AUTHORITY TO CONDUCT DEMONSTRATION PROJECT.—The Secretary shall award grants on a competitive basis to eligible States to conduct in accordance with this section an evidence- and community-based health promotion program that is designed to achieve the following objectives with respect to eligible Medicaid beneficiaries:

(1) LIFESTYLE CHANGES.—To empower eligible Medicaid beneficiaries to take more control over their own health through lifestyle changes that have proven effective in reducing the effects of chronic disease and slowing the progression of disability.

(2) DIFFUSION.—To mobilize the Medicaid, aging, disability, public health, and nonprofit networks at the State and local levels to accelerate the translation of credible research into practice through the deployment of low-cost evidence-based health promotion and disability prevention programs at the community level.

(c) SELECTION AND AMOUNT OF GRANT AWARDS.—In awarding grants to eligible States under this section and determining the amount of the awards, the Secretary shall—

(1) take into consideration the manner and extent to which the eligible State proposes to achieve the objectives specified in subsection (b); and

(2) give preference to eligible States proposing—

(A) programs through public service provider organizations or other organizations with expertise in serving eligible Medicaid beneficiaries;

(B) strong State-level collaboration across, Medicaid agencies, State units on aging, State independent living councils, State associations of Area Agencies on Aging, and State agencies responsible for public health; or

(C) interventions that have already demonstrated effectiveness and replicability in a community-based, non-medical setting.

(d) USE OF FUNDS.—An eligible State awarded a grant under this section shall use the funds awarded to develop, implement, and sustain high quality evidence- and community-based health promotion programs. As a condition of being awarded such a grant, an eligible State shall agree to—

(1) implement such programs in at least 3 geographic areas of the State; and

(2) develop the infrastructure and partnerships that will be necessary over the long-term to effectively embed evidence-and community-based health promotion programs for eligible Medicaid beneficiaries within the statewide health, aging, disability, and long-term care systems.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide assistance to eligible States awarded grants under this section, subgrantees and their partners, program organizers, and others in developing evidence-and community-based health promotion programs.

(f) PAYMENTS TO ELIGIBLE STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter of a fiscal year that begins during the period for which an eligible State is awarded a grant under this section, the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) the amount of qualified expenditures made by the State for such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining available at the end of such fiscal year shall remain available for making payments to the State for the next 4 fiscal years, subject to paragraph (3).

(3) REAWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines has failed to meet the conditions for continuation of a demonstration project under this section in a succeeding year, the Secretary shall rescind the grant award for each succeeding year, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that would otherwise be paid to the State under section 1903(a) of the Social Security Act (42 U.S.C. 1396a(a)). Nothing in the previous sentence shall be construed as preventing a State from being paid under such section for expenditures in a grant year for which payment is available under such section 1903(a) after amounts available to pay for such expenditures under the grant awarded to the State under this section for the fiscal year have been exhausted.

(g) EVALUATION.—Not later than 3 years after the date on which the first grant is awarded to an eligible State under this section, the Secretary shall, by grant, contract, or interagency agreement, conduct an evaluation of the demonstration projects carried out under this section that measures the health-related, quality of life, and cost outcomes for eligible Medicaid beneficiaries and includes information relating to the quality, infrastructure, sustainability, and effectiveness of such projects.

(h) APPROPRIATIONS.—There are appropriated, from any funds in the Treasury not otherwise appropriated, the following amounts to carry out this section:

(1) GRANTS TO STATES.—For grants to States, to remain available until expended—

(A) $4,000,000 for fiscal year 2009;

(B) $6,000,000 for fiscal year 2010;

(C) $8,000,000 for fiscal year 2011;

(D) $10,000,000 for fiscal year 2012; and

(E) $12,000,000 for fiscal year 2013.

(2) TECHNICAL ASSISTANCE.—For the provision of technical assistance through such center in accordance with subsection (e)—

(A) $800,000 for fiscal year 2009;

(B) $1,200,000 for fiscal year 2010;

(C) $1,600,000 for fiscal year 2011;

(D) $2,000,000 for fiscal year 2012; and

(E) $2,400,000 for fiscal year 2013.

(3) EVALUATION.—For conducting the evaluation required under subsection (g), $4,000,000 for fiscal year 2011.

TITLE III—LONG TERM CARE INSURANCE

SEC. 301. TREATMENT OF PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year for coverage for the taxpayer and the taxpayer's spouse and dependents under a qualified long-term care insurance contract (as defined in section 7702B(b)).

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
2010 or 2011	25
2012	35
2013	65
2014 or thereafter	100.

''(c) COORDINATION WITH OTHER DEDUCTIONS.—Any amount paid by a taxpayer for any qualified long-term care insurance contract to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting before the last sentence at the end the following new paragraph:

''(22) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 224.''.

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 224. Premiums on qualified long-term care insurance contracts.

''Sec. 225. Cross reference.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 302. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal

Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit amount multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

''(2) APPLICABLE CREDIT AMOUNT.—For purposes of paragraph (1), the applicable credit amount shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable credit amount is—
2010	$1,000
2011	1,500
2012	2,000
2013	2,500
2014 or thereafter	3,000.

''(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $100 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(A) $150,000 in the case of a joint return, and

''(B) $75,000 in any other case.

''(3) INDEXING.—In the case of any taxable year beginning in a calendar year after 2010, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of—

''(A) such dollar amount, and

''(B) the medical care cost adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting 'August 2009' for 'August 1996' in subclause (II) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

''(c) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Notwithstanding the preceding sentence, a certification shall not be treated as valid unless it is made within the 39½ month period ending on such due date (or such other period as the Secretary prescribes).

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

''(i) The individual is at least 6 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 2 but not 6 years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility.

''(iii) The individual is under 2 years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

''(2) ELIGIBLE CAREGIVER.—

''(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

''(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151(c) for the taxable year.

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test under subsection (c)(1)(D) or (d)(1)(C) of section 152.

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

''(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest adjusted gross income shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

''(d) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.

''(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (L), by striking the period at the end of subparagraph (M) and inserting '', and'', and by inserting after subparagraph (M) the following new subparagraph:

''(N) an omission of a correct TIN or physician identification required under section 25E(d) (relating to credit for taxpayers with long-term care needs) to be included on a return.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for taxpayers with long-term care needs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 303. TREATMENT OF PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—

(1) CAFETERIA PLANS.—The last sentence of section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of such Code (relating to contributions by an employer to accident and health plans) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 6041 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(h) FLEXIBLE SPENDING ARRANGEMENT DEFINED.—For purposes of this section, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

''(1) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

''(2) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.''.

(2) The following sections of such Code are each amended by striking ''section 106(d)'' and inserting ''section 106(c)'': sections 223(b)(4)(B), 223(d)(4)(C), 223(f)(3)(B), 3231(e)(11), 3306(b)(18), 3401(a)(22), 4973(g)(1), and 4973(g)(2)(B)(i).

(3) Section 6041(f)(1) of such Code is amended by striking ''(as defined in section 106(c)(2))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 304. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-TERM CARE INSURANCE.

(a) ADDITIONAL PROTECTIONS APPLICABLE TO LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (B) of section 7702B(g)(2) of the Internal Revenue Code of 1986 (relating to requirements of model regulation and Act) are amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

''(II) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

''(III) Section 6C (relating to extension of benefits).

''(IV) Section 6D (relating to continuation or conversion of coverage).

''(V) Section 6E (relating to discontinuance and replacement of policies).

''(VI) Section 7 (relating to unintentional lapse).

''(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

''(VIII) Section 11 (relating to prohibitions against post-claims underwriting).

''(IX) Section 12 (relating to minimum standards).

''(X) Section 13 (relating to requirement to offer inflation protection).

''(XI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(XII) The provisions of section 28 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4) of this subsection.

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(III) The provisions of section 8 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4) of this subsection.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL REGULATION.—The term 'model regulation' means the long-term care insurance model regulation promulgated by the National Association of Insurance Commissioners (as adopted as of December 2006).

''(ii) MODEL ACT.—The term 'model Act' means the long-term care insurance model Act promulgated by the National Association of Insurance Commissioners (as adopted as of December 2006).

''(iii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(iv) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.''.

(b) EXCISE TAX.—Paragraph (1) of section 4980C(c) of the Internal Revenue Code of 1986 (relating to requirements of model provisions) is amended to read as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

''(i) Section 9 (relating to required disclosure of rating practices to consumer).

''(ii) Section 14 (relating to application forms and replacement coverage).

''(iii) Section 15 (relating to reporting requirements).

''(iv) Section 22 (relating to filing requirements for marketing).

''(v) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

''(vi) Section 24 (relating to suitability).

''(vii) Section 26 (relating to policyholder notifications).

''(viii) Section 27 (relating to the right to reduce coverage and lower premiums).

''(ix) Section 31 (relating to standard format outline of coverage).

''(x) Section 32 (relating to requirement to deliver shopper's guide).

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return).

''(ii) Section 6G (relating to outline of coverage).

''(iii) Section 6H (relating to requirements for certificates under group plans).

''(iv) Section 6J (relating to policy summary).

''(v) Section 6K (relating to monthly reports on accelerated death benefits).

''(vi) Section 7 (relating to incontestability period).

''(vii) Section 9 (relating to producer training requirements).

''(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(g)(2)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued more than 1 year after the date of the enactment of this Act.

TITLE IV—PROMOTING AND PROTECTING COMMUNITY LIVING

SEC. 401. MANDATORY APPLICATION OF SPOUSAL IMPOVERISHMENT PROTECTIONS TO RECIPIENTS OF HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396r-5(h)(1)(A)) is amended by striking ''(at the option of the State)is described in section 1902(a)(10)(A)(ii)(VI)'' and inserting ''is eligible for medical assistance for home and community-based services under subsection (c), (d), (e), (i), or (k) of section 1915''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

SEC. 402. STATE AUTHORITY TO ELECT TO EXCLUDE UP TO 6 MONTHS OF AVERAGE COST OF NURSING FACILITY SERVICES FROM ASSETS OR RESOURCES FOR PURPOSES OF ELIGIBILITY FOR HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by adding at the end the following new subsection:

''(i) STATE AUTHORITY TO EXCLUDE UP TO 6 MONTHS OF AVERAGE COST OF NURSING FACILITY SERVICES FROM HOME AND COMMUNITY-BASED SERVICES ELIGIBILITY DETERMINATIONS.—Nothing in this section or any other provision of this title, shall be construed as prohibiting a State from excluding from any determination of an individual's assets or resources for purposes of determining the eligibility of the individual for medical assistance for home and community-based services under subsection (c), (d), (e), (i), or (k) of section 1915 (if a State imposes an limitation on assets or resources for purposes of eligibility for such services), an amount equal to the product of the amount applicable under subsection (c)(1)(E)(ii)(II) (at the time such determination is made) and such number, not to exceed 6, as the State may elect.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed as affecting a State's option to apply less restrictive methodologies under section 1902(r)(2) for purposes of determining income and resource eligibility for individuals specified in that section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

TITLE V—MISCELLANEOUS

SEC. 501. IMPROVED DATA COLLECTION.

(a) SECRETARIAL REQUIREMENT TO REVISE DATA REPORTING FORMS AND SYSTEMS TO ENSURE UNIFORM AND CONSISTENT REPORTING BY STATES.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall revise CMS Form 372, CMS Form 64, and CMS Form 64.9 (or any successor forms) and the Medicaid Statistical Information Statistics (MSIS) claims processing system to ensure that, with respect to any State that provides medical assistance to individuals under a waiver or State plan amendment approved under subsection (c), (d), (e), (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396n), the State reports to the Secretary, not less than annually and in a manner that is consistent and uniform for all States (and, in the case of medical assistance provided under a waiver or State plan amendment under any such subsection for home and community-based services, in a manner that is consistent and uniform with the data required to be reported for purposes of monitoring or evaluating the provision of such services under the State plan or under a waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide such services) the following data:

(1) The total number of individuals provided medical assistance for such services under each waiver to provide such services conducted by the State and each State plan amendment option to provide such services elected by the State.

(2) The total amount of expenditures incurred for such services under each such waiver and State plan amendment option, disaggregated by expenditures for medical assistance and administrative or other expenditures.

(3) The types of such services provided by the State under each such waiver and State plan amendment option.

(4) The number of individuals on a waiting list (if any) to be enrolled under each such waiver and State plan amendment option or to receive services under each such waiver and State plan amendment option.

(5) With respect to home health services, private duty nursing services, case management services, and rehabilitative services provided under each such waiver and State plan amendment option, the total number of individuals provided each type of such services, the total amount of expenditures incurred for each type of services, and whether

each such service was provided for long-term care or acute care purposes.

(b) PUBLIC AVAILABILITY.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall make publicly available, in a State identifiable manner, the data described in subsection (a) through an Internet website and otherwise as the Secretary determines appropriate.

SEC. 502. GAO REPORT ON MEDICAID HOME HEALTH SERVICES AND THE EXTENT OF CONSUMER SELF-DIRECTION OF SUCH SERVICES.

(a) STUDY.—The Comptroller General of the United States shall study the provision of home health services under State Medicaid plans under title XIX of the Social Security Act. Such study shall include an examination of the extent to which there are variations among the States with respect to the provision of home health services in general under State Medicaid plans, including the extent to which such plans impose limits on the types of services that a home health aide may provide a Medicaid beneficiary and the extent to which States offer consumer self-direction of such services or allow for other consumer-oriented policies with respect to such services.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study conducted under subsection (a), together with such recommendations for legislative or administrative changes as the Comptroller General determines appropriate in order to provide home health services under State Medicaid plans in accordance with identified best practices for the provision of such services.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague Senator KERRY today to introduce the Empowered at Home Act. This bill is a continuation of efforts that I undertook in 2005 to improve access to home and community based services for those needing long-term care. This is an important piece of legislation that continues our efforts to make cost-effective home and community based care options more available to those who need it.

In 2005, I introduced the Improving Long-term Care Choices Act with Senator BAYH. That legislation set forth a series of proposals aimed at improving the accessibility of long-term care insurance and promoting awareness about the protection that long-term care insurance can offer. It also sought to broaden the availability of the types of long-term care services such as home and community-based care, which many people prefer to institutional care.

The year 2005 ended up being a very important year for health policy as it relates to Americans who need extensive care. In the Deficit Reduction Act of 2005, Congress passed into law the Family Opportunity Act, the Money Follows the Person initiative, and many critical pieces of the Improving Long-term Care Choices Act. With the bill I am introducing today with Senator KERRY, I hope to set us on the path to completing the work we started in 2005.

Making our long-term care system more efficient is a critical goal as we consider the future of health care. There are more than 35 million Americans, roughly 12 percent of the U.S. population, over the age of 65. This number is expected to increase dramatically over the next few decades as the baby boomers age and life expectancy increases. According to the U.S. Administration on Aging, by the year 2030, there will be more than 70 million elderly persons in the United States. As the U.S. population ages, more and more Americans will require long-term care services.

The need for long-term care will also be affected by the number of individuals under the age of 65 who may require a lifetime of care. Currently, almost half of all Americans who need long-term care services are individuals with disabilities under the age of 65. This number includes over 5 million working-age adults and approximately 400,000 children.

Long-term care for elderly and disabled individuals, including care at home and in nursing homes, represents almost 40 percent of Medicaid expenditures. Contrary to general assumptions, it is Medicaid, not Medicare, that pays for the largest portion of long-term care for the elderly. Over 65 percent of Medicaid long-term care expenditures support elderly and disabled individuals in nursing facilities and institutions. Although most people who need long-term care prefer to remain at home, Medicaid spending for long-term care remains heavily weighted toward institutional care.

Section 6086 of the Deficit Reduction Act of 2005 (DRA, P.L. 109–171) was based on the Improving Long-term Care Choices Act. The DRA provision authorized a new optional benefit under Medicaid that allows States to extend home and community-based services to Medicaid beneficiaries under the section 1915(i) Home and Community-Based Services State Option. Under this authority, States can offer Medicaid-covered home and community-based services under a State's Medicaid plan without obtaining a section 1915(c) home and community-based waiver. Eligibility for these section 1915(i) services may be extended only to Medicaid beneficiaries already enrolled in the program whose income does not exceed 150 percent of the Federal poverty level.

To date, only one State, my own State of Iowa, has sought to take advantage of the provision authorized through the DRA. While we had hoped far more States would participate, we know that the relatively low income cap, 150 percent, in the DRA provision creates an administrative complexity that has not made the option appealing for States.

In this bill we are introducing today, the income eligibility standard would be raised for access to covered services under section 1915(i) to persons who qualify for Medicaid because their income does not exceed a specified level established by the State up to 300 percent of the maximum Supplemental Security Income, SSI, payment applicable to a person living at home. This will significantly increase the number of people eligible for these services. States will be able to align their institutional and home and community-based care income eligibility levels.

The bill would also establish two new optional eligibility pathways into Medicaid. These groups would be eligible for section 1915(i) home and community-based services as well as services offered under a State's broader Medicaid program. Under this bill, States with an approved 1915(k) State plan amendment would have the option to extend Medicaid eligibility to individuals: (1) who are not otherwise eligible for medical assistance; (2) whose income does not exceed 300 percent of the supplemental security income benefit rate; and (3) who would satisfy State-established needs-based criteria based upon a State's determination that the provision of home and community-based services would reasonably be expected to prevent, delay, or decrease the need for institutionalized care. Under this new eligibility pathway, States could choose to either limit Medicaid benefits to those home and community-based services offered under section 1915(k) or allow eligibles to access services available under a State's broader Medicaid program in addition to the 1915(k) benefits. These changes will give the States the option of exploring the use of an interventional use of home and community-based services. If States have the flexibility to provide the benefit as contemplated in the bill, they can try to delay the need for institutional care and people in their homes longer.

As the number of Americans reaching retirement age grows proportionally larger, ultimately the number of Americans needing more extensive care will grow. Many of those Americans will look to Medicaid for assistance. States need more tools to provide numerous options to people in need so that they can stay in their own homes as long as possible.

The cost of providing long-term care in an institutional setting is far more expensive care than providing care in the home. States will benefit from having options before them that allow them to keep people appropriately in home settings longer. The more States learn how to use those tools, the more states and ultimately the Federal taxpayer will benefit from reduced costs for institutional care.

I am also pleased that this bill will include key provisions from S. 2337, the Long-Term Care Affordability and Security Act of 2007. The bill includes important tax provisions that I introduced in previous Congresses as well—most recently, the Improving Long-term Care Choices Act of 2005, introduced in the 109 Congress.

Research shows that the elderly population will nearly double by 2030. By 2050, the population of those aged 85

and older will have grown by more than 300 percent. Research also shows that the average age at which individuals need long-term care services, such as home health care or a private room at a nursing home, is 75. Currently, the average annual cost for a private room at a nursing home is more than $75,000. This cost is expected to be in excess of $140,000 by 2030.

Based on these facts, we can see that our Nation needs to prepare its citizens for the challenges they may face in old age. One way to prepare for these challenges is by encouraging more Americans to obtain long-term care insurance coverage. To date, only 10 percent of seniors have long-term care insurance policies, and only 7 percent of all private-sector employees are offered long-term care insurance as a voluntary benefit.

Under current law, employees may pay for certain health-related benefits, which may include health insurance premiums, co-pays, and disability or life insurance, on a pre-tax basis under cafeteria plans and flexible spending arrangements, ''FSAs''. Essentially, an employee may elect to reduce his or her annual salary to pay for these benefits, and the employee doesn't pay taxes on the amounts used to pay these costs. Employees, however, are explicitly prohibited from paying for the cost of long-term care insurance coverage tax free.

Our bill would allow employers, for the first time, to offer qualified long-term care insurance to employees under FSAs and cafeteria plans. This means employees would be permitted to pay for qualified long-term care insurance premiums on a tax-free basis. This would make it easier for employees to purchase long-term care insurance, which many find unaffordable. This should also encourage younger individuals to purchase long-term care insurance. The younger the person is at the time the long-care insurance contract is purchased, the lower the insurance premium.

Our bill also allows an individual taxpayer to deduct the cost of their long-term care insurance policy. In other words, the individual can reduce their gross income by the premiums that they pay for a long-term care policy, and therefore, pay less in taxes. This tax benefit for long-term care insurance should encourage more individuals to purchase these policies. It certainly makes a policy more affordable, especially for younger individuals. This would allow a middle-aged taxpayer to start planning for the future now.

Finally, a provision that is included in our bill that I am really proud of is one that provides a tax credit to long-term caregivers. Long-term caregivers could include the taxpayer, him- or herself. Senator KERRY and I recognize that these taxpayers—who have long-term care needs, yet are taking care of themselves—should be provided extra assistance. Also, taxpayers taking care of a family member with long-term care needs would also be eligible for the tax credit. These taxpayers should be given a helping hand. As our population continues to age, the least that we can do is provide a tax benefit for these struggling individuals.

By Mrs. FEINSTEIN (for herself and Mr. SMITH):

S. 3330. A bill to amend the Internal Revenue Code of 1986 to modify the deduction for domestic production activities for film and television productions, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to stimulate domestic film production and create jobs. I am pleased to be joined by my colleague from Oregon, Senator GORDON SMITH.

Our bill, the Domestic Film Production Equity Act of 2008, would expand a tax deduction, known as the section 199 domestic production incentive, for qualifying U.S. film producers.

In 2008, this deduction will be worth 6 percent of a domestic manufacturer's qualifying production activities. It will increase to nine percent in 2010.

Specifically, our bill would expand the production incentive to allow studios to include wages paid to full-time short-term employees, including U.S. actors, writers, directors, and production personnel in determining the limit on the deduction amount.

The bill will treat films produced by partnerships between several studios as qualified property, each partner must have at least 20 percent interest in a project to qualify.

The bill will deduct income from the licensing of copyrights and trademarks relating to films; and lastly, the bill will deduct income from films and TV programs broadcast over the Internet.

Most film production companies receive only a limited benefit from the production incentive because the industry relies heavily on short-term contract work, and because many films are produced by multiple studios through partnerships.

As a matter of fairness, these domestic production incentives should be extended to fully benefit an industry that employs over 1.3 million Americans.

Filming a movie is different than traditional domestic manufacturing because short-term contract workers, including actors, writers, directors, and production personnel often work full-time on projects; multiple studios often produce one project; studios generate significant licensing fees associated with copyrights and trademarks related to films; and a number of media, including the Internet may be used to view each film or production.

Our bill takes these circumstances into account to modernize this section of the tax code.

The film industry is an important asset to the American economy.

More than 1.3 million Americans work in motion picture and television production.

In 2005, these jobs provided $30.24 billion in wages, with employees earning an average salary of $73,000.

Of these employees, 231,000 were short-term contractors, often working multiple projects each year.

California was the primary location for 365 film productions in 2005. This generated $42.2 billion in economic activity for my State.

Our bill would help studios continue to provide opportunities to these talented actors, writers, directors, and production personnel in America.

Expanding the Section 199 deduction to include these four categories is also a response to the competitive business of captivating an increasingly technology-adept viewing audience.

The film industry, like the music industry, is increasingly seeing their sales move to digital formats via the internet. On iTunes—an online digital music store operated by Apple—around 50,000 movies are rented or sold each day.

Moreover, by not allowing film studios to take advantage of domestic production tax incentives, we risk losing more operations abroad.

For example, Canada currently provides domestic film producers with a tax credit worth 15 percent of qualifying production costs. Foreign studios with operations in Canada may also receive a tax credit worth up to 16 percent of wages paid to Canadian residents.

The film industry plays a unique role in our society.

The world recognizes Hollywood as the center of the entertainment industry. Millions of tourists annually travel from across the globe to visit the sites that embody the golden age of film.

Hollywood film studios are American institutions that continue to produce some of the finest films in the world.

Needless to say, it is critical that studios continue to film in my State and across the country. If not, the golden age of Hollywood and the economic activity it brings may be a part of the past.

We are fortunate to have a vibrant domestic film industry.

This legislation will help ensure that the U.S. entertainment industry continues to be the world leader.

American workers and our economy stand to benefit.

Efforts to expand the production incentive for domestic films have enjoyed broad bi-partisan support. Our bill is similar to a provision included in the tax extenders package which passed the House overwhelmingly by a vote of 263–160 in May.

I am hopeful that the Senate will move quickly to enact this much-needed modernization of the tax code.

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. 3330

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 ''Domestic Film Production Equity Act of 2008''.

SEC. 2. PROVISIONS RELATED TO FILM AND TELEVISION PRODUCTIONS.

(a) MODIFICATIONS TO DEDUCTION FOR DOMESTIC ACTIVITIES.—

(1) DETERMINATION OF W-2 WAGES.—Paragraph (2) of section 199(b) of the Internal Revenue Code of 1986 (relating to W-2 wages) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFIED FILM.—In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.''.

(2) DEFINITION OF QUALIFIED FILM.—Paragraph (6) of section 199(c) of such Code (relating to qualified film) is amended by adding at the end the following: ''A qualified film shall include any copyrights, trademarks, or other intangibles with respect to such film. The methods and means of distributing a qualified film shall not affect the availability of the deduction under this section.''.

(3) PARTNERSHIPS.—Subparagraph (A) of section 199(d)(1) of such Code (relating to partnerships and S corporations) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of each partner of a partnership, or shareholder of an S corporation, who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or of the stock of such S corporation—

''(I) such partner or shareholder shall be treated as having engaged directly in any film produced by such partnership or S corporation, and

''(II) such partnership or S corporation shall be treated as having engaged directly in any film produced by such partner or shareholder.''.

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

By Mr. BAUCUS (for himself and Mr. CRAPO):

S. 3331. A bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am pleased today to join with my friend Senator CRAPO to introduce an important piece of legislation that would help to strengthen the financial health of America's firearm and ammunition manufacturers, who in turn support wildlife conservation in America.

The firearm and ammunition industry pays a Federal excise tax of 11 percent on long guns and ammunition and 10 percent on handguns. The Tax and Trade Bureau in the Treasury Department collects this tax. The Bureau sends the proceeds to the U.S. Fish and Wildlife Service, where they are deposited into the Wildlife Restoration Trust Fund, also known as the Pittman-Robertson Trust Fund.

The tax is a major source of conservation funding in America. Since 1991, the firearm and ammunition industry has contributed about $3 billion to the Pittman-Robertson Fund.

Of all the industries that pay excise taxes on the sale of their products to support wildlife conservation efforts, firearms and ammunition manufacturers are the only ones that have to pay excise taxes every 2 weeks. Other industries, such as archery and fishing, pay their tax every 3 months.

This frequent payment obligation imposes a costly and inequitable burden on the firearms and ammunition industry. Manufacturers spend thousands of additional man-hours just to administer the paperwork associated with making the bi-weekly excise payments.

According to the National Shooting Sports Foundation, changing the deposit schedule from a bi-weekly to quarterly payment would save the industry an estimated $21.6 million dollars a year. That's money that the industry could use for investment in researching and developing new products, purchasing new manufacturing plants and equipment, and communicating with the hunting and shooting sports community.

Let me take a moment to explain what this legislation does not do. It does not reduce the firearm and ammunition industry's excise tax rates. It simply adds fairness to the tax code.

It is important for my Colleagues to understand the history and nature of the firearm and ammunition excise tax. During the Great Depression, hunters and conservationists recognized that overharvesting of wildlife would destroy America's treasured wildlife and natural habitats. Sportsmen, state wildlife agencies, and the firearm and ammunition industries lobbied Congress to extend the existing 10 percent excise tax and impose a new 11 percent excise tax to create a new fund. The fund was called the Pittman-Robertson Trust Fund after Senator Key Pittman of Nevada and Representative A. Willis Robertson of Virginia. President Franklin D. Roosevelt signed the legislation into law in 1937.

The industry, hunters, and conservationists came together to create this structure. They recognized the importance of conservation. And they encouraged Congress to impose a tax on their guns and ammo. It is a rare thing when taxpayers ask to be taxed. But preserving our country's wildlife habitat was and continues to be that important.

Today, more than $700 million each year is generated and used exclusively to establish, restore, and protect wildlife habitats.

Now let me explain the effect that the bill we are introducing today would have on the Pittman-Robertson Trust Fund. As the Joint Committee on Taxation explained in its revenue estimate, the net budget effect to the fund is $4 million. This is purely a result of the shift in the timing of collections, from bi-weekly to quarterly, over a 10-year budget window. Consumers of firearms and ammunition would still pay the exact same amount of tax.

The firearm and ammunition industry recognizes the 10-year $4 million loss to the trust fund. The industry developed a comprehensive 5-year proposal to ease this effect. Under the proposal, the industry would contribute $150,000 a year for the next 5 years, a total of $750,000, to the fund.

These actions again show the partnership between hunters, conservation groups, and the firearm and ammunition industry to protect conservation programs and initiatives. That is why this legislation is supported by the following groups: Archery Trade Association; Association of Fish and Wildlife Agencies; Boon and Young; Congressional Sportsmen's Foundation; Delta Waterfowl; Ducks Unlimited; National Rifle Association; National Shooting Sports Foundation, Inc.; National Wild Turkey Federation; North American Wetlands Conservation Council; Pheasants Forever; Rocky Mountain Elk Foundation; Safari Club International; Wildlife Management Institute; U.S. Fish and Wildlife Service; U.S. Sportsmen's Alliance.

I urge my Colleagues to support this legislation. I hope that we can come together, just as the industry, hunters, and conservation groups have, to pass this legislation. It's a matter of tax fairness. Let us do our part to correct this inequity in the tax code. Let us do our part to support an American business that in turn supports wildlife habitat restoration and conservation.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 3333. A bill to amend the Whaling Convention Act so that it expressly applies to aboriginal subsistence whaling, and in particular, authorizes the Secretary of Commerce to set bowhead whale catch limits in the event that the IWC fails to adopt such limits; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, currently, annual catch limits for subsistence whaling by Alaskan natives is set through periodic negotiations of the international whaling commission. In setting the quota, the IWC has tremendous power to influence the lives—even the survival—of these aboriginal communities.

For over 30 years I have worked with the International Whaling Commission to secure the right for native Alaskans to hunt bowhead whales and preserve their subsistence lifestyle. Currently, native Alaskans living in 10 villages on Alaska's north slope and St. Lawrence Island carry forward an ancient tradition of harvesting small numbers of bowhead whales. Not only do these whales serve as a primary source of food for the communities, but they define their very identity and culture.

The Alaska natives who rely on this subsistence hunt have complied with the mandates passed down from the IWC to ensure a sustainable and humane harvest. In fact, since the IWC

began regulating these catches, the number of bowhead whales in the Arctic has risen substantially.

The IWC, however, may not always produce the bowhead quota upon which Alaska natives depend due to political games. Over the last several years, I have seen other nations attempt to influence the U.S. position on other whaling issues at the IWC by specifically interfering with the native Alaskans bowhead quota votes. This is unacceptable. Any positions on whaling issues under IWC's purview need to be debated on their own merits. It is unthinkable to allow other countries to use The health and welfare of our Alaska natives, whose lives depend on this hunt, as leverage for influencing U.S. positions on other IWC matters.

The legislation I am introducing will ensure that native Alaskans maintain their rights to engage in subsistence whaling—an ancient practice vital to their culture and survival. This bill would amend the Whaling Convention Act of 1949 to authorize the Secretary of Commerce to issue bowhead whale catch limits for aboriginal subsistence whaling in Alaska native communities.

This bill ensures that the U.S. will continue to seek and negotiate bowhead whaling quota through the IWC. But if the IWC is unable to issue bowhead whaling quota, the Secretary of Commerce could then issue domestic aboriginal subsistence whaling permits. Such action would need to ensure consistency with IWC rules on subsistence whaling ensuring safe, sustainable, and humane hunts, and the harvest must not exceed the original subsistence needs recommended by the U.S.

The IWC has the great responsibility of ensuring that any subsistence whaling, now or in the future, is carried out in a scientifically sound and sustainable manner. I continue to support the IWC's efforts on this vital issue. yet the United States must also protect the rights of our native communities to continue their ancient subsistence bowhead harvesting. This bill strikes the proper balance between supporting IWC work and protecting our Alaska native communities. I thank my colleagues for considering this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 622—DESIGNATING THE WEEK BEGINNING SEPTEMBER 7, 2008, AS ''NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK''

Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BIDEN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Mr. CARDIN, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SESSIONS, Mr. SPECTER, Mr. VITTER, Mr. WARNER, and Mr. WICKER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 622

Whereas there are 103 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 7, 2008, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

SENATE RESOLUTION 623—RECOGNIZING THE IMPORTANCE OF THE ROLE OF THE LANDER TRAIL IN THE SETTLEMENT OF THE AMERICAN WEST ON THE 150TH ANNIVERSARY OF THE LANDER TRAIL

Mr. ENZI (for himself and Mr. BARRASSO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 623

Whereas Frederick W. Lander first surveyed and supervised construction of the Lander Trail in 1858 to provide emigrants with a travelable link between the Oregon and California Trails;

Whereas 13,000 emigrants traveled on the Lander Trail during the settlement of the Western United States;

Whereas the Lander Trail was the first Federal road west of the Mississippi River;

Whereas travelers in the American West used the Lander Trail for 54 years until 1912; and

Whereas people can still experience the Lander Trail in the same setting that Frederick W. Lander first began construction in 1858: Now, therefore, be it

Resolved, That the Senate honors the important role of the Lander Trail in the settlement of the Western United States on the sesquicentennial anniversary of the Lander Trail.

Mr. ENZI. Mr. President, I rise today to recognize a part of Wyoming's history that is celebrating its one hundred and fiftieth anniversary this year. The Lander Trail, which runs for 256 miles from South Pass, WY, to Fort Hall, ID, was an important part of the expansion of the American West in the 1800s when people took up the challenge to ''go west'' and settle new territory. In 1858, Frederick W. Lander began surveying and construction for the first federally funded road west of the Mississippi to provide a better route for emigrants headed to California, Oregon, and a new life on the frontier. Today, I would like to recognize the historical role the Lander Trail played in Wyoming and the American West.

It was tough going for emigrants going west in the 1850s. The dangerous journey halfway across the country could take 6 months or more. After the Lander Trail was completed, it was a better road through easier territory. Emigrants headed to California or Oregon could cut 7 days off their journey by following the Lander Trail, and there were good sources of food, water, and forage for livestock along the way. Thirteen thousand people traveled the Lander Trail on their way to homestead in western territories or to pan for gold in California. The Lander Trail is part of the National Historic Trails system and is listed on the National Register of Historic Places.

The Lander Trail can still be seen today in Wyoming and the land looks almost the same as it did when Frederick Lander first started surveying it. The work of groups in Wyoming like the Lander Trail Foundation have ensured that the history of this unique piece of my State is being preserved and that people today can go and see and experience the Lander Trail. I would like to take this opportunity to recognize the role that the Lander Trail has played in the history of my State of Wyoming and the settlement of the American West.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5114. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table.

SA 5115. Mr. DOMENICI (for himself, Mr. VOINOVICH, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5116. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5117. Mr. DOMENICI (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5118. Mr. DOMENICI (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5119. Mr. GRAHAM (for himself, Mr. KYL, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5120. Mr. GRAHAM submitted an amendment intended to be proposed by him

to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5121. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5122. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5123. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5124. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5125. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5126. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5128. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5129. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5130. Mr. ENSIGN (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5131. Mr. BUNNING (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5132. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5133. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5134. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5135. Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN , Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON, of Florida, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5136. Mr. GREGG (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5137. Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5138. Mr. BARRASSO (for himself, Mr. BUNNING, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5139. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5140. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5141. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5142. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5143. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5144. Mr. MARTINEZ (for himself, Ms. COLLINS, Mrs. FEINSTEIN, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5145. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5146. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5147. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5148. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5149. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5150. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5151. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5152. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5153. Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5154. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5155. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5156. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5157. Mr. ENZI (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5158. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5159. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5160. Mr. STEVENS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5161. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5162. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5163. Mr. WARNER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5164. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5165. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5166. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5167. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5168. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5169. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5170. Mr. SMITH (for himself, Mr. CRAIG, Mr. STEVENS, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5171. Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5172. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5173. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5174. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5175. Mr. INHOFE (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5176. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5177. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5178. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5179. Mr. GRAHAM (for himself, Mr. KYL, Mr. MCCAIN, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5180. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S.

3268, supra; which was ordered to lie on the table.

SA 5181. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5182. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5183. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5184. Mr. REED (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5185. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5186. Ms. CANTWELL (for herself, Mr. LIEBERMAN, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5187. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5188. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5189. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5190. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5191. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5192. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5162 submitted by Mr. WARNER (for himself and Mr. WEBB) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5193. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5194. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5195. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5196. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5197. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5198. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5199. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5200. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5201. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5202. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5203. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5204. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5205. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5206. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

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SA 5210. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5211. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5212. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5213. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5214. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5215. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5216. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

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SA 5220. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5221. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5222. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

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SA 5231. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5232. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

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SA 5244. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5245. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5246. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 5135 submitted by Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida, and Ms. KLOBUCHAR) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5114. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR SCIENTIFIC INVENTORY OF OIL AND GAS RESERVES.

Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended by adding at the end the following:

''(e) FUNDING.—On October 1, 2008, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior $500,000,000 to carry out this section, without further appropriation or fiscal year limitation.''.

SA 5115. Mr. DOMENICI (for himself, Mr. VOINOVICH, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

SEC. ___. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

SA 5116. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Energy Production 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. Definition of Secretary.

TITLE I—TRADITIONAL RESOURCES

Subtitle A—Outer Continental Shelf

Sec. 101. Publication of projected State lines on outer Continental Shelf.
Sec. 102. Production of oil and natural gas in new producing areas.
Sec. 103. Conforming amendment.

Subtitle B—Leasing Program for Land Within Coastal Plain

Sec. 111. Definitions.
Sec. 112. Leasing program for land within the Coastal Plain.
Sec. 113. Lease sales.
Sec. 114. Grant of leases by the Secretary.
Sec. 115. Lease terms and conditions.
Sec. 116. Coastal Plain environmental protection.
Sec. 117. Expedited judicial review.
Sec. 118. Rights-of-way and easements across Coastal Plain.
Sec. 119. Conveyance.
Sec. 120. Local government impact aid and community service assistance.
Sec. 121. Prohibition on exports.
Sec. 122. Allocation of revenues.

Subtitle C—Permitting

Sec. 131. Refinery permitting process.
Sec. 132. Removal of additional fee for new applications for permits to drill.

Subtitle D—Restoration of State Revenue

Sec. 141. Restoration of State revenue.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

Sec. 201. Definition of renewable biomass.

Sec. 202. Advanced battery manufacturing incentive program.
Sec. 203. Biofuels infrastructure and additives research and development.
Sec. 204. Study of increased consumption of ethanol-blended gasoline with higher levels of ethanol.
Sec. 205. Study of diesel vehicle attributes.
Subtitle B—Clean Coal-Derived Fuels for Energy Security
Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Clean coal-derived fuel program.
Subtitle C—Oil Shale
Sec. 221. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.
Subtitle D—Department of Defense Facilitation of Secure Domestic Fuel Development
Sec. 231. Procurement and acquisition of alternative fuels.
Sec. 232. Multiyear contract authority for the Department of Defense for the procurement of synthetic fuels.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of Energy.

TITLE I—TRADITIONAL RESOURCES

Subtitle A—Outer Continental Shelf

SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the American Energy Production Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each

applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

SEC. 103. CONFORMING AMENDMENT.

Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

Subtitle B—Leasing Program for Land Within Coastal Plain

SEC. 111. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 113. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons,

taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 114. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 113 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 115. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 112(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 112, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 117. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 119. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 122(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 122(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 121. PROHIBITION ON EXPORTS.

An oil lease issued under this subtitle shall prohibit the exportation of oil produced under the lease.

SEC. 122. ALLOCATION OF REVENUES.

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, of the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle:

(1) 50 percent shall be deposited in the general fund of the Treasury.

(2) The remainder shall be available as follows:

(A) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section 120(a)(1).

(B) The remainder shall be disbursed to the State of Alaska.

Subtitle C—Permitting

SEC. 131. REFINERY PERMITTING PROCESS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

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

(3) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated authority by the Federal Government, or authorized under Federal law, to issue permits.

(4) REFINER.—The term ''refiner'' means a person that—

(A) owns or operates a refinery; or

(B) seeks to become an owner or operator of a refinery.

(5) REFINERY.—

(A) IN GENERAL.—The term ''refinery'' means—

(i) a facility at which crude oil is refined into transportation fuel or other petroleum products; and

(ii) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other fuel.

(B) INCLUSIONS.—The term ''refinery'' includes an expansion of a refinery.

(6) REFINERY EXPANSION.—The term ''refinery expansion'' means a physical change in a refinery that results in an increase in the capacity of the refinery.

(7) REFINERY PERMITTING AGREEMENT.—The term ''refinery permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(b) STREAMLINING OF REFINERY PERMITTING PROCESS.—

(1) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a refinery permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a refinery shall be streamlined using a systematic interdisciplinary multimedia approach as provided in this section.

(2) AUTHORITY OF ADMINISTRATOR.—Under a refinery permitting agreement—

(A) the Administrator shall have authority, as applicable and necessary, to—

(i) accept from a refiner a consolidated application for all permits that the refiner is required to obtain to construct and operate a refinery;

(ii) in consultation and cooperation with each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit, establish a schedule under which each agency shall—

(I) concurrently consider, to the maximum extent practicable, each determination to be made; and

(II) complete each step in the permitting process; and

(iii) issue a consolidated permit that combines all permits issued under the schedule established under clause (ii); and

(B) the Administrator shall provide to State and Indian tribal government agencies—

(i) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under subparagraph (A)(ii); and

(ii) technical, legal, and other assistance in complying with the refinery permitting agreement.

(3) AGREEMENT BY THE STATE.—Under a refinery permitting agreement, a State or governing body of an Indian tribe shall agree that—

(A) the Administrator shall have each of the authorities described in paragraph (2); and

(B) each State or Indian tribal government agency shall—

(i) in accordance with State law, make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(ii) comply, to the maximum extent practicable, with the applicable schedule established under paragraph (2)(A)(ii).

(4) DEADLINES.—

(A) NEW REFINERIES.—In the case of a consolidated permit for the construction of a new refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under clause (i).

(B) EXPANSION OF EXISTING REFINERIES.—In the case of a consolidated permit for the expansion of an existing refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under clause (i).

(5) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under paragraph (2)(A)(ii).

(6) JUDICIAL REVIEW.—Any civil action for review of any permit determination under a refinery permitting agreement shall be brought exclusively in the United States district court for the district in which the refinery is located or proposed to be located.

(7) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this title.

(8) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a refinery are not approved on or before any deadline established under paragraph (4), the Administrator may issue a consolidated permit that combines all other permits that the refiner is required to obtain other than any permits that are not approved.

(9) SAVINGS.—Nothing in this subsection affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a refinery.

(10) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(12) EFFECT ON LOCAL AUTHORITY.—Nothing in this subsection affects—

(A) the authority of a local government with respect to the issuance of permits; or

(B) any requirement or ordinance of a local government (such as a zoning regulation).

(c) FISCHER-TROPSCH FUELS.—

(1) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(A) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(B) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(C) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuel for reducing public exposure to exhaust emissions.

(2) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(3) REQUIREMENTS.—The program described in paragraph (1) shall consider—

(A) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(B) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(4) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(A) not later than 1 year, an interim report on actions taken to carry out this subsection; and

(B) not later than 2 years, a final report on actions taken to carry out this subsection.

SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLICATIONS FOR PERMITS TO DRILL.

The second undesignated paragraph of the matter under the heading ''MANAGEMENT OF LANDS AND RESOURCES'' under the heading ''BUREAU OF LAND MANAGEMENT'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2098) is amended by striking ''to be reduced'' and all that follows through ''each new application,''.

Subtitle D—Restoration of State Revenue

SEC. 141. RESTORATION OF STATE REVENUE.

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2109) is amended by striking ''Notwithstanding'' and all that follows through ''Treasury.''.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

SEC. 201. DEFINITION OF RENEWABLE BIOMASS.

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended by striking subparagraph (I) and inserting the following:

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) nonmerchantable materials or precommercial thinnings that—

''(I) are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore forest health;

''(II) would not otherwise be used for higher-value products; and

''(III) are harvested from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702))—

''(aa) where permitted by law; and

''(bb) in accordance with applicable land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) and the requirements for large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

''(ii) any organic matter that is available on a renewable or recurring basis from non-Federal land or from land belonging to an Indian tribe, or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste material (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure); and

''(dd) food waste and yard waste.''.

SEC. 202. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) incorporation of qualifying components into the design of advanced batteries; and

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

(e) FEES.—The cost of administering a loan made under this section shall not exceed $100,000.

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

SEC. 203. BIOFUELS INFRASTRUCTURE AND ADDITIVES RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Assistant Administrator of the Office of Research and Development of the Environmental Protection Agency (referred to in this section as the ''Assistant Administrator''), in consultation with the Secretary and the National Institute of Standards and Technology, shall carry out a program of research and development of materials to be added to biofuels to make the biofuels more compatible with infrastructure used to store and deliver petroleum-based fuels to the point of final sale.

(b) REQUIREMENTS.—In carrying out the program described in subsection (a), the Assistant Administrator shall address—

(1) materials to prevent or mitigate—

(A) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(B) dissolving of storage tank sediments;

(C) clogging of filters;

(D) contamination from water or other adulterants or pollutants;

(E) poor flow properties relating to low temperatures;

(F) oxidative and thermal instability in long-term storage and use; and

(G) microbial contamination;

(2) problems associated with electrical conductivity;

(3) alternatives to conventional methods for refurbishment and cleaning of gasoline and diesel tanks, including tank lining applications;

(4) strategies to minimize emissions from infrastructure;

(5) issues with respect to certification by a nationally recognized testing laboratory of components for fuel-dispensing devises that specifically reference compatibility with alcohol-blended fuels and other biofuels that contain greater than 15 percent alcohol;

(6) challenges for design, reforming, storage, handling, and dispensing hydrogen fuel from various feedstocks, including biomass, from neighborhood fueling stations, including codes and standards development necessary beyond that carried out under section 809 of the Energy Policy Act of 2005 (42 U.S.C. 16158);

(7) issues with respect to at which point in the fuel supply chain additives optimally should be added to fuels; and

(8) other problems, as identified by the Assistant Administrator, in consultation with the Secretary and the National Institute of Standards and Technology.

SEC. 204. STUDY OF INCREASED CONSUMPTION OF ETHANOL-BLENDED GASOLINE WITH HIGHER LEVELS OF ETHANOL.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, and after providing notice and an opportunity for public comment, shall conduct a study of the feasibility of increasing consumption in the United States of ethanol-blended gasoline with levels of ethanol that are not less than 10 percent and not more than 40 percent.

(b) STUDY.—The study under subsection (a) shall include—

(1) a review of production and infrastructure constraints on increasing consumption of ethanol;

(2) an evaluation of the economic, market, and energy-related impacts of State and regional differences in ethanol blends;

(3) an evaluation of the economic, market, and energy-related impacts on gasoline retailers and consumers of separate and distinctly labeled fuel storage facilities and dispensers;

(4) an evaluation of the environmental impacts of mid-level ethanol blends on evaporative and exhaust emissions from on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(5) an evaluation of the impacts of mid-level ethanol blends on the operation, durability, and performance of on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(6) an evaluation of the safety impacts of mid-level ethanol blends on consumers that own and operate off-road and marine engines, recreational boats, vehicles, or equipment; and

(7) an evaluation of the impacts of increased use of renewable fuels derived from food crops on the price and supply of agricultural commodities in both domestic and global markets.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

SEC. 205. STUDY OF DIESEL VEHICLE ATTRIBUTES.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E–85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Clean Coal-Derived Fuels for Energy Security

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) CLEAN COAL-DERIVED FUEL.—

(A) IN GENERAL.—The term ''clean coal-derived fuel'' means aviation fuel, motor vehicle fuel, home heating oil, or boiler fuel that is—

(i) substantially derived from the coal resources of the United States; and

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

(B) INCLUSIONS.—The term ''clean coal-derived fuel'' may include any other resource that is extracted, grown, produced, or recovered in the United States.

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

(i) the requirements of this subsection are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this subtitle result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0.

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

(i) the impact of clean coal-derived fuels on the energy security of the United States;

(ii) the expected annual rate of future production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

(B) REQUIRED ELEMENTS.—The clean coal-derived fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

(c) VOLUME CONVERSION FACTORS FOR CLEAN COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

(2) ENERGY CONTENT RELATIVE TO DIESEL FUEL.—For clean coal-derived fuels, 1 gallon of the clean coal-derived fuel shall be considered to be the equivalent of 1 gallon of diesel fuel multiplied by the ratio that—

(A) the number of British thermal units of energy produced by the combustion of 1 gallon of the clean coal-derived fuel (as measured under conditions determined by the Secretary); bears to

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days after the date on which the petition is received by the President.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate after 1 year, but may be renewed by the President after consultation with the Secretary and the Administrator of the Environmental Protection Agency.

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply to small refineries until calendar year 2018.

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

(ii) the amount of economic benefit or savings received by the person resulting from the violation, as determined by the President.

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

(A) IN GENERAL.—The district courts of the United States shall have jurisdiction to—

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

(B) ACTIONS.—An action to restrain such violations and compel such actions shall be brought by and in the name of the United States.

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

Subtitle C—Oil Shale

SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

Subtitle D—Department of Defense Facilitation of Secure Domestic Fuel Development

SEC. 231. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

SEC. 232. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2410r. Multiyear contract authority: purchase of synthetic fuels

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

SA 5117. Mr. DOMENICI (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—CLEAN COAL-DERIVED FUELS FOR ENERGY SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

SEC. 202. DEFINITIONS.

In this title:

(1) CLEAN COAL-DERIVED FUEL.—

(A) IN GENERAL.—The term ''clean coal-derived fuel'' means aviation fuel, motor vehicle fuel, home heating oil, or boiler fuel that is—

(i) substantially derived from the coal resources of the United States; and

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

(B) INCLUSIONS.—The term ''clean coal-derived fuel'' may include any other resource that is extracted, grown, produced, or recovered in the United States.

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(4) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

SEC. 203. CLEAN COAL-DERIVED FUEL PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in

noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

(i) the requirements of this subsection are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this title result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0.

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

(i) the impact of clean coal-derived fuels on the energy security of the United States;

(ii) the expected annual rate of future production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

(B) REQUIRED ELEMENTS.—The clean coal-derived fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

(c) VOLUME CONVERSION FACTORS FOR CLEAN COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

(2) ENERGY CONTENT RELATIVE TO DIESEL FUEL.—For clean coal-derived fuels, 1 gallon of the clean coal-derived fuel shall be considered to be the equivalent of 1 gallon of diesel fuel multiplied by the ratio that—

(A) the number of British thermal units of energy produced by the combustion of 1 gallon of the clean coal-derived fuel (as measured under conditions determined by the Secretary); bears to

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days after the date on which the petition is received by the President.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate after 1 year, but may be renewed by the President after consultation with the Secretary and the Administrator of the Environmental Protection Agency.

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply to small refineries until calendar year 2018.

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

(ii) the amount of economic benefit or savings received by the person resulting from the violation, as determined by the President.

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

(A) IN GENERAL.—The district courts of the United States shall have jurisdiction to—

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

(B) ACTIONS.—An action to restrain such violations and compel such actions shall be brought by and in the name of the United States.

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

SEC. 204. STUDY OF DIESEL VEHICLE ATTRIBUTES.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E–85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE III—ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES

SEC. 301. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; or

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

SA 5118. Mr. DOMENICI (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2410r. Multiyear contract authority: purchase of synthetic fuels

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

SA 5119. Mr. GRAHAM (for himself, Mr. KYL, and Mr. MCCAIN) submitted an amendment intended to be proposed

by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—NUCLEAR POWER GENERATION

Subtitle A—Nuclear Power Technology and Manufacturing

SEC. __01. DEFINITIONS.

In this subtitle:

(1) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the costs of engineering tasks relating to—

(A) the redesign of manufacturing processes to produce qualifying components and nuclear power generation technologies;

(B) the design of new tooling and equipment for production facilities that produce qualifying components and nuclear power generation technologies; and

(C) the establishment or expansion of manufacturing operations for qualifying components and nuclear power generation technologies.

(2) NUCLEAR POWER GENERATION.—The term ''nuclear power generation'' means generation of electricity by an electric generation unit that—

(A) emits no carbon dioxide into the atmosphere;

(B) uses uranium as its fuel source; and

(C) was placed into commercial service after the date of enactment of this Act.

(3) NUCLEAR POWER GENERATION TECHNOLOGY.—The term ''nuclear power generation technology'' means a technology used to produce nuclear power generation.

(4) QUALIFYING COMPONENT.—The term ''qualifying component'' means a component that the Secretary of Energy determines to be specially designed for nuclear power generation technology.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. __02. FINANCIAL INCENTIVES PROGRAM.

(a) IN GENERAL.—For each fiscal year beginning on or after October 1, 2010, the Secretary shall competitively award financial incentives under this subtitle in the following technology categories:

(1) The production of electricity from new nuclear power generation.

(2) Facility establishment or conversion by manufacturers and suppliers of nuclear power generation technology and qualifying components.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall make awards under this section to—

(A) domestic producers of new nuclear power generation;

(B) manufacturers and suppliers of nuclear power generation technology and qualifying components; and

(C) owners or operators of existing nuclear power generation facilities.

(2) BASIS FOR AWARDS.—The Secretary shall make awards under this section—

(A) in the case of producers of new nuclear power generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated;

(B) in the case of manufacturers and suppliers of nuclear power generation technology and qualifying components, based on the criteria described in section __04; and

(C) in the case of owners or operators of existing nuclear power generating facilities, based upon criteria described in section __04.

(3) ACCEPTANCE OF BIDS.—In making awards under this subsection, the Secretary shall—

(A) solicit bids for reverse auction from appropriate producers, manufacturers, and suppliers, as determined by the Secretary; and

(B) award financial incentives to the producers, manufacturers, and suppliers that submit the lowest bids that meet the requirements established by the Secretary.

SEC. __03. FORMS OF AWARDS.

(a) NUCLEAR POWER GENERATORS.—

(1) IN GENERAL.—An award for nuclear power generation under this subtitle shall be in the form of a contract to provide a production payment for commercial service of the generation unit in an amount equal to the product obtained by multiplying—

(A) the amount bid by the producer of the nuclear power generation; and

(B) except as provided in paragraph (2), the net megawatt-hours generated by the nuclear power generation unit each year during the first 10 years following the end of the calendar year of the award.

(2) FIRST YEAR.—For purposes of paragraph (1)(B), the first year of commercial service of the generating unit shall be within 5 years of the end of the calendar year of the award.

(b) MANUFACTURING OF NUCLEAR POWER GENERATION TECHNOLOGY.—

(1) IN GENERAL.—An award for facility establishment or conversion costs for nuclear power generation technology under this subtitle shall be in an amount equal to not more than 30 percent of the cost of—

(A) establishing, reequipping, or expanding a manufacturing facility to produce—

(i) qualifying nuclear power generation technology; or

(ii) qualifying components;

(B) engineering integration costs of nuclear power generation technology and qualifying components; and

(C) property, machine tools, and other equipment acquired or constructed primarily to enable the recipient to test equipment necessary for the construction or operation of a nuclear power generation facility.

(2) AMOUNT.—The Secretary shall use the amounts made available to carry out this section to make awards to entities for the manufacturing of nuclear power generation technology.

SEC. __04. SELECTION CRITERIA.

In making awards under this subtitle to producers, manufacturers, and suppliers of nuclear power generation technology and qualifying components, the Secretary shall select producers, manufacturers, and suppliers that—

(1) document the greatest use of domestically-sourced parts and components;

(2) return to productive service existing idle manufacturing capacity;

(3) are located in States with the greatest availability of unemployed manufacturing workers;

(4) demonstrate a high probability of commercial success; and

(5) meet other appropriate criteria, as determined by the Secretary.

Subtitle B—Accelerated Depreciation

SEC. __11. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

Subtitle C—Next Generation Nuclear Plant Project Modifications

SEC. __21. NEXT GENERATION NUCLEAR PLANT PROJECT MODIFICATIONS.

(a) PROJECT ESTABLISHMENT.—Section 641 of the Energy Policy Act of 2005 (42 U.S.C. 16021) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading and all that follows through ''The Secretary'' and inserting the following:

''(a) ESTABLISHMENT AND OBJECTIVE.—

''(1) ESTABLISHMENT.—The Secretary''; and

(B) by adding at the end the following:

''(2) OBJECTIVE.—

''(A) DEFINITION OF HIGH-TEMPERATURE, GAS-COOLED NUCLEAR ENERGY TECHNOLOGY.—In this paragraph, the term 'high-temperature, gas-cooled nuclear energy technology' means any nongreenhouse gas-emitting nuclear energy technology that provides—

''(i) an alternative to the burning of fossil fuels for industrial applications; and

''(ii) process heat to generate, for example, electricity, steam, hydrogen, and oxygen for activities such as—

''(I) petroleum refining;

''(II) petrochemical processes;

''(III) converting coal to synfuels and other hydrocarbon feedstocks; and

''(IV) desalination.

''(B) DESCRIPTION OF OBJECTIVE.—The objective of the Project shall be to carry out demonstration projects for the development, licensing, and operation of high-temperature, gas-cooled nuclear energy technologies to support commercialization of those technologies.

''(C) REQUIREMENTS.—The functional, operational, and performance requirements for high-temperature, gas-cooled nuclear energy technologies shall be determined by the needs of marketplace industrial end-users (such as owners and operators of nuclear energy facilities, petrochemical entities, and petroleum entities), as projected for the 40-year period beginning on the date of enactment of this paragraph.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''licensing,'' after ''design,'';

(B) in paragraph (1), by striking ''942(d)'' and inserting ''952(d)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) demonstrates the capability of the nuclear energy system to provide high-temperature process heat to produce—

''(A) electricity, steam, and other heat transport fluids; and

''(B) hydrogen and oxygen, separately or in combination.''.

(b) PROJECT MANAGEMENT.—Section 642 of the Energy Policy Act of 2005 (42 U.S.C. 16022) is amended to read as follows:

''SEC. 642. PROJECT MANAGEMENT.

''(a) DEPARTMENTAL MANAGEMENT.—

''(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy.

''(2) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Project may be carried out in coordination with the Generation IV Nuclear Energy Systems Initiative.

''(B) REQUIREMENT.—Regardless of whether the Project is carried out in coordination with the Generation IV Nuclear Energy Systems Initiative under subparagraph (A), the Secretary shall establish a separate budget line-item for the Project.

''(3) INTERACTION WITH INDUSTRY.—Any activity to support the Project by an individual or entity in the private industry shall be carried out pursuant to a competitive cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Department and the industry group established under subsection (c).

''(b) LABORATORY MANAGEMENT.—

''(1) IN GENERAL.—The Idaho National Laboratory shall be the lead National Laboratory for the Project.

''(2) COLLABORATION.—The Idaho National Laboratory shall collaborate regarding research and development activities with other National Laboratories, institutions of higher education, research institutes, representatives of industry, international organizations, and Federal agencies to support the Project.

''(c) INDUSTRY GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish a group of appropriate industrial partners in the private sector to carry out cost-shared activities with the Department to support the Project.

''(2) COOPERATIVE AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall offer to enter into a cooperative agreement or other assistance agreement with the industry group established under paragraph (1) to manage and support the development, licensing, construction, and initial operation of the Project.

''(B) REQUIREMENT.—The agreement under subparagraph (A) shall contain a provision under which the industry group may enter into contracts with entities in the public sector for the provision of services and products to that sector that reflect typical commercial practices, including (without limitation) the conditions applicable to sales under section 2563 of title 10, United States Code.

''(C) PROJECT MANAGEMENT.—

''(i) IN GENERAL.—The industry group shall use commercial practices and project management processes and tools in carrying out activities to support the Project.

''(ii) INTERFACE REQUIREMENTS.—The requirements for interface between the project management requirements of the Department (including the requirements contained in the document of the Department numbered DOE O 413.3A and entitled 'Program and Project Management for the Acquisition of Capital Assets') and the commercial practices and project management processes and tools described in clause (i) shall be defined in the agreement under subparagraph (A).

''(3) COST SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

''(4) PREFERENCE.—Preference in determining the final structure of industrial partnerships under this part shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

''(d) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

''(e) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.''.

(c) PROJECT ORGANIZATION.—Section 643 of the Energy Policy Act of 2005 (42 U.S.C. 16023) is amended—

(1) in subsection (a)(2), by inserting ''transport and'' before ''conversion'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (A), (B), and (D) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', through a competitive process,'';

(ii) in subparagraph (C), by striking ''reactor'' and inserting ''energy system'';

(iii) in subparagraph (D), by striking ''hydrogen or electricity'' and inserting ''energy transportation, conversion, and''; and

(iv) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting the clauses appropriately;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(D) by striking ''The Project shall be'' and inserting the following:

''(1) IN GENERAL.—The Project shall be''; and

(E) by adding at the end the following:

''(2) OVERLAPPING PHASES.—The phases described in paragraph (1) may overlap for the Project or any portion of the Project, as necessary.''; and

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking ''powerplant'' and inserting ''power plant'';

(B) in paragraph (2), by adding at the end the following:

''(E) INDUSTRY GROUP.—The industry group established under section 642(c) may enter into any necessary contracts for services, support, or equipment in carrying out an agreement with the Department.''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''RESEARCH'';

(ii) in the matter preceding subparagraph (A), by striking ''Research'';

(iii) by striking ''NERAC'' each place it appears and inserting ''NEAC'';

(iv) in subparagraph (A)—

(I) by striking clause (i) and inserting the following:

''(i) review program plans for the Project prepared by the Office of Nuclear Energy and all progress under the Project on an ongoing basis;'';

(II) in clause (ii), by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(iii) ensure that industrial support for the first project phase under subsection (b)(1)(A) is continued before initiating the second project phase under subsection (b)(1)(B).'';

(v) in subparagraph (B), by striking ''or appoint'' and inserting ''by appointing''; and

(vi) in subparagraph (D)—

(I) by striking ''On a determination'' and inserting the following:

''(i) IN GENERAL.—On a determination'';

(II) in clause (i) (as designated by subclause (I))—

(aa) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(A)''; and

(bb) by striking ''subsection (b)(2)'' and inserting ''subsection (b)(1)(B)''; and

(III) by adding at the end the following:

''(ii) SCOPE.—The scope of the review conducted under clause (i) shall be in accordance with an applicable cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Secretary and the industry group established under section 642(c).''.

(d) NUCLEAR REGULATORY COMMISSION.—Section 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''Not later than'' and inserting the following:

''(1) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(2) REQUIREMENT.—To the maximum extent practicable, in carrying out subparagraphs (B) and (C) of paragraph (1), the Nuclear Regulatory Commission shall independently review and, as appropriate, use the results of analyses conducted for or by the license applicant.''; and

(2) by striking subsection (c) and inserting the following:

''(c) ONGOING INTERACTION.—The Nuclear Regulatory Commission shall establish a separate program office for advanced reactors—

''(1) to develop and implement regulatory requirements consistent with the safety bases of the type of nuclear reactor developed by the Project, with the specific objective that the requirements shall be applied to follow-on commercialized high-temperature, gas-cooled nuclear reactors;

''(2) to avoid conflicts in the availability of resources with licensing activities for light water reactors;

''(3) to focus and develop resources of the Nuclear Regulatory Commission for the review of advanced reactors;

''(4) to support the effective and timely review of preapplication activities and review of applications to support applicant needs; and

''(5) to provide for the timely development of regulatory requirements, including through the preapplication process, and review of applications for advanced technologies, such as high-temperature, gas-cooled nuclear technology systems.''.

(e) PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.—Section 645 of the Energy Policy Act of 2005 (42 U.S.C. 16025) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) SUMMARY OF AGREEMENT.—Not later than December 31, 2009, the Secretary shall submit to Congress a report that contains a summary of each cooperative agreement or other assistance agreement (such as a technology investment agreement) entered into between the Secretary and the industry group under section 642(a)(3), including a description of the means by which the agreement will provide for successful completion of the development, design, licensing, construction, and initial operation and demonstration period of the prototype facility of the Project.

''(b) OVERALL PROJECT PLAN.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall submit to Congress an overall plan for the Project, to be prepared jointly by the Secretary and the industry group established under section 642(c), pursuant to a cooperative agreement or other assistance agreement (such as a technology investment agreement).

''(2) INCLUSIONS.—The plan under paragraph (1) shall include—

''(A) a summary of the schedule for the design, licensing, construction, and initial operation and demonstration period for the nuclear energy system prototype facility and hydrogen production prototype facility of the Project;

''(B) the process by which a specific design for the prototype nuclear energy system facility and hydrogen production facility will be selected;

''(C) the specific licensing strategy for the Project, including—

''(i) resource requirements of the Nuclear Regulatory Commission; and

''(ii) the schedule for the submission of a preapplication, the submission of an application, and application review for the prototype nuclear energy system facility of the Project;

''(D) a summary of the schedule for each major event relating to the Project; and

''(E) a time-based cost and cost-sharing profile to support planning for appropriations.''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''research and construction activities'' and inserting ''research and development, design, licensing, construction, and initial operation and demonstration activities''.

SA 5120. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, insert the following:

SEC. 17. HYDROGEN INFRASTRUCTURE AND FUEL COSTS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. HYDROGEN INFRASTRUCTURE AND FUEL COSTS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the hydrogen infrastructure costs credit determined under subsection (b), and

''(2) the hydrogen fuel costs credit determined under subsection (c).

''(b) HYDROGEN INFRASTRUCTURE COSTS CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the hydrogen infrastructure costs credit determined under this subsection with respect to each eligible hydrogen production and distribution facility of the taxpayer is an amount equal to 30 percent of so much of the infrastructure costs for the taxable year as does not exceed $200,000 with respect to such facility.

''(2) ELIGIBLE HYDROGEN PRODUCTION AND DISTRIBUTION FACILITY.—For purposes of this subsection, the term 'eligible hydrogen production and distribution facility' means a hydrogen production and distribution facility which is placed in service after December 31, 2007.

''(c) HYDROGEN FUEL COSTS CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the hydrogen fuel costs credit determined under this subsection with respect to each eligible hydrogen device of the taxpayer is an amount equal to the qualified hydrogen expenditure amount with respect to such device.

''(2) QUALIFIED HYDROGEN EXPENDITURE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified hydrogen expenditure amount' means, with respect to each eligible hydrogen energy conversion device of the taxpayer with a production capacity of not more than 25 kilowatts of electricity, the lesser of—

''(i) 30 percent of the amount paid or incurred by the taxpayer during the taxable year for hydrogen which is consumed by such device, and

''(ii) $2,000.

In the case of any device which is not owned by the taxpayer at all times during the taxable year, the $2,000 amount in clause (ii) shall be reduced by an amount which bears the same ratio to $2,000 as the portion of the year which such device is not owned by the taxpayer bears to the entire year.

''(B) HIGHER LIMITATION FOR DEVICES WITH MORE PRODUCTION CAPACITY.—In the case of any eligible hydrogen energy conversion device with a production capacity of—

''(i) more than 25 but less than 100 kilowatts of electricity, subparagraph (A) shall be applied by substituting '$4,000' for '$2,000' each place it appears, and

''(ii) not less than 100 kilowatts of electricity, subparagraph (A) shall be applied by substituting '$6,000' for '$2,000' each place it appears.

''(3) ELIGIBLE HYDROGEN ENERGY CONVERSION DEVICES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible hydrogen energy conversion device' means, with respect to any taxpayer, any hydrogen energy conversion device which—

''(i) is placed in service after December 31, 2004, and

''(ii) is wholly owned by the taxpayer during the taxable year.

If an owner of a device (determined without regard to this subparagraph) provides to the primary user of such device a written statement that such user shall be treated as the owner of such device for purposes of this section, then such user (and not such owner) shall be so treated.

''(B) HYDROGEN ENERGY CONVERSION DEVICE.—The term 'hydrogen energy conversion device' means—

''(i) any electrochemical device which converts hydrogen into electricity, and

''(ii) any combustion engine which burns hydrogen as a fuel.

''(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(e) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to amounts which (but for subsection (g)) would be allowed as a deduction under section 162 shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C, over

''(B) the tentative minimum tax for the taxable year.

''(f) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in determining the amount of the credit under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(g) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(h) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(j) TERMINATION.—This section shall not apply to any costs paid or incurred after the end of the 3-year period beginning on the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ''plus'', and by adding at the end the following new paragraph:

''(33) the portion of the hydrogen infrastructure and fuel credit to which section 30D(e)(1) applies.''.

(2) Section 55(c)(3) of such Code is amended by inserting ''30D(e)(2),'' after ''30C(d)(2),''.

(3) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30D(d).''.

(4) Section 6501(m) of such Code is amended by inserting ''30D(h),'' after ''30C(e)(5),''.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Hydrogen infrastructure and fuel costs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007, in taxable years ending after such date.

SA 5121. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. OFFSHORE OIL PRODUCTION.

(a) PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.—Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

(b) PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(7) QUALIFIED REVENUE.—The term 'qualified revenue' means the amount estimated by the Secretary of the Federal share of all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of the enactment of the Stop Excessive Energy Speculation Act of 2008 for new producing areas under this section.

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

(c) CONFORMING AMENDMENTS.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SEC. ___. OIL CONSERVATION THROUGH ADVANCED VEHICLE BATTERIES AND HYBRID AND PLUG-IN VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED VEHICLE BATTERY.—The term ''advanced vehicle battery'' means an electrochemical energy storage system powered directly by electrical current that provides motive power to an electric vehicle, hybrid electric vehicle, or plug-in hybrid electric vehicle.

(2) ELECTRIC VEHICLE.—The term ''electric vehicle'' means an on-road light-duty or nonroad vehicle that uses an advanced vehicle battery or a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

(3) HYBRID ELECTRIC VEHICLE.—The term ''hybrid electric vehicle'' means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

(4) PLUG-IN HYBRID ELECTRIC VEHICLE.—The term ''plug-in hybrid electric vehicle'' means a hybrid electric vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) STATEMENT OF POLICY.—It is the policy of the United States to conserve oil by aggressively promoting advanced vehicle battery technology and the domestic manufacturing capability of the Unites States necessary for widespread commercial viability of hybrid electric vehicles, plug-in hybrid electric vehicles, and electric vehicles.

(c) ADVANCED VEHICLE BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced vehicle batteries; and

(B) emphasize lower cost enablers for abuse-tolerant batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(d) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING PROCESS IMPROVEMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to improve domestic manufacturing equipment and assembly process capabilities for advanced vehicle batteries and components that—

(A) reduce manufacturing time;

(B) reduce manufacturing energy intensity;

(C) reduce negative environmental impact or byproducts; or

(D) increase spent battery or component recycling.

(2) INCLUSION.—The Secretary shall include in the program established under paragraph (1) grants to support the development and deployment of domestic high-speed, automated, production-scale advanced vehicle battery and component manufacturing equipment.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this subsection be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for each of fiscal years 2010 through 2014.

(e) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING SUPPLY BASE EXPANSION.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to expand the domestic manufacturing supply base for advanced vehicle batteries, battery cell materials, and battery system components.

(2) USE OF FUNDS.—The Secretary may provide grants under paragraph (1) to reequip, expand, or establish manufacturing facilities in the United States.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this subsection be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $750,000,000 for each of fiscal years 2010 through 2014.

SA 5122. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC. _____. OIL CONSERVATION THROUGH ADVANCED VEHICLE BATTERIES FOR HYBRID, PLUG-IN HYBRID AND ELECTRIC VEHICLES.

(a) DEFINITIONS.—In this section:

(1) AVANCED VEHICLE BATTERY.—The term ''advanced vehicle battery'' means an electrochemical energy storage system powered directly by electrical current that provides motive power to an electric vehicle, hybrid electric vehicle, or plug-in hybrid electric vehicle.

(2) ELECTRIC VEHICLE.—The term ''electric vehicle'' means an on-road light-duty or nonroad vehicle that uses either an advanced vehicle battery or a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

(3) HYBRID ELECTRIC VEHICLE.—The term ''hybrid electric vehicle'' means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

(4) PLUG-IN HYBRID ELECTRIC VEHICLE.—The term ''plug-in hybrid electric vehicle'' means a hybrid electric vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(b) POLICY.—It is the policy of the United States to conserve oil by aggressively promoting advanced vehicle battery technology and U.S. domestic manufacturing capability necessary for widespread commercial viability of hybrid electric vehicles, plug-in hybrid electric vehicles, and electric vehicles.

(c) ADVANCED VEHICLE BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall expand and accelerate research and development efforts for advanced vehicle batteries with an emphasis on lowering costs and increasing abuse tolerance with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(d) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING PROCESS IMPROVEMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to improve domestic manufacturing equipment and assembly process capabilities for advanced vehicle batteries and components that—

(A) reduce manufacturing time;

(B) reduce manufacturing energy intensity;

(C) reduce negative environmental impact or byproducts; or

(D) increase spent battery or component recycling.

(2) INCLUSION.—The Secretary shall include in the program established under subsection (c) grants to support the development and deployment of domestic high-speed, automated, production-scale advanced vehicle battery and component manufacturing equipment.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this section be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for each of fiscal years 2010 through 2014.

(e) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING SUPPLY BASE EXPANSION.

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to expand the domestic manufacturing supply base for advanced vehicle batteries, battery cell materials and battery system components.

(2) USE OF FUNDS.—The Secretary may provide grants under paragraph (1) to reequip, expand or establish manufacturing facilities in the United States.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this section be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $750,000,000 for each of fiscal years 2010 through 2014.

SA 5123. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, to amend Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC.—. OFFSHORE OIL PRODUCTION.

(a) PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTENTIAL SHELF.—Section 4(a)(2)(A) of the Outer Contential Shelf Lands Act (43 U.S.C. 1333 (a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

(b) PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the

Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1) (B) (i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) ofparagraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A) (v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1) (B) shall

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under-

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); or

''(iii) any other provisions of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTENTIAL SHELF REVENUES FROM OTHER AREAS.—Not withstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5–year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

(c) CONFORMING AMENDMENTS.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SA 5124. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ____—NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008

SEC. ____. 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 instrumentality 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.''.

SA 5125. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, add the following:

SEC. 17. BAN ON EXPORTING PETROLEUM EXTRACTED FROM PUBLIC LANDS.

(a) DEFINITIONS.—In this section:

(1) PETROLEUM PRODUCT.—The term ''petroleum product'' means any of the following:

(A) Finished reformulated or conventional motor gasoline.

(B) Finished aviation gasoline.

(C) Kerosene-type jet fuel.

(D) Kerosene.

(E) Distillate fuel oil.

(F) Residual fuel oil.
(G) Lubricants.
(H) Waxes.
(I) Petroleum coke.
(J) Asphalt and road oil.

(2) PUBLIC LANDS.—The term ''public lands'' means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management or the Minerals Management Service, without regard to how the United States acquired ownership.

(b) BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (2), petroleum extracted from public lands in the United States (including lands located on the outer continental shelf), or a petroleum product produced from such petroleum, may not be exported from the United States.

(2) APPLICATION.—The prohibition on exportation described in paragraph (1) shall apply to petroleum, or petroleum products produced from such petroleum, extracted from public lands leased after the date of the enactment of this Act.

SA 5126. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, add the following:

SEC. 17. BAN ON EXPORTING PETROLEUM EXTRACTED FROM PUBLIC LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, petroleum extracted from public lands in the United States (including lands located on the outer continental shelf), or a petroleum product produced from such petroleum, may not be exported from the United States.

(b) DEFINITIONS.—In this section:

(1) PETROLEUM PRODUCT.—The term ''petroleum product'' means any of the following:

(A) Finished reformulated or conventional motor gasoline.
(B) Finished aviation gasoline.
(C) Kerosene-type jet fuel.
(D) Kerosene.
(E) Distillate fuel oil.
(F) Residual fuel oil.
(G) Lubricants.
(H) Waxes.
(I) Petroleum coke.
(J) Asphalt and road oil.

(2) PUBLIC LANDS.—The term ''public lands'' means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management or the Minerals Management Service, without regard to how the United States acquired ownership.

SA 5127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION B—EXTENSION OF ENERGY EFFICIENCY INITIATIVES

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—NON-BUSINESS ENERGY IMPROVEMENTS

SEC. 101. PERFORMANCE BASED ENERGY IMPROVEMENTS FOR NON-BUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. PERFORMANCE BASED ENERGY IMPROVEMENTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount of qualified energy efficiency expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount allowed as a credit under subsection (a) shall not exceed the product of—

''(A) the qualified energy savings achieved, and

''(B) $4,000.

''(2) MINIMUM AMOUNT OF QUALIFIED ENERGY SAVINGS.—No credit shall be allowed under subsection (a) with respect to any principal residence which achieves a qualified energy savings of less than 20 percent.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—In the case of taxable years to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credit allowable under this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.

''(c) QUALIFIED ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section:

''(1) IN GENERAL.—The term 'qualified energy efficiency expenditures' means any amount paid or incurred which is related to producing qualified energy savings in a principal residence of the taxpayer which is located in the United States.

''(2) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified energy efficiency expenditures' shall not include any expenditure for which a deduction or credit is otherwise allowed to the taxpayer under this chapter.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121, except that—

''(A) no ownership requirement shall be imposed, and

''(B) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as used as a principal residence.

''(d) QUALIFIED ENERGY SAVINGS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy savings' means, with respect to any principal residence, the amount (measured as a percentage) by which—

''(A) the annual energy use with respect to the principal residence after qualified energy efficiency expenditures are made, as certified under paragraph (2), is less than

''(B) the annual energy use with respect to the principal residence before the qualified energy efficiency expenditures were made, as certified under paragraph (2).

In determining annual energy use under subparagraph (B), any energy efficiency improvements which are not attributable to qualified energy efficiency expenditures shall be disregarded.

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall prescribe the procedures and methods for the making of certifications under this paragraph based on the Residential Energy Services Network (RESNET) Technical Guidelines in effect on the date of the enactment of this section.

''(B) QUALIFIED INDIVIDUALS.—Any certification made under this paragraph may only be made by an individual who is recognized by an organization certified by the Secretary for such purposes.

''(e) SPECIAL RULES.—For purposes of this section rules similar to the rules under paragraphs (4), (5), (6), (7), (8), and (9) of section 25D(e) and section 25C(e)(2) shall apply.

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2011.''.

(b) INTERIM GUIDANCE ON CERTIFICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall issue interim guidance on—

(A) the procedures and methods for making certifications under sections 25E(d)(2)(A) and 179F(d)(2)(A) of the Internal Revenue Code of 1986, as added by subsection (a) and section 203, respectively;

(B) the recognition of qualified individuals under sections 25E(d)(2)(B) and 179F(d)(2)(B) of such Code for the purpose of making such certifications; and

(C) how participation in State energy efficiency programs can be used in the procedures and methods described in subparagraph (A).

(2) CONSULTATION WITH STAKEHOLDERS.—

(A) IN GENERAL.—The Secretary of the Treasury, in issuing guidance pursuant to paragraph (1), shall consider comments from energy efficiency experts and other interested parties.

(B) OTHER CONSIDERATIONS.—In the case of guidance issued pursuant to paragraph (1)(B), the Secretary of the Treasury shall also consider—

(i) the Residential Energy Services Network Technical Guidelines and other pertinent guidelines for evaluating energy savings;

(ii) energy modeling software, including software accredited through the Residential Energy Services Network; and

(iii) quality assurance procedures of the Building Performance Institute, Home Performance through Energy Star, and the Residential Energy Services Network.

(c) ALTERNATIVE CERTIFICATION METHODS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish a procedure for individuals and businesses to petition for the approval of alternative methods of certification under sections 25E(d)(2)(A) and 179F(d)(2)(A) of the Internal Revenue Code of 1986, as added by subsection (a) and section 203, respectively.

(2) DETERMINATION.—The Secretary of the Treasury shall make a determination on the approval or disapproval of such alternative methods of certification not later than 90 days after receiving a petition under paragraph (1).

(d) CONFORMING AMENDMENTS.—

(1) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(f).''.

(3) The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Performance based energy improvements.''.

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 102. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION.—Subsection (g) of section 25C (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2011''.

(b) LABOR COSTS FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—Section 25C(c)(1) is amended by adding at the end the following new flush sentence:

''The amount taken into account under subsection (a)(1) with respect to qualified energy efficiency improvements shall include expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of any component described in this paragraph.''.

(c) MODIFICATIONS FOR RESIDENTIAL ENERGY EFFICIENCY PROPERTY EXPENDITURES.—

(1) INCREASED LIMITATION FOR OIL FURNACES AND NATURAL GAS, PROPANE, AND OIL HOT WATER BOILERS.—

(A) IN GENERAL.—Subparagraphs (B) and (C) of section 25C(b)(3) are amended to read as follows:

''(B) $150 for any qualified natural gas furnace or qualified propane furnace, and

''(C) $300 for—

''(i) any item of energy-efficient building property, and

''(ii) any qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler.''.

(B) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

''(ii) any qualified natural gas furnace, qualified propane furnace, qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler, or''.

(2) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(A) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(B) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(C) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(D) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(3) ELIMINATION OF LIFETIME LIMITATION.—Paragraph (1) of section 25C(b) is amended by inserting ''by reason of subsection (a)(1)'' after ''under this section''.

(d) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(e) NATURAL GAS FIRED HEAT PUMPS.—Section 25C(d)(3), as amended by this section, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) a natural gas fired heat pump with a heating coefficient of performance (COP) of at least 1.1.''.

(f) ELIMINATION OF CREDIT FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS IN 2010.—

(1) IN GENERAL.—Subsection (a) of section 25C is amended to read as follows:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount of residential energy property expenditures paid or incurred by the taxpayer during the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(b), as amended by subsection (b), is amended by striking paragraphs (1) and (2) and by redesignating paragraph (3) as paragraph (1).

(B) Section 25C(b)(1), as redesignated by subparagraph (A), is amended by striking ''by reason of subsection (a)(2)''.

(C) Section 25C is amended by striking subsection (c).

(g) CLARIFICATION OF ELIGIBILITY OF STANDARDS FOR QUALIFIED ENERGY PROPERTY.—Section 25C(d)(2)(C) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) shall allow for the testing of products regardless of the size or capacity of the product.''.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) STANDARDS FOR ELECTRIC HEAT PUMPS AND CENTRAL AIR CONDITIONERS.—The amendments made by subparagraphs (A) and (B) subsection (c)(2) shall apply to property placed in service after December 31, 2007.

(3) ELIMINATION OF CREDIT FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (f) shall apply to property placed in service after December 31, 2009.

SEC. 103. MODIFICATION OF CREDIT FOR SOLAR ELECTRIC PROPERTY AND SOLAR HOT WATER PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 25D (relating to allowance of credit) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) 100 percent of the qualified solar electric property expenditures made by the taxpayer during such year,

''(2) 100 percent of the qualified solar hot water property expenditures made by the taxpayer during such year, and''.

(b) LIMITATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

''(A) $2 with respect to each peak watt of capacity of qualified solar electric property for which qualified solar electric property expenditures are made,

''(B) in the case of qualified solar water heating property expenditures, an amount equal to—

''(i) in the case of a dwelling unit which uses electricity to heat water, $0.35 with respect to each kilowatt per year of savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, or

''(ii) in the case of a dwelling unit which uses natural gas to heat water, $7 with respect to each annual Therm of natural gas savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, and''.

(2) DETERMINATION OF SAVINGS.—Paragraph (1) of section 25D(b) is amended by adding at the end the following new flush sentence:

''For purposes of subparagraph (B), savings shall be determined under regulations prescribed by the Secretary based on the OG–300 Standard for the Annual Performance of OG–300 Certified Systems of the Solar Rating and Certification Corporation.''.

(c) DEFINITIONS.—

(1) IN GENERAL.—Section 25D(d) is amended—

(A) by redesignating paragraph (3) as paragraph (5), and

(B) by striking paragraphs (1) and (2) and inserting the following:

''(1) QUALIFIED SOLAR ELECTRIC PROPERTY EXPENDITURES.—The term 'qualified solar electric property expenditures' means any amount paid or incurred for qualified solar electric property.

''(2) QUALIFIED SOLAR ELECTRIC PROPERTY.—The term 'qualified solar electric property' means solar electric property (as defined in section 179G(c)(2)(B)) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(3) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURES.—The term 'qualified solar water heating property expenditures' means any amount paid or incurred for qualified solar hot water property.

''(4) QUALIFIED SOLAR HOT WATER PROPERTY.—The term 'qualified solar hot water property' means solar hot water property (as defined in section 179G(c)(2)(C)) installed on or in connection with a dwelling unit located

in the United States and used as a residence by the taxpayer.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(e)(2) is amended by striking ''property described in paragraph (1) and (2) of subsection (d)'' and inserting ''qualified solar electric property or qualified solar hot water property''.

(B) Section 25D(e)(4)(C) is amended by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1),(3), and (5)''.

(d) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—Clauses (i) and (ii) of section 25D(e)(4)(A) are amended to read as follows:

''(i) $2 in the case of each peak watt of capacity of qualified solar electric property for which qualified solar electric property expenditures are made,

''(ii) in the case of qualified solar water heating property expenditures, an amount equal to—

''(I) in the case of a dwelling unit which uses electricity to heat water, $0.35 with respect to each kilowatt per year of savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, or

''(II) in the case of a dwelling unit which uses natural gas to heat water, $7 with respect to each annual Therm of natural gas savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, and''.

(e) EXTENSION OF CREDIT.—Subsection (g) of section 25D is amended by striking ''2007'' and inserting ''2010''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

TITLE II—BUSINESS-RELATED ENERGY IMPROVEMENTS

SEC. 201. EXTENSION AND MODIFICATION OF NEW ENERGY EFFICIENT HOME CREDIT.

(a) EXTENSION.—Subsection (g) of section 45L (relating to termination), as amended by section 205 of division A of the Tax Relief and Health Care Act of 2006, is amended by striking ''December 31, 2008'' and inserting ''December 31, 2011''.

(b) MODIFICATION.—

(1) IN GENERAL.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 1332 of the Energy Policy Act of 2005.

SEC. 202. EXTENSION AND MODIFICATION OF DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.

(a) EXTENSION.—Subsection (h) of section 179D (relating to termination) is amended to read as follows:

''(h) TERMINATION.—This section shall not apply with respect to property—

''(1) which is certified under subsection (d)(6) after December 31, 2012, or

''(2) which is placed in service after December 31, 2014.

A provisional certification shall be treated as meeting the requirements of paragraph (1) if it is based on the building plans, subject to inspection and testing after installation.''.

(b) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

(1) METHODS OF CALCULATING ENERGY SAVINGS.—

(A) IN GENERAL.—Paragraph (2) of section 179D(d) is amended—

(i) by striking ''based on'' and inserting ''in accordance with'',

(ii) by inserting '', except as necessary to carry out the requirements of this section, to accommodate a reference to Standard 90.1–2001, to extend the applicability of such manual to national conditions, or to update technical standards based on new information'' before the period at the end, and

(iii) by adding at the end the following new sentence: ''The calculation methods contained in such regulations shall also provide for the calculation of appropriate energy savings for design methods and technologies not otherwise credited in such manual or standard, including energy savings associated with natural ventilation, evaporative cooling, automatic lighting controls (such as occupancy sensors, photocells, and timeclocks), daylighting, designs utilizing semiconditioned spaces which maintain adequate comfort conditions without air conditioning or without heating, improved fan system efficiency (including reductions in static pressure), advanced unloading mechanisms for mechanical cooling (such as multiple or variable speed compressors), on-site generation of electricity (including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy), and wiring with lower energy losses than wiring satisfying Standard 90.1-2001 requirements for building power distribution systems.''.

(B) REQUIREMENTS FOR COMPUTER SOFTWARE USED IN CALCULATING ENERGY AND POWER CONSUMPTION COSTS.—Paragraph (3)(B) of section 179D(d) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) which automatically—

''(I) generates the features, energy use, and energy and power consumption costs of a reference building which meets Standard 90.1–2001,

''(II) generates the features, energy use, and energy and power consumption costs of a compliant building or system which reduces the annual energy and power costs by 50 percent compared to Standard 90.1–2001, and

''(III) compares such features, energy use, and consumption costs to the features, energy use, and consumption costs of the building or system with respect to which the calculation is being made.''.

(2) TARGETS FOR PARTIAL ALLOWANCE OF CREDIT.—Paragraph (1)(B) of section 179D(d) is amended—

(A) by striking ''The Secretary'' and inserting the following:

''(i) IN GENERAL.—The Secretary'', and

(B) by adding at the end the following:

''(ii) ADDITIONAL REQUIREMENTS.—For purposes of clause (i)—

''(I) the Secretary shall determine prescriptive criteria that can be modeled explicitly for reference buildings which meet the requirements of subsection (c)(1)(D) for different building types and regions,

''(II) a system may be certified as meeting the target under subparagraph (A)(ii) if the appropriate reference building either meets the requirements of subsection (c)(1)(D) with such system rather than the comparable reference system (using the calculation under paragraph (2)) or meets the relevant prescriptive criteria under subclause (I), and

''(III) the lighting system target shall be based on lighting power density, except that it shall allow lighting controls credits that trade off for lighting power density savings based on Section 3.2.2 of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

''(iii) PUBLICATION.—The Secretary shall publish in the Federal Register the bases for the target levels established in the regulations under clause (i).''.

(d) ALTERNATIVE STANDARDS.—Section 179D(d) is amended by adding at the end the following new paragraph:

''(7) ALTERNATIVE STANDARDS PENDING FINAL REGULATIONS.—Until such time as the Secretary issues final regulations under paragraph (1)(B)—

''(A) in the case of property which is part of a building envelope, the building envelope system target under paragraph (1)(A)(ii) shall be a 7 percent reduction in total annual energy and power costs (determined in the same manner as under subsection (c)(1)(D)), and

''(B) in the case of property which is part of the heating, cooling, ventilation, and hot water systems, the heating, cooling, ventilation, and hot water system shall be treated as meeting the target under paragraph (1)(A)(ii) if it would meet the requirement in subsection (c)(1)(D) if combined with a building envelope system and lighting system which met their respective targets under paragraph(1)(A)(ii) (including interim targets in effect under subsections (f) and subparagraph (A)).''.

(e) MODIFICATIONS TO LIGHTING STANDARDS.—

(1) STANDARDS TO BE ALTERNATE STANDARDS.—Subsection (f) of section 179D is amended by—

(A) striking ''INTERIM'' in the heading and inserting ''ALTERNATIVE'', and

(B) inserting '', or, if the taxpayer elects, in lieu of the target set forth in such final regulations'' after ''lighting system'' at the end of the matter preceding paragraph (1).

(2) QUALIFIED INDIVIDUALS.—Section 179D(d)(6)(C) is amended by adding at the end the following: ''For purposes of certification of whether the alternative target for lighting systems under subsection (f) is met, individuals qualified to determine compliance shall include individuals who are certified as Lighting Certified (LC) by the National Council on Qualifications for the Lighting Professions, Certified Energy Managers (CEM) by the Association of Energy Engineers, and LEED Accredited Professionals (AP) by the U.S. Green Buildings Council.''.

(3) REQUIREMENT FOR BILEVEL SWITCHING.—Section 179D(f)(2) is amended by adding at the end the following new subparagraph:

''(3) APPLICATION OF SUBSECTION TO BILEVEL SWITCHING.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(C)(i), this subsection shall apply to a system which does not include provisions for bilevel switching if the reduction in lighting power density is at least 37.5 percent of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2. (not including additional interior lighting allowances) of Standard 90.1–2001.

''(B) REDUCTION IN DEDUCTION.—In the case of a system to which this subsection applies by reason of subparagraph (A), paragraph (2) shall be applied—

''(i) by substituting '50 percent' for '40 percent' in subparagraph (A) thereof, and

''(ii) in subparagraph (B)(ii) thereof—

''(I) by substituting '37.5 percentage points' for '25 percentage points', and

''(II) by substituting '12.5' for '15'.''.

(f) PUBLIC PROPERTY.—Paragraph (4) of section 179(d) is amended by striking ''the Secretary shall promulgate a regulation to allow the allocation of the deduction'' and inserting ''the deduction under this section shall be allowed''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

SEC. 203. DEDUCTION FOR ENERGY EFFICIENT LOW-RISE BUILDINGS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by section 404 of division A of the Tax Relief and Health Care Act of 2006, is amended by inserting after section 179E the following new section:

"SEC. 179F. ENERGY EFFICIENT LOW-RISE BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the amount of qualified energy efficiency expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount allowed as a credit under subsection (a) with respect to any dwelling unit shall not exceed the product of—

''(A) the qualified energy savings achieved, and

''(B) $12,000.

''(2) MINIMUM AMOUNT OF QUALIFIED ENERGY SAVINGS.—No credit shall be allowed under subsection (a) with respect to any dwelling unit in a qualified low-rise building which achieves a qualified energy savings of less than 20 percent.

''(c) QUALIFIED ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy efficiency expenditures' means any amount paid or incurred which is related to producing qualified energy savings in any dwelling unit located in a qualified low-rise building of the taxpayer which is located in the United States.

''(2) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified energy efficiency expenditures' shall not include any expenditure for any property for which a deduction has been allowed to the taxpayer under section 179F.

''(3) QUALIFIED LOW-RISE BUILDING.—The term 'qualified low-rise building' means a building—

''(A) with respect to which depreciation is allowable under section 167,

''(B) which is used for multifamily housing, and

''(C) which is not within the scope of Standard 90.1–2001 (as defined under section 179D(c)(2)).

''(d) QUALIFIED ENERGY SAVINGS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy savings' means, with respect to any dwelling unit in a qualified low-rise building, the amount (measured as a percentage) by which—

''(A) the annual energy use with respect to such dwelling unit after qualified energy efficiency expenditures are made, as certified under paragraph (2), is less than

''(B) the annual energy use with respect to such dwelling unit before the qualified energy efficiency expenditures were made, as certified under paragraph (2).

In determining annual energy use under subparagraph (B), any energy efficiency improvements which are not attributable to qualified energy efficiency expenditures shall be disregarded.

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall prescribe the procedures and method for the making of certifications under this paragraph based on the Residential Energy Services Network (RESNET) Technical Guidelines in effect on the date of the enactment of this Act.

''(B) QUALIFIED INDIVIDUALS.—Any certification made under this paragraph may only be made by an individual who is recognized by an organization certified by the Secretary for such purposes.

''(e) SPECIAL RULES.—For purposes of this section, rules similar to the rules under paragraphs (8) and (9) of section 25D(e) shall apply.

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2011.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 404 of division A of the Tax Relief and Health Care Act of 2006, the is amended by striking ''or'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', or'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) expenditures for which a deduction is allowed under section 179F.''.

(2) Section 312(k)(3)(B) is amended by striking ''179, 179A, 179B, 179C, 179D, or 179E'' each place it appears in the heading and text and inserting ''179, 179A, 179B, 179C, 179D, 179E, or 179F''.

(3) Section 1016(a), as amended by section 101, is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '', and'', and by adding at the end the following new paragraph:

''(39) to the extent provided in section 179F(f).''.

(4) Section 1245(a) is amended by inserting ''179F,'' after ''179E,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of sections for part VI of subchapter B is amended by inserting after the item relating to section 179E the following new item:

''Sec. 179F. Energy efficient low-rise buildings deduction.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 204. ENERGY EFFICIENT PROPERTY DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by section 203, is amended by inserting after section 179F the following new section:

"SEC. 179G. ENERGY EFFICIENT PROPERTY.

''(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the energy efficient property expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The amount of the deduction allowed under subsection (a) for any taxable years shall not exceed—

''(1) $150 for any advanced main air circulating fan,

''(2) $450 for any qualified natural gas furnace or qualified propane furnace,

''(3) $900 for—

''(A) any item of energy-efficient building property, and

''(B) any qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler,

''(4) $9 with respect to each peak watt of capacity of solar electric property,

''(5) in the case of solar hot water property, an amount equal to—

''(A) in the case of a dwelling unit which uses electricity to heat water, $1 with respect to each kilowatt per year of savings of such solar hot water property, or

''(B) in the case of a dwelling unit which uses natural gas to heat water, $21 with respect to each annual Therm of natural gas savings of such solar hot water property.

For purposes of paragraph (5), savings shall be determined under regulations prescribed by the Secretary based on the OG–300 Standard for the Annual Performance of OG–300 Certified Systems of the Solar Rating and Certification Corporation.

''(c) ENERGY EFFICIENT PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient property expenditures' means expenditures paid by the taxpayer for qualified energy property which is—

''(A) of a character subject to the allowance for depreciation, and

''(B) originally placed in service by the taxpayer.

''(2) QUALIFIED ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy property' has the meaning given such term by section 25C(d)(2), except that such term shall include solar electric property and solar hot water property.

''(B) SOLAR ELECTRIC PROPERTY.—The term 'solar electric property' means property which uses solar energy to generate electricity.

''(C) SOLAR HOT WATER PROPERTY.—The term 'solar hot water property' means property used to heat water if at least half of the energy used by such property for such purpose is derived from the sun.

''(d) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(e) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2010.''.

(b) NO DOUBLE BENEFIT.—Section 179D(c) is amended by adding at the end the following new paragraph:

''(3) CERTAIN PROPERTY EXCLUDED.—The term 'energy efficient commercial building property' does not include any property with respect to which a credit has been allowed to the taxpayer under section 179G.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 203, is amended by striking ''or'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', or'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) expenditures for which a deduction is allowed under section 179G.''.

(2) Section 312(k)(3)(B), as amended by section 203, is amended by striking ''179, 179A, 179B, 179C, 179D, 179E, or 179F'' each place it appears in the heading and text and inserting ''179, 179A, 179B, 179C, 179D, 179E, 179F, or 179G''.

(3) Section 1016(a), as amended by section 203, is amended by striking ''and'' at the end of paragraph (38), by striking the period at the end of paragraph (39) and inserting '', and'', and by adding at the end the following new paragraph:

''(40) to the extent provided in section 179G(e).''.

(4) Section 1245(a), as amended by section 203 is amended by inserting ''179G,'' after ''179F,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of sections for part VI of subchapter B is amended by inserting after the item relating to section 179F the following new item:

''Sec. 179G. Energy efficient property.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

SEC. 205. EXTENSION OF INVESTMENT TAX CREDIT WITH RESPECT TO SOLAR ENERGY PROPERTY AND QUALIFIED FUEL CELL PROPERTY.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a), as amended by section 207 of division A of the Tax Relief and Health Care Act of 2006, are each amended by striking ''2009'' and inserting ''2012''.

(b) ELIGIBLE FUEL CELL PROPERTY.—Paragraph (1)(E) of section 48(c), as so amended, is amended by striking ''2008'' and inserting ''2011''.

TITLE III—INCENTIVES FOR ENERGY SAVINGS CERTIFICATIONS

SEC. 301. CREDIT FOR ENERGY SAVINGS CERTIFICATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by section 405 of division A of the Tax Relief and Health Care Act of 2006, is amended by adding at the end the following new section:

''SEC. 45O. ENERGY SAVINGS CERTIFICATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the energy savings certification credit determined under this section for any taxable year is an amount equal to the sum of—

''(1) the qualified training and certification costs paid or incurred by the taxpayer which may be taken into account for such taxable year, plus

''(2) the qualified certification equipment expenditures paid or incurred by the taxpayer which may be taken into account for such taxable year.

''(b) QUALIFIED TRAINING AND CERTIFICATION COSTS.—

''(1) IN GENERAL.—The term 'qualified training and certification costs' means costs paid or incurred for training which is required for the taxpayer or employees of the taxpayer to be certified by the Secretary under section 25D(d)(2)(B) or 179F(d)(2)(B) for the purpose of certifying energy savings.

''(2) LIMITATION.—The qualified training and certification costs taken into account under subsection (a)(1) for the taxable year with respect to any individual shall not exceed $500 reduced by the amount of the credit allowed under subsection (a)(1) to the taxpayer (or any predecessor) with respect to such individual for all prior taxable years.

''(3) YEAR COSTS TAKEN INTO ACCOUNT.—Qualified training and certifications costs with respect to any individual shall not be taken into account under subsection (a)(1) before the taxable year in which the individual with respect to whom such costs are paid or incurred has performed 25 certifications under sections 25E(d)(2)(A) and 179F(d)(2)(A).

''(c) QUALIFIED CERTIFICATION EQUIPMENT EXPENDITURES.—

''(1) IN GENERAL.—The term 'qualified training equipment expenditures' means costs paid or incurred for—

''(A) blower doors,

''(B) duct leakage testing equipment,

''(C) flue gas combustion equipment, and

''(D) digital manometers.

''(2) LIMITATION.—

''(A) IN GENERAL.—The qualified certification equipment expenditures taken into account under subsection (a)(2) with respect to any taxpayer for any taxable year shall not exceed $1,000.

''(B) LIMITATION ON INDIVIDUAL ITEMS.—The qualified certification equipment expenditures taken into account under subsection (a)(2) shall not exceed—

''(i) $500 with respect to any blower door or duct leakage testing equipment, and

''(ii) $100 with respect to any flue gas combustion equipment or digital manometer.

''(3) YEAR EXPENDITURES TAKEN INTO ACCOUNT.—The qualified certification equipment expenditures of any taxpayer shall not be taken into account under subsection (a)(2) before the taxable year in which the taxpayer has performed 25 certifications under sections 25E(d)(2)(A) and 179F(d)(2)(A).

''(d) SPECIAL RULES.—

''(1) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.

''(2) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(3) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount taken into account under subsection (a) for such taxable year.

''(B) AMOUNT PREVIOUSLY DEDUCTED.—No credit shall be allowed under subsection (a) with respect to any amount for which a deduction has been allowed in any preceding taxable year.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ''plus'', and by adding at the end the following new paragraph:

''(32) the energy savings certification credit determined under section 45O(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (39), by striking the period at the end of paragraph (40) and inserting ''and'', and by adding at the end the following new paragraph:

''(41) to the extent provided in section 45O(d)(2).''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45N the following new item:

''Sec. 45O. Energy savings certification credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 5128. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. DOMESTIC PRODUCTION.

(a) REPEAL.—Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

(b) COMMENCEMENT OF COMMERCIAL LEASING.—Section 369(e) of the Energy Policy Act of 2005 (42 U.S.C. 15927(e)) is amended in the second sentence by inserting '', not earlier than December 31, 2011,'' before ''conduct''.

SEC. ___. ENERGY SAVINGS REPORT.

Not later than 120 days after the date of enactment of this Act and annually thereafter, the Secretary of Energy shall—

(1) conduct an analysis of all policies of the Federal Government (including mandates, subsidies, tariffs, the use of hydrogen and tax policy) that encourage, or have the potential to encourage, the reduction of fossil fuel energy consumption in the United States; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that contains recommendations for the adjustment of the policies described in paragraph (1) to reduce—

(A) the dependence of the United States on fossil fuel;

(B) the quantity of air pollutants in the environment;

(C) greenhouse gas emissions; and

(D) the cost of energy.

SA 5129. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, insert the following:

TITLE II—INCENTIVES FOR PLUG-IN ELECTRIC DRIVE VEHICLES

SEC. 21. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is the sum of—

''(A) $2,000, plus

''(B) $400 for each kilowatt hour of traction battery capacity in excess of 2.5 kilowatt hours.

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON WEIGHT.—The amount of the credit allowed under subsection (a) by reason of subsection (a)(2)(A) shall not exceed—

''(A) $7,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,

''(B) $10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,

''(C) $15,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $20,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 26,000 pounds.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and section 27 for the taxable year.

''(3) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—No credit shall be allowed under subsection (a) for any new qualified plug-in electric drive motor vehicle which is a passenger vehicle or light truck in any calendar year following the calendar year which includes the first date on which the total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2007, is at least 250,000.

''(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section, the term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

''(1) which draws propulsion using one or more traction batteries with an aggregate capacity of not less than 2.5 kilowatt hours,

''(2) which uses an offboard source of electricity to recharge one or more such batteries,

''(3) which, where required for the applicable make and model, has received a certificate of conformity under the Clean Air Act, or which meets all Federal safety and emissions requirements for on-road use,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale, and

''(6) which is made by a manufacturer.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails).

''(2) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) TRACTION BATTERY CAPACITY.—Traction battery capacity shall be measured in kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

''(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

''(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

''(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(e) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.''.

(b) COORDINATION WITH OTHER MOTOR VEHICLE CREDITS.—

(1) ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (1) of section 30(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

''Such term shall not include any motor vehicle which is a new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)).''

(2) NEW QUALIFIED FUEL CELL MOTOR VEHICLES.—Paragraph (3) of section 30B(b) of such Code is amended by adding at the end the following new flush sentence:

''Such term shall not include any motor vehicle which is a new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)).''

(3) NEW QUALIFIED HYBRID MOTOR VEHICLES.—Paragraph (3) of section 30B(d) of such Code is amended by adding at the end the following new flush sentence:

''Such term shall not include any motor vehicle which is a new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)).''

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30D(d)(5).''

(2) Section 6501(m) of such Code is amended by inserting ''30D(d)(10)'' after ''30C(e)(5)''.

(3) The table of sections for subpart B of part IV of such Code is amended by adding at the end the following new item:

''Sec. 30D. Plug-in electric drive motor vehicle credit.''

(d) CONVERSION KITS.—

(1) IN GENERAL.—Section 30B of the Internal Revenue Code of 1986 (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) PLUG-IN CONVERSION CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is the lesser of—

''(A) an amount equal to—

''(i) $2,000, plus

''(ii) $400 for each kilowatt hour of capacity of the plug-in traction battery module installed in such vehicle in excess of 2.5 kilowatt hours, or

''(B) 50 percent of the cost of the plug-in traction battery module installed in such vehicle as part of such conversion.

''(2) LIMITATIONS.—The amount of the credit allowed under this subsection shall not exceed $4,000 with respect to the conversion of any motor vehicle.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—The term 'qualified plug-in electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D(c), determined without regard to paragraphs (4) and (6) thereof).

''(B) PLUG-IN TRACTION BATTERY MODULE.—The term 'plug-in traction battery module' means an electro-chemical energy storage device which—

''(i) has a traction battery capacity of not less than 2.5 kilowatt hours,

''(ii) is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of electric power,

''(iii) consists of a standardized configuration and is mass produced,

''(iv) has been tested and approved by the National Highway Transportation Safety Administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the battery manufacturer as part of a nationwide distribution program, and

''(v) is certified by a battery manufacturer as meeting the requirements of clauses (i) through (iv).

''(C) CREDIT ALLOWED TO LESSOR OF BATTERY MODULE.—In the case of a plug-in traction battery module which is leased to the taxpayer, the credit allowed under this subsection shall be allowed to the lessor of the plug-in traction battery module.

''(D) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

''(4) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2010.''.

(2) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) of such Code is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the plug-in conversion credit determined under subsection (i).''.

(3) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) of such Code is amended by adding at the end the following: '', except that no benefit shall be recaptured if such property ceases to eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years beginning after such date.

SEC. 22. CLASSIFICATION OF SMART METERS AS 5-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 5-year property) is amended—

(1) by striking ''and'' at the end of clause (v),

(2) by redesignating clause (vi) as clause (vii), and

(3) by inserting after clause (v) the following new clause:

''(vi) any advanced electricity time-based meter that—

''(I) measures and records electricity usage data on a time differentiated basis,

''(II) has 2-way communications capability,

''(III) provides data that enables the electricity supplier to provide usage information to customers electronically, and

''(IV) is placed in service before January 1, 2014, and''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 168(e) of such Code (relating to classification of certain property) is amended by striking ''clause (vi)(I)'' in the last sentence and inserting ''clause (vii)(I)''.

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

SEC. 23. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C of the Internal Revenue Code of 1986 is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXPANSION OF ELECTRIC PROPERTY.—Subsection (c) of section 30C of the Internal Revenue Code of 1986 (relating to qualified alternative fuel vehicle refueling property) is amended—

(1) by striking ''and'' at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3),

(3) by striking ''Any mixture—'' and all that follows in paragraph (3)(B), as so redesignated, and inserting ''Any mixture of biodiesel (as defined in section 40A(d)(1)) and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.'', and

(4) by inserting after paragraph (1) the following new paragraph:

''(2) paragraph (3)(B) of section 179A(d) applied to all electric property used to support the charging of electric vehicles, neighborhood electric vehicles, or plug-in hybrids, without regard to the gross vehicle weight rating of such vehicles, and''.

(c) EXTENSION OF CREDIT.—Section 30C(g) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''electric property and'' before ''property relating to hydrogen'' in paragraph (1), and

(2) by striking ''December 31, 2009'' in paragraph (2) and inserting ''December 31, 2010''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 24. INCENTIVES FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE AND COMPONENTS.

(a) DEDUCTION FOR MANUFACTURING FACILITIES.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179E the following new section:

''SEC. 179F. EXPENSING FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE AND COMPONENTS.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the applicable percentage of the cost of any qualified plug-in electric drive motor vehicle manufacturing facility property as an expense which is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified manufacturing facility property is placed in service.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) 100 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2013, and

''(2) 50 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2012, and before January 1, 2015.

''(c) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' means any qualified property—

''(A) the original use of which commences with the taxpayer,

''(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2015, and

''(C) no written binding contract for the construction of which was in effect on or before the date of the enactment of this section.

''(2) QUALIFIED PROPERTY.—

''(A) IN GENERAL.—The term 'qualified property' means any property which is a facility or a portion of a facility used for the production of—

''(i) any new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)), or

''(ii) any eligible component.

''(B) ELIGIBLE COMPONENT.—The term 'eligible component' means any battery, any electric motor or generator, or any power control unit which is designed specifically for use in a new qualified plug-in electric drive motor vehicle (as so defined).

''(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subsection (a) shall be reduced by an amount equal to—

''(1) the total amount of such costs (determined before the application of this subsection), multiplied by

''(2) the percentage of property expected to be produced which is not qualified property.''.

(b) REFUND OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Section 53 of the Internal Revenue Code of 1986 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

''(f) ELECTION TO TREAT AMOUNTS ATTRIBUTABLE TO QUALIFIED MANUFACTURING FACILITY.—

''(1) IN GENERAL.—In the case of an eligible taxpayer, the amount determined under subsection (c) for the taxable year (after the application of subsection (e)) shall be increased by an amount equal to the applicable percentage of any qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 35 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2013, and

''(B) 17.5 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2012, and before January 1, 2015.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means any taxpayer—

''(A) who places in service qualified plug-in electric drive motor vehicle manufacturing facility property during the taxable year,

''(B) who does not make an election under section 179F(c), and

''(C) who makes an election under this subsection.

''(4) OTHER DEFINITIONS AND SPECIAL RULES.—

''(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' has the meaning given such term under section 179F(d).

''(B) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property (as defined in section 179F(d)) and other property which is not qualified property, the amount of costs taken into account under paragraph (1)shall be reduced by an amount equal to—

''(i) the total amount of such costs (determined before the application of this subparagraph), multiplied by

''(ii) the percentage of property expected to be produced which is not qualified property.

''(C) ELECTION.—

''(i) IN GENERAL.—An election under this subsection for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(ii) ELECTION IRREVOCABLE.—Any election made under this subsection may not be revoked except with the consent of the Secretary.

''(5) CREDIT REFUNDABLE.—For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 5130. Mr. ENSIGN (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other

purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—CLEAN ENERGY TAX STIMULUS

SEC. 21. SHORT TITLE.

This title may be cited as the ''Clean Energy Tax Stimulus Act of 2008''.

Subtitle A—Extension of Clean Energy Production Incentives

SEC. 22. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2010.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 23. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 24. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 25. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the Clean Energy Tax Stimulus Act of 2008 and ending before January 1, 2010, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 26. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 2 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

Subtitle B—Extension of Incentives to Improve Energy Efficiency

SEC. 27. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 28. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. 29. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 30. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in

calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SA 5131. Mr. BUNNING (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. TAX CREDIT FOR ALTERNATIVE JET FUEL.

(a) CREDIT.—

(1) ALLOWANCE OF CREDIT.—Section 6426 of the Internal Revenue Code of 1986 is amended by redesignating subsections (f) through (h) as subsections (h) through (i), respectively, and by inserting after subsection (e) the following new subsections:

''(f) ALTERNATIVE JET FUEL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alternative jet fuel credit is the product of $1.00 and the number of gallons of alternative jet fuel or gasoline gallon equivalents (as defined in subsection (d)(3)) of a nonliquid alternative jet fuel sold by the taxpayer for use as a fuel in an aircraft, or so used by the taxpayer.

''(2) ALTERNATIVE JET FUEL.—For purposes of this section, the term 'alternative jet fuel' means an alternative fuel—

''(A) which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel, and

''(B) the lifecycle greenhouse gas emissions associated with the production and combustion of which are less than or equal to such emissions associated with the production and combustion of aviation fuel produced from conventional petroleum sources, as determined by peer-reviewed research conducted or reviewed by a National Laboratory or as determined by the head of a Federal agency.

''(3) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2014.

''(g) ALTERNATIVE JET FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alterative jet fuel mixture credit is the product of $1.00 and the number of gallons of alternative jet fuel used by the taxpayer in producing any alternative jet fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) ALTERNATIVE JET FUEL MIXTURE.—For purposes of this section, the term 'alternative jet fuel mixture' means a mixture of alternative jet fuel and aviation gasoline or kerosene which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel in an aircraft, or

''(B) is used as a fuel in an aircraft by the taxpayer producing such mixture

''(3) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2014.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6426(a) of the Internal Revenue Code of 1986 is amended—

(i) in paragraph (1), by striking ''and (e)'' and inserting ''(e), and (g)'',

(ii) in paragraph (2), by striking ''subsection (d)'' and inserting ''subsections (d) and (f)'', and

(iii) in the second sentence, by striking ''subsections (d) and (e)'' and inserting ''subsections (d), (e), (f), and (g)''.

(B) Section 6426(e)(2) of such Code is amended by adding at the end the following new flush sentence:

''Such term does not include any alternative jet fuel mixture.''.

(C) Section 6426(i) of such Code, as redesignated by paragraph (1), is amended by striking ''subsections (d) and (e)'' and inserting ''subsections (d), (e), (f), and (g)''.

(b) PAYMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 6427(e) of the Internal Revenue Code of 1986 is amended—

(A) by inserting '', or if such person sells or uses an alternative jet fuel (as defined in section 6526(f)(2)) for a purpose described in section 6426(f)(1) in such person's trade or business'' after ''trade or business'', and

(B) in the heading, by inserting ''; ALTERNATIVE JET FUEL'' after ''FUEL''.

(2) REGISTRATION.—Paragraph (4) of section 6427(e) of such Code is amended by striking ''or alternative fuel mixture credit'' and inserting '', alternative fuel mixture credit, alternative jet fuel credit, or alternative jet fuel mixture credit''.

(3) TERMINATION.—Paragraph (5) of section 6427(e) of such Code is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ''and'', and by adding at the end the following new subparagraph:

''(E) any alternative jet fuel or alternative jet fuel mixture (as defined in subsection (f)(2) or (g)(2) of section 6426) sold or used after December 31, 2014.''.

(c) TIME FOR FILING CLAIMS.—Section 6427(i)(3)(A) of the Internal Revenue Code of

1986 is amended by inserting ''or an alternative jet fuel (as defined in section 6426(f)(2))'' after ''6426(d)(2))''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

SEC. ___. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; or

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

SA 5132. Mr. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—IDENTIFICATION OF MOST PROSPECTIVE OUTER CONTINENTAL SHELF OIL AND NATURAL GAS AREAS UNDER MORATORIA

SEC. 21. DEFINITIONS.

In this title:

(1) MORATORIUM AREA.—

(A) IN GENERAL.—The term ''moratorium area'' means any area on the Outer Continental Shelf covered by—

(i) sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521);

(ii) section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432); or

(iii) any area withdrawn from disposition by leasing by the memorandum entitled ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'' (34 Weekly Comp. Pres. Doc. 1111), and dated June 12, 1998, as modified by the President on January 9, 2007.

(B) EXCLUSIONS.—The term ''moratorium area'' does not include an area of the outer Continental Shelf designated by the National Oceanic and Atmospheric Administration as a national marine sanctuary.

(2) PROSPECTIVE AREA.—The term ''prospective area'' means a portion of any moratorium area that may contain recoverable oil or gas.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 22. IDENTIFICATION OF MOST PROSPECTIVE OUTER CONTINENTAL SHELF OIL AND NATURAL GAS AREAS UNDER MORATORIA.

(a) INVENTORY.—

(1) IN GENERAL.—The Secretary shall identify the 10 most prospective areas for recoverable oil and gas accumulations, including if appropriate the 5 most prospective areas for oil and the 5 most prospective areas for natural gas in the prospective areas that industry would likely explore if allowed.

(2) INFORMATION.—In identifying the prospective areas, the Secretary shall take into account any existing information on the geological potential for oil and gas or acquire new data as appropriate to assist in narrowing down prospective areas.

(3) TECHNOLOGY.—The Secretary may use any available geological, geophysical, economic, engineering, and other scientific technology to obtain accurate estimates of resource potential.

(b) ACQUISITION OF GEOLOGICAL AND GEOPHYSICAL DATA.—

(1) IN GENERAL.—The Secretary may acquire and process new geological and geophysical data or use existing geological and geophysical data for any moratorium area if the Secretary determines that additional information is needed to identify and assess potential prospective areas.

(2) TECHNOLOGY.—In carrying out this subsection, the Secretary shall use any available technology (other than drilling), including 3-D seismic technology, to obtain an accurate estimate of resource potential.

(3) AVAILABILITY OF DATA.—The Secretary may make available newly acquired geological and geophysical data under this subsection on a cost recovery basis to recover the full costs expended for acquisition and processing of new geological and geophysical data.

(c) ADMINISTRATION.—

(1) IN GENERAL.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, to expedite collection of geological and geophysical data under this section, each Federal agency shall conduct and complete any analyses or consultations that are required to carry out this section.

(2) PROTECTED SPECIES.—Before conducting any geological and geophysical survey required under this title in any prospective area, the Secretary shall, at a minimum, implement the mitigation, monitoring, and reporting measures that are used for protected species in the Gulf of Mexico region.

(d) ENVIRONMENTAL AND SOCIOECONOMIC STUDIES.—

(1) IN GENERAL.—The Secretary may conduct, directly or by contract, environmental or socioeconomic studies for any prospective area identified under subsection (a).

(2) INTERAGENCY ACTION.—The Secretary, acting through the Minerals Management Service, may work jointly with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, or other relevant agencies—

(A) to compile existing environmental and socioeconomic information on prospective areas; or

(B) obtain new environmental or socioeconomic studies for identified prospective areas.

SEC. 23. SHARING INFORMATION WITH STATES AND OTHER STAKEHOLDERS.

(a) IN GENERAL.—The Secretary shall establish a process—

(1) to share information identified by actions taken under section 22 to identify 10 most prospective areas; and

(2) to obtain input from States or other stakeholders on the prospective areas.

(b) PROCESS.—The process shall include workshops or meetings with—

(1) the public;

(2) Governors or designated officials from appropriate States; and

(3) other relevant user groups.

SEC. 24. REPORTS.

(a) IDENTIFICATION OF PROSPECTIVE AREAS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) an identification of the 10 most prospective oil and gas areas within the moratorium areas using existing information;

(2) a summary of environmental and socioeconomic information relating to the 10 prospective areas; and

(3) a schedule for completion of any environmental or socioeconomic impact studies or consultations planned for those prospective areas.

(b) POTENTIAL OF PROSPECTIVE AREAS.—Not later than 42 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) a summary of the potential oil and gas resources in the 10 most prospective areas based on all available and newly acquired information;

(2) a description of the consultation process under section 23 that will be used to share information and obtain input from stakeholders concerning the 10 most prospective areas; and

(3) recommendations on approaches for recovery of costs expended for acquisition and processing of new geological and geophysical data or conducting other studies for the report.

(c) INPUT.—Not later than 180 days after submission of the report required under subsection (b), the Secretary shall submit to Congress a summary of the input from the process required under section 23.

SEC. 25. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title $450,000,000, to remain available until expended.

SA 5133. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—AMERICAN ENERGY INDEPENDENCE AND SECURITY

SEC. ___01. SHORT TITLE.

This title may be cited as the ''American Energy Independence and Security Act of 2008''.

SEC. ___02. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. ___03. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Subject to section ___14, Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—Subject to section ___14, the Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this title, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this title that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this title; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this title.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. ___04. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this title;

(2) not later than September 30, 2010, conduct a second lease sale under this title; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. ___05. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section ___04 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. ___06. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this title shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section ___03(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this title and regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this title negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. ___07. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section ___03, the Secretary shall administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this title for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. ___08. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), by not later than 90 days after the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this title (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this title; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this title shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. ___09. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. ___10. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. ___11. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury (referred to in this section as the ''Secretary'') shall deposit in the Fund, $35,000,000 each year from the amount available under section ___13(1).

(3) INVESTMENT.—The Secretary shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Secretary, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this title, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Secretary.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Secretary, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Secretary may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Secretary each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF SECRETARY.—The Secretary shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. ___12. PROHIBITION ON EXPORTS.

An oil or gas lease issued under this title shall prohibit the exportation of oil or gas produced under the lease.

SEC. ___13. ALLOCATION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, all adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this title, plus an appropriated amount equal to the amount of Federal income tax attributable to sales of oil and gas produced from those operations, shall be deposited in an account in the Treasury which shall be available, without further appropriation or fiscal year limitation, each fiscal year as follows:

(1) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section ___11(a)(1).

(2) The remainder shall be available as follows:

(A) 50 percent shall be available to the Department of Energy to carry out alternative energy programs established under the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), the Energy Independence and Security Act of 2007 (42 U.S.C. 17001 et seq.), or an amendment made by either of those Acts, as determined by the Secretary of Energy.

(B) 16.67 percent shall be available to the Department of Health and Human Services to provide low-income home energy assistance under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.).

(C) 16.67 percent shall be available to the Department of Energy to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.)).

(D) 16.66 percent shall be available for use in accordance with subsection (b)(2).

(b) GRANTS FOR IMPROVEMENT IN ENERGY EFFICIENCY.—The Secretary of Energy shall establish a program within the Department of Energy under which the Secretary of Energy shall—

(1) conduct a study to determine, to the maximum extent practicable, the greatest economically feasible percentage by which each State may decrease energy use within the State through the significant modification of residential and commercial building codes to promote energy efficiency; and

(2) using amounts made available under subsection (a)(2)(D), provide grants to States for use in making the significant modifications to building codes and decreasing energy use in the States as described in paragraph (1).

SEC. ___14. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title and the application of such provisions to any person or circumstance shall not be affected thereby.

SA 5134. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. OCS JOINT PERMITTING OFFICES.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall establish Federal OCS Joint Regional Permitting Offices (referred to in this section as the ''Regional Permitting Offices'') in accordance with this section.

(b) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(1) the Secretary of Commerce;

(2) the Administrator of the Environmental Protection Agency; and

(3) the Chief of Engineers.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall assign to each of the Regional Permitting Offices identified in subsection (d) a sufficient number of employees with expertise to address the full spectrum of agency regulatory issues relating to the Regional Permitting Office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) the consultations and preparation of documents under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Minerals Management Service Regional Director in the Regional Permitting Office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) REGIONAL PERMITTING OFFICES.—The following Minerals Management Service Regional Headquarters shall serve as the Regional Permitting Offices:

(1) Anchorage, Alaska.

(2) New Orleans, Louisiana.

(3) MMS Pacific Regional Headquarters.

(4) MMS Atlantic Regional Headquarters.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the Regional Permitting Offices.

(f) TRANSFER OF FUND.—For the purposes of coordination and processing of oil and gas use authorizations on the Federal outer Continental Shelf under the administration of the Regional Permitting Offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(1) the United States Fish and Wildlife Service;

(2) the Bureau of Indian Affairs;

(3) the Environmental Protection Agency;

(4) the National Oceanic and Atmospheric Administration; and

(5) the Corps of Engineers.

SA 5135. Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—OIL SUPPLY AND MANAGEMENT

Subtitle A—Diligent Development

SEC. 201. DILIGENT DEVELOPMENT OF FEDERAL OIL AND GAS LEASES.

(a) CLARIFICATION OF EXISTING LAW.—Each lease that authorizes the exploration for or production of oil or natural gas under a provision of law described in subsection (b) shall be diligently developed by the person holding the lease in order to ensure timely production from the lease.

(b) COVERED PROVISIONS.—Subsection (a) shall apply to—

(1) section 17 of the Mineral Leasing Act (30 U.S.C. 226);

(2) section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a); and

(3) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that—

(1) set forth requirements and benchmarks for oil and gas development that will ensure that leaseholders—

(A) diligently develop each lease; and

(B) to the maximum extent practicable, produce oil and gas from each lease during the primary term of the lease;

(2) require each leaseholder to submit to the Secretary a diligent development plan

describing how the lessee will meet the benchmarks; and

(3) take into account differences in development conditions and circumstances in the areas to be developed.

SEC. 202. DILIGENT DEVELOPMENT OF NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) LENGTH OF LEASE.—Section 107(i) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a(i)) is amended by striking paragraph (1) and inserting the following:

''(1) LENGTH OF LEASE.—

''(A) IN GENERAL.—Leases issued under this section shall be for a primary term to be determined by the Secretary by regulation of not less than 8 years and not more than 10 years.

''(B) DILIGENT PRODUCTION.—In determining the length of the lease term, the Secretary shall seek to maximize the timely production of oil and gas and diligent development of the lease.

''(C) CONTINUATION OF LEASE.—Each lease issued under this section shall continue so long after the primary term of the lease as oil or gas is produced in paying quantities.

''(D) ACTUAL DRILLING OPERATIONS COMMENCED.—Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling or reworking operations were commenced prior to the end of the primary term of the lease and are being diligently prosecuted at that time shall be extended for 5 years and so long thereafter as oil or gas is produced in paying quantities.''.

(b) REPEAL AND RENTAL.—Section 107(i) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a(i)) is amended—

(1) in the subsection heading, by inserting ''; ANNUAL RENTAL PAYMENT'' after ''TERMS''; and

(2) by striking paragraphs (2) through (6) and inserting the following:

''(2) ANNUAL RENTAL PAYMENT.—

''(A) IN GENERAL.—Each lease issued under this section shall be conditioned on a payment by the lessee of an annual rental payment.

''(B) AMOUNT.—The Secretary shall establish the rental payment at a rate determined by the Secretary that maximizes the timely production of oil and gas and diligent development of the lease.

''(C) ESCALATING RATE.—The rent shall—

''(i) be established at a fixed rate for the first year of the lease which shall be not less than $3.00 per acre; and

''(ii) escalate annually in an increment of not less than $1.00 per acre per year.''.

SEC. 203. LENGTH OF LEASE TERMS.

Section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) is amended—

(1) by striking ''(e)'' and all that follows through the end of the first sentence and inserting the following:

''(e) PRIMARY TERMS.—

''(1) IN GENERAL.—Leases issued under this section shall be for a primary term to be determined by the Secretary by regulation of not less than 5 years and not more than 10 years.

''(2) DILIGENT PRODUCTION.—In determining the length of the lease term, the Secretary shall seek to maximize the timely production of oil and gas and diligent development of the lease.'';

(2) by striking ''Each such lease'' and inserting the following:

''(3) CONTINUATION OF LEASE.—Each lease issued under this section''; and

(3) by striking ''Any lease issued'' and inserting the following:

''(4) ACTUAL DRILLING OPERATIONS COMMENCED.—Any lease issued''.

SEC. 204. RENTALS.

(a) LEASES UNDER MINERAL LEASING ACT.—Section 17(d) of the Mineral Leasing Act (30 U.S.C. 226(d)) is amended—

(1) by striking ''(d) All leases'' and all that follows through the end of the first sentence and inserting the following:

''(d) ANNUAL RENTALS; MINIMUM ROYALTY.—

''(1) ANNUAL RENTAL PAYMENT.—

''(A) IN GENERAL.—Each lease issued under this section shall be conditioned on a payment by the lessee of an annual rental payment.

''(B) AMOUNT.—The Secretary shall establish the rental payment at a rate determined by the Secretary that maximizes the timely production of oil and gas and diligent development of the lease.

''(C) ESCALATING RATE.—The rent shall—

''(i) be not less than $1.50 per acre for the first year of the lease; and

''(ii) escalate annually through the last year of the primary term of the lease in an increment of not less than $1.00 per acre per year.''; and

(2) by striking ''A minimum royalty'' and inserting the following:

''(2) MINIMUM ROYALTY.—A minimum royalty''.

(b) LEASES ON OUTER CONTINENTAL SHELF.—Section 8(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(b)) is amended by striking paragraph (6) and inserting the following:

''(6) contain such other provisions as the Secretary may prescribe at the time of offering the area for lease, including annual rental payments that—

''(A) are established at a rate determined by the Secretary to maximize the timely production of oil and gas and diligent development of the lease;

''(B) escalate annually; and

''(C) may be established to reflect differences in development conditions and circumstances in areas to be developed; and''.

Subtitle B—Leasing on Outer Continental Shelf Not Subject to Moratoria

SEC. 211. OFFSHORE OIL AND GAS LEASING IN PORTION OF 181 AREA AUTHORIZED TO BE LEASED UNDER THE GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

Section 103(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking ''shall offer'' and inserting ''shall—

''(1) offer'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) offer unleased areas of the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) as soon as practicable, but not later than 1 year, after the date of enactment of this paragraph.''.

SEC. 212. ACCELERATION OF LEASE SALES IN WESTERN AND CENTRAL PLANNING AREAS OF GULF OF MEXICO.

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by adding at the end the following:

''(9) FREQUENCY OF LEASE SALES IN GULF OF MEXICO.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), at least once every 180 days, the Secretary shall conduct lease sales under paragraph (1) for land in the Western and Central Planning Areas of the Gulf of Mexico.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary—

''(i) determines it is not practicable to conduct lease sales with the frequency required under subparagraph (A); and

''(ii) provides to Congress a report that—

''(I) describes the reasons for the determination under clause (i); and

''(II) certifies that, in the judgment of the Secretary, holding lease sales less frequently will not adversely affect the production of oil and gas from the areas described in subparagraph (A).

''(C) LEASING PROGRAM.—The lease sales required under this paragraph shall be conducted notwithstanding the omission of those sales from the outer Continental Shelf Leasing Program for 2007–2012 prepared by the Secretary under section 18.''.

SEC. 213. LEASE SALES FOR AREAS OFFSHORE ALASKA.

(a) SURVEY.—Not later than 1 year after the date of enactment of this Act, in the case of each outer Continental Shelf planning area that is offshore of the State of Alaska and is not covered by the Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a survey of oil and gas industry interest in oil and gas leasing and development in the planning area.

(b) EVALUATION.—In the case of any planning area described in subsection (a) in which there is a high level of interest in oil and gas leasing and development, as determined by the Secretary, the Secretary shall evaluate—

(1) the oil and gas potential of the area;

(2) the environmental and natural values of the area; and

(3) the importance of the area for subsistence use, after consulting with interested Native Alaskan communities.

(c) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing—

(A) the results of the survey; and

(B) the evaluation and the conclusions of the Secretary as to whether leasing should be pursued in any portion of a planning area described in subsection (a).

(2) LEASING TO BE PURSUED IN AREA.—If the Secretary concludes that leasing should be pursued in any planning area described in subsection (a), the Secretary shall describe in the report—

(A) the further determinations and actions required by law to be taken by the Secretary; and

(B) the time line leading up to any lease sale in the planning area.

(3) LEASING NOT TO BE PURSUED IN AREA.—If the Secretary concludes that leasing will not be pursued in any such planning area, the Secretary shall describe in the report the reasons for the conclusion.

(4) ADMINISTRATION.—In preparing the report, the Secretary shall—

(A) consult with the Governor of Alaska; and

(B) provide an opportunity for public comment.

(d) EFFECT ON OTHER LAWS.—Nothing in this section waives or modifies any environmental or other law applicable to oil and gas leasing and development on the outer Continental Shelf.

Subtitle C—Leasing in National Petroleum Reserve in Alaska

SEC. 221. ACCELERATION OF LEASE SALES FOR NATIONAL PETROLEUM RESERVE IN ALASKA.

Section 107(d) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a(d)) is amended—

(1) by striking ''(d)'' and all that follows through ''; first lease sale'' and inserting the following:

''(d) LEASE SALES.—

''(1) FIRST LEASE SALE.—The first lease sale''; and

(2) by adding at the end the following:

''(2) SUBSEQUENT LEASE SALES.—The Secretary shall accelerate, to the maximum extent practicable, competitive and environmentally responsible leasing of oil and gas in the Reserve in accordance with this Act and all applicable environmental laws, including at least 1 lease sale during each of calendar years 2009 through 2013.''.

Subtitle D—Strategic Petroleum Reserve

SEC. 231. DEFINITIONS.

In this subtitle:

(1) HEAVY-GRADE PETROLEUM.—The term ''heavy-grade petroleum'' means crude oil with an American Petroleum Institute gravity of 26 degrees or lower.

(2) LIGHT-GRADE PETROLEUM.—The term ''light-grade petroleum'' means—

(A) crude oil in the Strategic Petroleum Reserve categorized as Bayou Choctaw Sweet, Big Hill Sweet, West Hackberry Sweet, or Bryan Mound Sweet; and

(B) oil acquired for storage in the Strategic Petroleum Reserve with any category of oil referred to in subparagraph (A).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(4) SPR PETROLEUM ACCOUNT.—The term ''SPR Petroleum Account'' means the SPR Petroleum Account established under section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247).

(5) STRATEGIC PETROLEUM RESERVE.—The term ''Strategic Petroleum Reserve'' means the Strategic Petroleum Reserve established under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.).

SEC. 232. MODERNIZATION OF THE STRATEGIC PETROLEUM RESERVE.

(a) INITIAL PETROLEUM EXCHANGE FROM RESERVE.—Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), not later than 15 days after the date of enactment of this Act, the Secretary shall—

(1) exchange, in the quantity described in subsection (b), light-grade petroleum from the Strategic Petroleum Reserve for—

(A) an equivalent volume of heavy-grade petroleum; plus

(B) any additional cash bonus bids received that reflect the difference in—

(i) the market value between light-grade petroleum and heavy-grade petroleum; and

(ii) the timing of deliveries of the heavy-grade petroleum;

(2) of the gross proceeds of the cash bonus bids, deposit the amount required to pay for the direct administrative and operational costs of the exchange in the SPR Petroleum Account; and

(3) disburse the remaining net proceeds from the exchange to the Secretary of Health and Human Services to carry out the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), to be available without further appropriation and to remain available until expended.

(b) QUANTITIES AND SCHEDULE.—

(1) SALE OF LIGHT-GRADE PETROLEUM.—Not later than 180 days after the date of enactment of this Act, to carry out subsection (a), the Secretary shall sell at least 70,000,000 barrels of light-grade petroleum from the Strategic Petroleum Reserve.

(2) ACQUISITION OF HEAVY-GRADE PETROLEUM.—The acquisition of heavy-grade petroleum through purchase or exchange shall—

(A) commence not earlier than 1 year after the date of enactment of this Act;

(B) be completed, at the discretion of the Secretary, not later than 5 years after the date of enactment of this Act; and

(C) be carried out in a manner that maximizes the monetary value of the exchange to the Federal Government.

SEC. 233. DEFERRALS.

As the Secretary determines to be economically beneficial and practical, the Secretary is encouraged to grant any request to defer a scheduled delivery of petroleum to the Strategic Petroleum Reserve if the deferral will result in a premium paid in additional barrels of oil that will—

(1) reduce the cost of oil acquisition; and

(2) increase the volume of oil delivered to the Reserve.

Subtitle E—Resource Estimates

SEC. 241. RESOURCE ESTIMATES.

(a) IN GENERAL.—The Secretary of the Interior shall annually collect and report to Congress—

(1) data on the number of acres of land under Federal onshore oil and gas lease—

(A) on which exploration activity is occurring; and

(B) on which production is occurring;

(2) resource estimates and number of acres for Federal onshore and offshore land under lease;

(3) resource estimates and number of acres for unleased Federal onshore and offshore land available for oil and gas leasing;

(4) resource estimates and number of acres for areas of the outer Continental Shelf—

(A) under lease but not producing;

(B) offered for lease in a lease sale conducted during the previous year but not leased;

(C) included in proposed sale areas in the 5-year plan developed by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344); and

(D) available for oil and gas leasing but not included in the 5-year plan; and

(5) resource estimates and number of acres for Federal onshore land—

(A) under lease but not producing; and

(B) offered for lease in a lease sale conducted during the previous year but not leased.

(b) COVERED PROVISIONS.—Subsection (a) shall apply with respect leases and land eligible for leasing pursuant to—

(1) section 17 of the Mineral Leasing Act (30 U.S.C. 226);

(2) section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a); and

(3) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

Subtitle F—Sense of Senate on Alaska Natural Gas Pipeline

SEC. 251. SENSE OF SENATE ON ALASKA NATURAL GAS PIPELINE.

(a) FINDINGS.—Congress finds that—

(1) more than 35,000,000,000,000 cubic feet of natural gas reserves have been discovered on Federal and State land open to leasing as of the date of enactment of this Act in the North Slope area of the State of Alaska, but that natural gas is being injected underground because the natural gas cannot be transported to markets in the lower 48 States; and

(2) in 2004, Congress passed the Alaska Natural Gas Pipeline Act (15 U.S.C. 720 et seq.)—

(A) to expedite the Federal regulatory process for siting of an Alaska natural gas pipeline;

(B) to establish a Federal office to coordinate the permitting process;

(C) to authorize a loan guarantee for the construction of an Alaska natural gas pipeline;

(D) to provide accelerated depreciation for an Alaska natural gas pipeline; and

(E) to provide favorable tax treatment for a gas conditioning plant in the North Slope area of the State of Alaska.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Alaska natural gas pipeline is a critically important national infrastructure project that would benefit all consumers in the United States;

(2) all parties interested in the development of an Alaska natural gas pipeline, including oil and gas producers, pipeline companies, the State of Alaska, Federal agencies, Canadian authorities, and others, should, and are encouraged by the Senate, to accelerate their efforts to work together to allow that critical national infrastructure project to move forward; and

(3) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada and, to maximize those benefits, the sponsors of the Alaska natural gas transportation project should make every effort to—

(A) use steel that is manufactured in North America; and

(B) negotiate a project labor agreement to expedite construction of the pipeline.

Subtitle G—Roan Plateau Oil and Gas Leasing

SEC. 261. SHORT TITLE.

This subtitle may be cited as the ''Roan Plateau Oil and Gas Leasing Improvement Act of 2008''.

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Roan Plateau Planning Area likely contains significant energy resources, especially natural gas;

(2) the Roan Plateau Planning Area also is—

(A) an important part of the natural heritage of the State of Colorado that provides important habitat for fish and wildlife, including genetically pure populations of Colorado River cutthroat trout, mule deer, and Rocky Mountain elk; and

(B) increasingly important for hunters, fishermen, and other outdoor recreationists as development has made other land in the western part of the State less conducive to those uses;

(3) oil and gas development activities have the potential to disturb the environment and pose a particular threat to habitats for wildlife and aquatic species on the Roan Plateau, while phased leasing of the energy resources associated with the Roan Plateau can result in payment by the leaseholders of greater revenues than would result from more rapid leasing; and

(4) phased development and long-range planning pursuant to unit agreements will—

(A) maximize lease revenues;

(B) reduce duplicative infrastructure, such as roads, pipelines, and compressor stations;

(C) reduce overall ground disturbance; and

(D) minimize habitat fragmentation.

(b) PURPOSE.—The purpose of this subtitle is to provide for balanced development of the energy resources of the Roan Plateau in a manner that minimizes the adverse impacts on fish and wildlife habitats and environmental resources and values while increasing the financial returns to the United States and the State of Colorado.

SEC. 263. DEFINITIONS.

In this subtitle:

(1) DRAFT RESOURCE MANAGEMENT PLAN.—The term ''draft resource management plan'' means the Draft Resource Management Plan Amendment and Environmental Impact Statement of the Bureau of Land Management for the Roan Plateau Planning Area (2004).

(2) ELIGIBLE PUBLIC LAND.—The term ''eligible public land'' means —

(A) the public land within the 6,000-acre developed tract of Oil Shale Reserve Numbered 3 described in section 7439(a)(2) of title 10, United States Code; and

(B) in the case of public land described in the proposed resource management plan—

(i) a phased development area; and

(ii) any public land within the northeastern, northwestern, southeastern, or southwestern quadrant of the Roan Plateau Planning Area that is defined as ''below the rim'' or ''below the cliffs'' in figure 1–3.

(3) JUNE 2007 RECORD OF DECISION.—The term ''record of decision'' means the Record of Decision made available pursuant to the notice entitled ''Notice of Availability of the Record of Decision for the Resource Management Plan Amendment (RMPA) for Portions of the Roan Plateau Planning Area and Supplemental Information for Proposed Areas of Critical Environmental Concern (ACEC) With Associated Resource Use Limitations for Public Lands in Garfield and Rio Blanco Counties, CO'' (72 Fed. Reg. 32138), dated June 11, 2007.

(4) MARCH 2008 RECORD OF DECISION.—The term ''March 2008 Record of Decision'' means the Record of Decision for the Designation of Areas of Critical Environmental Concern for the Roan Plateau Resource Management Plan Amendment and Environmental Impact Statement, dated March 15, 2008.

(5) MINERAL LEASE.—The term ''mineral lease'' means a lease of minerals owned by the United States pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(6) PHASED DEVELOPMENT AREA.—The term ''phased development area'' means each of the 6 tracts of public domain land on the top of the Roan Plateau, each of which is—

(A) depicted in figure 2–1 on page 2–26 of the proposed resource management plan; and

(B) described, respectively, as—

(i) the Anvil Ridge Oil & Gas Phased Development Area;

(ii) the Cook Ridge Oil & Gas Phased Development Area;

(iii) the Corral Ridge Oil & Gas Phased Development Area;

(iv) the Long Ridge East Oil & Gas Phased Development Area;

(v) the Long Ridge West Oil & Gas Phased Development Area; and

(vi) the Short Ridge Oil & Gas Phased Development Area.

(7) PROPOSED RESOURCE MANAGEMENT PLAN.—The term ''proposed resource management plan'' means the proposed Resource Management Plan and Environmental Impact Statement of the Bureau of Land Management for the Roan Plateau Management Area (August 2006).

(8) PUBLIC LAND.—The term ''public land'' has the meaning given the term ''public lands'' in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(9) RESOURCE MANAGEMENT PLAN AMENDMENT.—The term ''resource management plan amendment'' means the Resource Management Plan Amendment and Final Environmental Impact Statement of the Bureau of Land Management for the Roan Plateau Planning Area (2006).

(10) ROAN PLATEAU PLANNING AREA.—The term ''Roan Plateau Planning Area'' means public land in the State that is covered by the draft resource management plan.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(12) STATE.—The term ''State'' means the State of Colorado.

SEC. 264. SPECIAL PROTECTION AREAS.

(a) DESIGNATION.—There are designated the following Special Protection Areas:

(1) All public land identified as an Area of Critical Environmental Concern (ACEC) on the map entitled ''Alternative II Management'' of the draft resource management plan.

(2) All public land located within the watersheds or drainages of Northwater Creek and the East Fork of Parachute Creek above the confluence with First Anvil Creek.

(3) All public land identified as subject to a No Ground Disturbance (NGD/NSO) stipulation on the map entitled ''Alternative II Stipulations'' of the resource management plan amendment.

(b) MANAGEMENT.—Except as otherwise provided in this subtitle, the Secretary shall manage the Special Protection Areas in a manner that prevents irreparable damage to the fish and wildlife resources and the historical, cultural, scenic, and environmental resources and values within those areas.

(c) TERMS AND CONDITIONS.—Except as provided in subsection (d), the Secretary shall include in any mineral lease entered into for any land within a Special Protection Area and for any Federal minerals underlying the Northwater Creek drainage—

(1) a stipulation prohibiting surface occupancy or surface disturbance for purposes of exploration for or development of oil or natural gas; and

(2) such other terms and conditions as are necessary to protect and enhance the biological and ecological values associated with public land covered by the lease.

(d) NONWAIVABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), a stipulation, term, or condition described in subsection (c)(1) shall not be subject to waiver, exemption, or exception.

(2) EXCEPTIONS FOR EXISTING RIDGE-TOP ROADS.—The Secretary may allow the holder of a mineral lease to occupy the surface of public land identified on the map entitled ''Alternative II Management'' of the draft resource management plan that has a surveyed slope of not more than 20 percent and is within 600 feet on either side of the center line of the following existing ridge-top roads (not including any secondary roads or spur roads appurtenant to the ridge-top roads, other than the road described in subparagraph (F)):

(A) Anvil Points Road.

(B) Long Ridge Road.

(C) Short Ridge Road.

(D) Cook Ridge Road.

(E) Corral Ridge Road, numbered 8,000 off of Cow Creek Road, but only in areas that are outside the watershed of Trapper Creek.

(F) The spur road off of Cow Creek Road and Corral Ridge Road in sec. 1, 2, and 11, T. 5 S., R. 95 W., but only on the north and west sides of the road.

(e) CONDITIONS FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ALONG EXISTING RIDGE-TOP ROADS.—

(1) IN GENERAL.—The Secretary may permit oil and gas exploration and development activities within the development corridors designated under subsection (d) only after—

(A) site-specific consultation with the Department of Natural Resources of the State;

(B) the conduct of a detailed review and analysis of the proposed location and activities; and

(C) incorporation of operational and procedural practices to avoid, minimize, or mitigate any potential impacts to biological or ecological resources, including state-of-the-art measures to minimize erosion from stormwater runoff.

(2) COMPLIANCE WITH FEDERAL AND STATE LAW.—Any oil and gas exploration and development activities authorized under subsection (d)(2) shall comply with applicable Federal and State laws (including regulations).

(f) PUBLIC COMMENT.—Before permitting oil and gas exploration and development activities under subsection (d)(2), the Secretary shall provide notice and an opportunity for public comment.

SEC. 265. PHASED MINERAL LEASING.

(a) IN GENERAL.—

(1) LEASES.—Except as provided in paragraph (2) and to the extent consistent with this subtitle, the Secretary may issue mineral leases affecting public land within the Roan Plateau Planning Area pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) OIL SHALE.—The Secretary may not permit through a lease or other means any exploration for or development of oil shale resources within the Roan Plateau Planning Area.

(b) PHASED DEVELOPMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not at any time issue mineral leases for public land within more than 1 of the phased development areas.

(2) INITIAL PHASED DEVELOPMENT AREA.—The Secretary, in consultation with and concurrence by the Department of Natural Resources of the State and pursuant to this subsection, may select an area for initial issuance of mineral leases.

(3) FACTORS.—In making the selection under paragraph (2), the Secretary shall, to the maximum extent practicable—

(A) minimize environmental and ecological impact;

(B) minimize disturbance to natural areas atop the Roan Plateau;

(C) maximize use of existing access roads and oil and gas pipeline and production infrastructure;

(D) consider patterns of private land ownership adjacent to public land;

(E) protect and promote ecological diversity;

(F) minimize adverse effects on wildlife populations, habitat, and migration patterns;

(G) minimize adverse effects on watershed values; and

(H) maximize the revenues likely to be obtained by the United States and, pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.), the State.

(4) CHOICE OF INITIAL AREA.—The Secretary may select as the initial area for offering of leases only—

(A) the Anvil Ridge Oil and Gas Development Area; or

(B) the Corral Ridge Oil and Gas Development Area.

(5) PUBLIC COMMENT.—Before making a selection of a phased development area under this subsection, the Secretary shall provide notice and an opportunity for public comment.

(c) ENVIRONMENTAL PROTECTION.—Each mineral lease affecting public land within the Roan Plateau Planning Area shall include provisions to ensure the protection of the environment, including minimum pad spacing that incorporates current state-of-the-art drilling technologies and clustered development.

(d) BONUS BIDS AND LEASES.—In entering into leases for oil or gas exploration and development on public land within the Roan Plateau Planning Area, the Secretary may include minimum bonus bid amounts and lease sizes that are above the limits established under subparagraphs (A) and (B) of section 17(b)(1) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)), to the extent the Secretary considers the amounts and sizes appropriate to accomplish the purposes of this subtitle, including maximization of lease revenues and protection of the environment.

(e) REPORTS.—Not later than 1 year after the date on which leases are first offered pursuant to this section and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that includes detailed information about—

(1) the status of exploration or development activities pursuant to leases entered into under this section and the stipulations and other terms and conditions applicable to each such lease;

(2) the nature and effectiveness of actions taken to mitigate adverse effects of exploration or development activities pursuant to the leases and to reclaim land affected by the activities;

(3) the effectiveness of the actions described in paragraph (2); and

(4) the effects of such exploration or development activities on—

(A) water quality and quantity;

(B) air quality;

(C) the viability of native fish populations;

(D) wildlife habitat and populations;

(E) opportunities for hunting, fishing, and other recreational activities; and

(F) land affected by any discharges or spills related to the activities.

SEC. 266. SELECTION OF SUBSEQUENT LEASING AREAS.

(a) IN GENERAL.—Subject to subsection (d) and consistent with this subtitle, the Secretary, in consultation with and concurrence by the Department of Natural Resources of the State, may select the second and each subsequent phased development area for issuance of mineral leases.

(b) REQUIREMENTS.—Each selection under this section shall be made in accordance with the requirements of section 265(b)(3) that apply to the initial selection.

(c) PUBLIC COMMENT.—Before making a selection of a subsequent phased development area under this section, the Secretary shall provide notice and an opportunity for public comment.

(d) CONDITIONS.—Selection and leasing of the second or any subsequent phased development area shall occur only if—

(1) wells have been completed to recover at least 90 percent of the recoverable natural gas in each previously selected phased development area; and

(2) reclamation of ground disturbance to a 5-year interim reclamation standard as set forth in Appendix C of the June 2007 Record of Decision has occurred on at least 99 percent of the public land leased in each previously-selected phased development area.

SEC. 267. FEDERAL UNITIZATION AGREEMENTS.

(a) IN GENERAL.—The Secretary, in consultation with and concurrence by the Department of Natural Resources of the State, shall ensure that each lease for oil or gas exploration and development on public land within the Roan Plateau Planning Area under this subtitle contains a stipulation that requires the lessee to join a Federal unitization agreement that is approved by the Secretary covering all leases offered in the relevant phased development area.

(b) CONTENTS.—The unitization agreement under subsection (a) shall—

(1) identify the operator of the unit;

(2) allocate costs and benefits of production to all of the covered lessees; and

(3) provide a development plan for the leased area.

SEC. 268. RECORD OF DECISION.

(a) RECLAMATION REQUIREMENTS AND DISTURBANCE LIMITATIONS.—Each development activity conducted under a mineral lease affecting public land within the Roan Plateau Planning Area shall be subject to the reclamation requirements and disturbance limitations of the June 2007 Record of Decision and the March 2008 Record of Decision, including the limitation on the total unreclaimed surface disturbance on the Plateau to 350 acres.

(b) CONTINUED APPLICATION.—The June 2007 Record of Decision and the March 2008 Record of Decision shall continue to apply to the Roan Plateau Planning Area to the extent that the June 2007 Record of Decision and the March 2008 Record of Decision are consistent with this subtitle.

SEC. 269. CONFORMING AMENDMENTS.

Section 7439 of title 10, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''(1) Beginning on November 18, 1997, or as soon thereafter as practicable, the'' and inserting ''The''; and

(ii) in the first sentence—

(I) by striking ''shall'' and inserting ''may''; and

(II) by inserting '', as authorized under the Roan Plateau Oil and Gas Leasing Improvement Act of 2008'' before the period at the end; and

(B) by striking paragraph (2); and

(2) in subsection (f)—

(A) in paragraph (1), by striking ''specified in paragraph (2)'' and inserting ''beginning on November 18, 1997, and ending on the date of enactment of the Roan Plateau Oil and Gas Leasing Improvement Act of 2008''; and

(B) by striking paragraph (2) and inserting the following:

''(2) Beginning on the date of enactment of the Roan Plateau Oil and Gas Leasing Improvement Act of 2008, any amounts received by the United States from a lease under this section (including amounts in the form of sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)), and rentals) shall be deposited in the Treasury of the United States, for use in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

Subtitle H—Export of Refined Petroleum Products

SEC. 271. EXPORT OF REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—The President shall report to Congress if net petroleum product exports to any country outside of North America exceed 1 percent of total United States consumption of refined petroleum products for any period of more than 7 days.

(b) CONTENTS.—The report shall—

(1) describe the reasons for the exports; and

(2) state whether those petroleum products that were exported could otherwise have been consumed inside the United States.

TITLE III—OIL DEMAND

Subtitle A—Oil Savings

SEC. 301. FINDINGS.

Congress finds that—

(1) the United States imports more oil from the Middle East today than before the attacks on the United States on September 11, 2001;

(2) the United States remains the most oil-dependent industrialized nation in the world, consuming approximately 25 percent of the oil supply of the world;

(3) the ongoing dependence of the United States on foreign oil is one of the greatest threats to the national security and economy of the United States; and

(4) the United States needs to take transformative steps to wean itself from its addiction to oil.

SEC. 302. POLICY ON REDUCING OIL DEPENDENCE.

It is the policy of the United States to reduce the dependence of the United States on oil, and thereby—

(1) alleviate the strategic dependence of the United States on oil-producing countries;

(2) reduce the economic vulnerability of the United States; and

(3) reduce the greenhouse gas emissions associated with oil use.

SEC. 303. OIL SAVINGS PLAN.

(a) INITIAL OIL SAVINGS TARGET AND ACTION PLAN.—Not later than 270 days after the date of enactment of this Act, an interagency task force composed of the Secretary of Energy, the Secretary of Transportation, the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, and the head of any other agency the President determines appropriate (referred to in this section as the ''Interagency Task Force'') shall publish in the Federal Register an action plan consisting of—

(1) a draft list of proposals for agency action that will be sufficient, when taken together, to save from the baseline determined under subsection (d)—

(A) 2,500,000 barrels of oil per day on average during calendar year 2016;

(B) 7,000,000 barrels of oil per day on average during calendar year 2026; and

(C) 10,000,000 barrels per day on average during calendar year 2030; and

(2) a Federal Government-wide analysis demonstrating—

(A) the expected oil savings from the baseline to be accomplished by—

(i) chapter 329 of title 49, United States Code (including regulations promulgated to carry out that chapter); and

(ii) section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) (including regulations promulgated to carry out section 211(o) of that Act); and

(B) that the proposals described in paragraph (1), taken together with expected oil savings described in subparagraph (A), will achieve the oil savings specified in this subsection.

(b) REVIEW AND UPDATE OF ACTION PLAN.—

(1) REVIEW.—Not later than January 1, 2011, and every 3 years thereafter, the Interagency Task Force shall submit to Congress, and publish, a report that—

(A) evaluates the progress achieved in implementing the oil savings targets established under subsection (a);

(B) analyzes the expected oil savings under the action plan established under that subsection; and

(C)(i) analyzes the potential to achieve oil savings that are in addition to the oil savings goals under that subsection; and

(ii) if the President determines that it is in the national interest, requires an analysis under that subsection for a higher oil savings goal for calendar year 2017 or any subsequent calendar year.

(2) INSUFFICIENT OIL SAVINGS.—If the oil savings are less than the targets described in subsection (a), simultaneously with the report required under paragraph (1), the Interagency Task Force shall publish a revised action plan that is sufficient to achieve the targets.

(c) PUBLIC COMMENT AND FINAL PROPOSALS.—

(1) IN GENERAL.—After a 30-day period for public comment on the publications under subsection (a) and (b), the Interagency Task Force shall, not later than 1 year after the date of enactment of this Act, issue a final list of proposals to meet the requirements of this section.

(2) ADDITIONAL LEGISLATIVE AUTHORITY.—The proposals shall include a request to Congress for any additional legislative authority necessary to implement the proposals.

(d) BASELINE AND ANALYSIS REQUIREMENTS.—In performing the analyses required for the action plan to achieve the oil savings described in subsection (a), the Secretary of

Energy, the Secretary of Transportation, the Secretary of Defense, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the head of any other agency the President determines to be appropriate shall—

(1) determine oil savings as the projected reduction in oil consumption from the baseline established by the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2008'';

(2) determine the oil savings projections required on an annual basis for each of calendar years 2009 through 2030; and

(3) account for any overlap among implementation actions to ensure that the projected oil savings from all the implementation actions, taken together, are as accurate as practicable.

(e) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects the authority provided or responsibility delegated under any other law.

Subtitle B—Telework

PART I—INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION

SEC. 306. INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.

Part J of title III of the Energy Policy and Conservation Act (42 U.S.C. 6374 et seq.) is amended by adding at the end the following:

''SEC. 400GG. INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.

''(a) FEDERAL EMPLOYEE INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.—

''(1) IN GENERAL.—Each Federal agency shall actively promote incentive programs that encourage Federal employees and contractors to reduce petroleum usage through the use of practices such as—

''(A) telecommuting;

''(B) public transit;

''(C) carpooling; and

''(D) bicycling.

''(2) MONITORING AND SUPPORT FOR INCENTIVE PROGRAMS.—The Administrator of General Services, the Director of the Office of Personnel Management, and the Secretary of Energy shall monitor and provide appropriate support to agency programs described in paragraph (1).

''(3) RECOGNITION.—The Secretary may establish a program under which the Secretary recognizes private sector employers for outstanding programs to reduce petroleum usage through practices described in paragraph (1).

''(b) GRANTS TO STATES AND LOCAL GOVERNMENTS FOR INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.—

''(1) IN GENERAL.—The Secretary shall make grants to States and local governments to pay the Federal share of the cost of carrying out incentive programs to reduce petroleum usage through the use of practices such as—

''(A) telecommuting;

''(B) public transit;

''(C) carpooling; and

''(D) bicycling.

''(2) FEDERAL SHARE.—Except as provided in paragraph (3)(B), the Federal share of the cost of carrying out an incentive program described in paragraph (1) shall be 50 percent.

''(3) RURAL AREAS.—In the case of local governments that serve rural areas (as defined by the Secretary)—

''(A) the Secretary shall give priority to those local governments in making grants under this subsection; and

''(B) the Federal share of the cost of carrying out an incentive program described in paragraph (1) shall be 100 percent.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2015.''.

PART II—TELEWORK ENHANCEMENT

SEC. 311. SHORT TITLE.

This part may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 312. DEFINITIONS.

In this part:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this part.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 313. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 314. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 315. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 316. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 317. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 318. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this part if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 313, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 317(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 317, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 319. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

Subtitle C—Public Transportation

SEC. 331. ENERGY EFFICIENT TRANSIT GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a program for making grants to public transportation agencies to assist in reducing energy consumption or greenhouse gas emissions of their public transportation systems.

(b) ELIGIBLE USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

(1) Improvements that reduce energy consumption or greenhouse gas emissions to lighting, heating, cooling, or ventilation systems in public transportation stations and other facilities for which grants authorized by sections 5307, 5309, and 5311 of title 49, United States Code, may be expended.

(2) Adjustments to signal timing or other vehicle controlling systems, including computer controlled systems, that reduce energy consumption or greenhouse gas emissions.

(3) Purchasing or retrofitting rolling stock to improve energy efficiency or reduce greenhouse gas emissions.

(4) Improvements to energy distribution systems.

(c) DISTRIBUTION OF FUNDS.—In determining the recipients of grants under this section, the Secretary of Transportation shall—

(1) consult with other Federal agencies, including the Department of Energy, as appropriate; and

(2) evaluate applications based on—

(A) the total energy savings that are projected to result from the project; and

(B) the projected energy savings as a percentage of the transit agency's total energy usage.

(d) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

(e) TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code.

(f) ANNUAL REPORTS.—On March 1, 2009, and 2010, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report listing the recipients of grants under this section, the purposes for which grant funds were awarded, and any grant applicants who did not receive funding.

(g) LIMITATION ON USE OF AVAILABLE AMOUNTS.—The Secretary may use not more than 0.5 percent of the amount made available for a fiscal year under subsection (h) to provide technical assistance and administer the grants authorized under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to make grants under this section $200,000,000 for each of fiscal years 2009 through 2011. Sums appropriated to carry out this section shall remain available until expended.

SEC. 332. TRANSIT-ORIENTED DEVELOPMENT CORRIDORS GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a program for making grants to public transportation agencies, metropolitan planning organizations, and other State or local government authorities to support planning and design of Transit-Oriented Development Corridors.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TRANSIT-ORIENTED DEVELOPMENT CORRIDOR.—The term ''Transit-Oriented Development Corridor'' means a geographic area, including rights-of-way for fixed guideway public transportation facilities, within ½ mile radius of a fixed guideway transit station or stop.

(2) OTHER TERMS.—The terms ''fixed guideway'', ''local governmental authority'', ''public transportation'', ''Secretary'', and ''State'' have the meanings given such terms in section 5302 of title 49, United States Code.

(c) ELIGIBLE USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for planning or designing Transit-Oriented Development Corridors.

(d) DISTRIBUTION OF FUNDS.—In determining the recipients of grants under this section, the Secretary shall evaluate applications based on the following considerations:

(1) The justification for the project, including the extent to which the project would reduce energy consumption or greenhouse gas emissions, including by increasing transit ridership and by increasing non-motorized trips to access the transit station or facility.

(2) The location of the project, to ensure that selected projects are geographically diverse nationwide and include both urban and suburban areas.

(3) The extent to which project development is being coordinated with all relevant participants, including real-estate, retail, housing, commercial and economic development, and non-profit participants.

(4) The extent to which the project includes mixed-use development within the designated geographic area.

(5) The extent to which the project is being coordinated with relevant housing, economic development, land use, and transportation plans.

(e) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity, except for an activity undertaken by a grant recipient who has not previously engaged in the planning or design of a corridor which would meet the definition of a Transit-Oriented Development Corridor under this section.

(f) TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section for planning shall be subject to the terms and conditions applicable to a grant made under section 5303 of title 49, United States Code. Except as otherwise specifically provided in this section, a grant provided under this section for design shall be subject to the terms and conditions applicable to a grant for design made under section 5309 of title 49, United States Code.

(g) ANNUAL REPORTS.—On June 1, 2009, and 2010, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report listing the recipients of grants under this section, the Federal share provided, the purposes for which grant funds were awarded, and any grant applicants who did not receive funding.

(h) LIMITATION ON USE OF AVAILABLE AMOUNTS.—The Secretary may use not more than 0.5 percent of the amount made available for a fiscal year under subsection (i) to provide technical assistance and administer the grants authorized under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to make grants under this section $200,000,000 for each of fiscal years 2009 through 2011. Sums appropriated to carry out this section shall remain available until expended.

SEC. 333. ENHANCED TRANSIT OPTIONS.

(a) AUTHORIZATION.—The Secretary of Transportation is authorized to make transit enhancement grants under this section to public transportation agencies.

(b) ELIGIBLE RECIPIENTS.—Grants authorized under subsection (a) may be awarded—

(1) to public transportation agencies which have a full funding grant agreement in force on the date of enactment of this Act with Federal payments scheduled in any year beginning with fiscal year 2008, for activities authorized under the full funding grant agreement that would expedite construction of the project; and

(2) to designated recipients as defined in section 5307 of title 49, United States Code, for immediate use to—

(A) address an already-identified backlog of maintenance needs;

(B) purchase additional rolling stock or buses, if the contracts for such purchases are in place prior to the grant award; and

(C) continue or expand service to accommodate ridership increases.

(c) APPROPRIATION OF FUNDS.—There are appropriated, out of funds in the Treasury not otherwise appropriated, to the Secretary of Transportation to make grants under this section—

(1) $300,000,000 for grants to recipients described in subsection (b)(1); and

(2) $1,000,000,000 for grants to recipients described in subsection (b)(2).

(d) DISTRIBUTION OF FUNDS.—

(1) EXPEDITED NEW STARTS GRANTS.—Funds authorized under subsection (c)(1) shall be distributed among eligible recipients so that each recipient receives an equal percentage increase based on the Federal funding commitment for fiscal year 2008 specified in Attachment 6 of the recipient's full funding grant agreement.

(2) FORMULA GRANTS.—Of funds authorized under subsection (c)(2)—

(A) 60 percent shall be distributed according to the formula in subsections (a) through (c) of section 5336 of title 49, United States Code; and

(B) 40 percent shall be distributed according to the formula in section 5340 of title 49, United States Code.

(3) DETERMINATION.—The Secretary of Transportation shall determine the allocation of the amounts authorized among recipients described in subsection (b) no later than 20 days after the date of enactment of this Act.

(e) PRE-AWARD SPENDING AUTHORITY.—

(1) IN GENERAL.—A recipient of a grant under this section shall have pre-award spending authority.

(2) REQUIREMENTS.—If pre-award spending authority is used, the expenditures shall conform with applicable Federal requirements in order to remain eligible for future Federal reimbursement.

(f) FEDERAL SHARE.—The Federal share of grants authorized under this section shall be 100 percent.

(g) SELF-CERTIFICATION.—

(1) IN GENERAL.—Prior to obligation of grant funds, the recipient of the grant award shall certify—

(A) for recipients under subsection (b)(1), that it will comply with the terms and conditions that apply to grants under section 5309 of title 49, United States Code;

(B) for recipients under subsection (b)(2), that it will comply with the terms and conditions that apply to grants under section 5307 of title 49, United States Code; and

(C) that the funds will be used in a manner that will stimulate the economy.

(2) INCLUSION.—Required certifications under this subsection may be made as part of the certification required under section 5307(d)(1) of title 49, United States Code.

(3) PENALTY.—If, upon audit, the Secretary of Transportation finds that the recipient has not complied with applicable requirements under this section and has not made a good-faith effort to comply, the Secretary may withhold not more than 25 percent of the amount required to be appropriated for that recipient under section 5307 of title 49, United States Code, for the following fiscal year.

Subtitle D—Fuel Consumption Indicator Devices

SEC. 336. ONBOARD FUEL ECONOMY INDICATORS AND DEVICES.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''§ 32920. Fuel economy indicators and devices

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prescribe a fuel economy standard for passenger automobiles and nonpassenger automobiles manufactured by a manufacturer in model year 2012, and in each model year after 2012, that requires each such automobile to be equipped with—

''(1) an onboard electronic instrument that provides real-time and cumulative fuel economy data;

''(2) an onboard electronic instrument that signals a driver when inadequate tire pressure may be affecting fuel economy; and

''(3) a device that will allow drivers to place the automobile in a mode that will automatically produce greater fuel economy.

''(b) EXCEPTION.—Subsection (a) shall not apply to any vehicle that is not subject to an average fuel economy standard under section 32902(b).

''(c) ENFORCEMENT.—Subchapter IV of chapter 301 of this title shall apply to a fuel economy standard prescribed under subsection (a) to the same extent and in the same manner as if that standard were a motor vehicle safety standard under chapter 301.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 329 of title 49, United States Code, is amended by inserting after the item relating to section 32919 the following:

''32920. Fuel economy indicators and devices.''.

Subtitle E—Vehicle-to-Grid Demonstration Program

SEC. 341. VEHICLE-TO-GRID DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) V2G PROGRAM.—The term ''V2G program'' means the vehicle-to-grid demonstration program established under subsection (b).

(b) PROGRAM.—The Secretary shall establish and carry out a vehicle-to-grid demonstration program—

(1) to demonstrate ways in which electricity may be transmitted between plug-in hybrid electric vehicles and an electricity distribution system;

(2) to collect real-world data on that transmission;

(3) to develop a better understanding of the benefits of vehicle-to-grid technologies;

(4) to facilitate future adoption of vehicle-to-grid systems; and

(5) to demonstrate optimal integration of advanced vehicle technologies with a renewable energy-based electricity distribution system.

(c) REQUIREMENTS.—The V2G program shall address the challenges to achieving integration of advanced vehicle technologies with the electricity distribution system, including challenges relating to—

(1) charging infrastructure;

(2) accurate and discrete measurement of energy delivered;

(3) communication protocol standards;

(4) power flow control;

(5) smart metering technology; and

(6) the impact on the grid from integration of various renewable energy generation loads ranging from 10 to 25 percent renewable power.

(d) COOPERATION.—The Secretary shall carry out the V2G program through consortia of individuals and entities such as—

(1) energy storage system manufacturers and associated suppliers;

(2) electric drive vehicle manufacturers;

(3) rural electric cooperatives;

(4) investor-owned utilities;

(5) municipal and rural electric utilities;

(6) State and local governments;

(7) metropolitan transportation authorities; and

(8) institutions of higher education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

Subtitle F—Advanced Technology Vehicles Manufacturing Incentive Program

SEC. 346. ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.

Section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) is amended—

(1) in subsection (d)(1), by striking ''and subject to the availability of appropriated funds,''; and

(2) by striking subsection (i) and inserting the following:

''(i) FUNDING.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section (other than subsection (d)) for each of fiscal years 2008 through 2013.

''(2) DIRECT LOAN PROGRAM.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, on October 1, 2008, and on each October 1 thereafter through October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary for the cost of loans to carry out subsection (d) $200,000,000, to remain available until expended.

''(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subsection (d) the funds transferred under subparagraph (A), without further appropriation.''.

Subtitle G—Advanced Batteries

SEC. 351. DEFINITION OF ADVANCED BATTERY.

In this subtitle, the term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

SEC. 352. ADVANCED BATTERY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) expand and accelerate research and development efforts for advanced batteries; and

(2) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 641(p) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231(p)) is amended—

(1) in paragraph (1), by striking ''$50,000,000'' and inserting ''$100,000,000'';

(2) in paragraph (2), by striking ''$80,000,000'' and inserting ''$160,000,000'';

(3) in paragraph (3), by striking ''$100,000,000'' and inserting ''$200,000,000'';

(4) in paragraph (4), by striking ''$30,000,000'' and inserting ''$60,000,000''; and

(5) in paragraph (5), by striking ''$30,000,000'' and inserting ''$60,000,000''.

SEC. 353. ADVANCED BATTERY MANUFACTURING AND TECHNOLOGY ROADMAP.

(a) ROADMAP REQUIRED.—The Director of the Office of Science and Technology Policy shall (in coordination with the Secretary of Energy, the Secretary of Defense, the Secretary of Commerce, and heads of other appropriate Federal agencies) develop a multiyear roadmap to develop advanced battery technologies and sustain domestic advanced battery manufacturing capabilities and an assured supply chain necessary to ensure that the United States has assured access to advanced battery technologies to support current and emerging energy security and defense needs.

(b) ELEMENTS.—The roadmap required by subsection (a) shall include—

(1) an identification of current and future capability gaps, performance enhancements, cost savings goals, and assured technology access goals that require advances in battery technology and manufacturing capabilities;

(2) specific research, technology, and manufacturing goals and milestones, and timelines and estimates of funding necessary for achieving the goals and milestones;

(3) specific mechanisms for coordinating the activities of Federal agencies, State and local governments, coalition partners, private industry, and academia covered by the roadmap; and

(4) such other matters as are considered to be appropriate for purposes of the roadmap.

(c) COORDINATION.—

(1) IN GENERAL.—The roadmap required by subsection (a) shall be developed in coordination with—

(A) all appropriate agencies and organizations within the Department of Defense;

(B) other appropriate Federal agencies;

(C) Federal, State, and local governmental organizations; and

(D) representatives of private industry and academia.

(2) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The Director of the Office of Science and Technology Policy shall ensure that appropriate elements and organizations of the Office of Science and Technology Policy provide such information and other support as are required for the development of the roadmap.

(d) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to the appropriate committees of Congress the roadmap required by subsection (a).

SEC. 354. SENSE OF SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.

It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

Subtitle H—National Energy-Efficient Driver Education Program

SEC. 361. NATIONAL ENERGY-EFFICIENT DRIVER EDUCATION PROGRAM.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop and actively promote educational materials providing information that can be incorporated into driver education programs regarding driving and vehicle maintenance practices that optimize vehicle fuel economy.

Subtitle I—Oil and Gas Reserves Reporting Requirements

SEC. 366. OIL AND GAS RESERVES REPORTING REQUIREMENTS.

It is the sense of the Senate that the Securities and Exchange Commission should accelerate the rulemaking process being undertaken to modernize and increase transparency in oil and gas reserves reporting requirements.

Subtitle J—Tire Efficiency Consumer Information

SEC. 371. CONSUMER TIRE INFORMATION.

Section 32304A(a)(1) of title 49, United States Code, is amended by striking ''24 months'' and inserting ''15 months''.

Subtitle K—Petroleum Use Reduction Technology Deployment

SEC. 376. PETROLEUM USE REDUCTION TECHNOLOGY DEPLOYMENT GRANTS.

(a) IN GENERAL.—The Secretary of Energy shall establish a competitive grant program, to be administered through the Vehicle Technology Deployment Program of the Department of Energy, to provide grants to local Clean Cities coalitions and stakeholders, industry partners, fuel providers, and end users to promote the adoption and use of petroleum use reduction technologies and practices.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2009 through 2013.

Subtitle L—Energy Efficient Building Codes

SEC. 381. ENERGY EFFICIENT BUILDING CODES.

(a) UPDATING NATIONAL MODEL BUILDING ENERGY CODES AND STANDARDS.—

(1) UPDATING.—

(A) IN GENERAL.—The Secretary of Energy (referred to in this section as the ''Secretary'') shall facilitate the updating of national model building energy codes and standards at least every 3 years to achieve overall energy savings, compared to the 2006 International Energy Conservation Code (referred to in this section as the ''IECC'') for residential buildings and ASHRAE/IES Standard 90.1 (2004) for commercial buildings, of at least—

(i) 30 percent by 2015; and

(ii) 50 percent by 2022.

(B) MODIFICATION OF GOAL.—If the Secretary determines that the goal referred to in subparagraph (A)(ii) cannot be achieved using existing technology, or would not be lifecycle cost effective, the Secretary shall establish, after providing notice and an opportunity for public comment, a revised goal that ensures the maximum level of energy efficiency that is technologically feasible and lifecycle cost effective.

(2) REVISION OF CODES AND STANDARDS.—

(A) IN GENERAL.—If the IECC or ASHRAE/IES Standard 90.1 regarding building energy use is revised, not later than 1 year after the date of the revision, the Secretary shall determine whether the revision will—

(i) improve energy efficiency in buildings; and

(ii) meets the targets established under paragraph (1).

(B) REVISION BY SECRETARY.—

(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard does not meet the targets established under paragraph (1), or if a national model code or standard is not updated for more than 3 years, not later than 2 years after the determination or the expiration of the 3-year period, the Secretary shall amend the IECC or ASHRAE/IES Standard 90.1 (as in effect on the date on which the determination is made) to establish a modified code or standard that meets the targets established under paragraph (1).

(ii) BASELINE.—The modified code or standard shall serve as the baseline for the next determination under subparagraph (A)(i).

(C) NOTICE AND COMMENT.—The Secretary shall—

(i) publish in the Federal Register notice of targets, determinations, and modified codes and standards under this subsection; and

(ii) provide the opportunity for public comment on targets, determinations, and modified codes and standards under this subsection.

(b) STATE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—

(1) STATE CERTIFICATION.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, each State shall certify to the Secretary that the State has reviewed and updated the residential and commercial building code of the State regarding energy efficiency.

(B) ENERGY SAVINGS.—The certification shall include a demonstration that the code of the State—

(i) meets or exceeds the 2006 IECC for residential buildings and the ASHRAE/IES Standard 90.1–2004 for commercial buildings; or

(ii) achieves equivalent or greater energy savings.

(2) REVISION OF CODES AND STANDARDS.—

(A) IN GENERAL.—If the Secretary makes an affirmative determination under subsection (a)(2)(A)(i) or establishes a modified code or standard under subsection (a)(2)(B), not later than 2 years after the determination or proposal, each State shall certify that the State has reviewed and updated the building code of the State regarding energy efficiency.

(B) ENERGY SAVINGS.—The certification shall include a demonstration that the code of the State—

(i) meets or exceeds the revised code or standard; or

(ii) achieves equivalent or greater energy savings.

(C) REVIEW AND UPDATING BY STATES.—If the Secretary fails to make a determination under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2) or makes a negative determination under subsection (a)(2)(A), not later 3 years after the specified date or the date of the determination, each State shall certify that the State has—

(i) reviewed the revised code or standard; and

(ii) updated the building code of the State regarding energy efficiency to—

(I) meet or exceed any provisions found to improve energy efficiency in buildings; or

(II) achieve equivalent or greater energy savings in other ways.

(c) STATE CERTIFICATION OF COMPLIANCE WITH BUILDING CODES.—

(1) IN GENERAL.—Not later than 3 years after a certification of a State under subsection (b), the State shall certify that the State has achieved compliance with the certified building energy code.

(2) RATE OF COMPLIANCE.—The certification shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the code during the preceding year.

(3) COMPLIANCE.—A State shall be considered to achieve compliance with the certified building energy code under paragraph (1) if—

(A) at least 90 percent of new and renovated buildings covered by the code during the preceding year substantially meet all the requirements of the code; or

(B) the estimated excess energy use of new and renovated buildings that did not meet the code during the preceding year, compared to a baseline of comparable buildings that meet the code, is not more than 10 percent of the estimated energy use of all new and renovated buildings covered by the code during the preceding year.

(d) FAILURE TO MEET DEADLINES.—

(1) REPORTS.—A State that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on—

(A) the status of the State with respect to completing and submitting the certification; and

(B) a plan of the State for completing and submitting the certification.

(2) EXTENSIONS.—The Secretary shall permit an extension of an applicable deadline for a certification requirement under subsection (b) or (c) for not more than 1 year if a State demonstrates in the report of the State under paragraph (1) that the State has made—

(A) a good faith effort to comply with the requirements; and

(B) significant progress in complying with the requirements, including by developing and implementing a plan to achieve that compliance.

(3) NONCOMPLIANCE BY STATE.—Any State for which the Secretary has not accepted a certification by a deadline established under subsection (b) or (c), with any extension granted under paragraph (2), shall be considered not in compliance with this section.

(4) COMPLIANCE BY LOCAL GOVERNMENTS.—In any State that is not in compliance with this section, a local government of the State may comply with this section by meeting the certification requirements under subsections (b) and (c).

(5) ANNUAL COMPLIANCE REPORTS.—

(A) IN GENERAL.—The Secretary shall annually submit to Congress a report that contains, and publish in the Federal Register, a list of—

(i) each State (including local governments in a State, as applicable) that is in compliance with the requirements of this section; and

(ii) each State that is not in compliance with those requirements.

(B) INCLUSION.—For each State included on a list described in subparagraph (A)(ii), the Secretary shall include an estimate of—

(i) the increased energy use by buildings in that State due to the failure of the State to comply with this section; and

(ii) the resulting increase in energy costs to individuals and businesses.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide technical assistance (including building energy analysis and design tools, building demonstrations, and design assistance and training) to enable the national model building energy codes and standards to meet the targets established under subsection (a)(1).

(2) ASSISTANCE TO STATES.—The Secretary shall provide technical assistance to States to—

(A) implement this section, including procedures for States to demonstrate that the codes of the States achieve equivalent or greater energy savings than the national model codes and standards;

(B) improve and implement State residential and commercial building energy efficiency codes; and

(C) otherwise promote the design and construction of energy efficient buildings.

(f) AVAILABILITY OF INCENTIVE FUNDING.—

(1) IN GENERAL.—The Secretary shall provide incentive funding to States to—

(A) implement this section; and

(B) improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with the codes.

(2) FACTORS.—In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to—

(A) implement this section;

(B) improve and implement residential and commercial building energy efficiency codes; and

(C) promote building energy efficiency through the use of the codes.

(3) ADDITIONAL FUNDING.—The Secretary shall provide additional funding under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

(A) to a State that has adopted and is implementing, on a statewide basis—

(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2006 IECC, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); and

(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE/IES Standard 90.1–2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); or

(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

(4) TRAINING.—Of the amounts made available under this subsection, the Secretary may use to train State and local officials to implement codes described in paragraph (3) at least $500,000 for each fiscal year.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection—

(i) $25,000,000 for each of fiscal years 2006 through 2010; and

(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

(B) LIMITATION.—Funding provided to States under paragraph (3) for each fiscal year shall not exceed ½ of the excess of funding under this subsection over $5,000,000 for the fiscal year.

(g) TECHNICAL CORRECTION.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended by adding at the end the following:

''(17) IECC.—The term 'IECC' means the International Energy Conservation Code.''.

Subtitle M—Renewable Energy Pilot Project Offices

SEC. 386. PILOT PROJECT OFFICE TO IMPROVE FEDERAL PERMIT COORDINATION FOR RENEWABLE ENERGY.

(a) IN GENERAL.—Section 365 of the Energy Policy Act of 2005 (42 U.S.C. 15924) is amended by adding at the end the following:

''(k) PILOT PROJECT OFFICE TO IMPROVE FEDERAL PERMIT COORDINATION FOR RENEWABLE ENERGY.—

''(1) DEFINITION OF RENEWABLE ENERGY.—In this subsection, the term 'renewable energy' means energy derived from a wind or solar source.

''(2) FIELD OFFICES.—As part of the Pilot Project, the Secretary shall designate 1 field office of the Bureau of Land Management in each of the following States to serve as Renewable Energy Pilot Project Offices for coordination of Federal permits for renewable energy projects on Federal land:

''(A) Arizona.

''(B) California.

''(C) New Mexico.

''(D) Nevada.

''(E) Montana.

''(3) MEMORANDUM OF UNDERSTANDING.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into an amended memorandum of understanding under subsection (b) to provide for the inclusion of the additional Renewable Energy Pilot Project Offices in the Pilot Project.

''(B) SIGNATURES BY GOVERNORS.—The Secretary may request that the Governors of each of the States described in paragraph (2) be signatories to the amended memorandum of understanding.

''(4) DESIGNATION OF QUALIFIED STAFF.—Not later than 30 days after the date of the signing of the amended memorandum of understanding, all Federal signatory parties shall, if appropriate, assign to each Renewable Energy Pilot Project Offices designated under paragraph (2) an employee described in subsection (c) to carry out duties described in that subsection.

''(5) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Renewable Energy Pilot Project Office additional personnel under subsection (f).''.

(b) PERMIT PROCESSING IMPROVEMENT FUND.—Section 35(c)(3) of the Mineral Leasing Act (30 U.S.C. 191(c)(3)) is amended—

(1) by striking ''use authorizations'' and inserting ''and renewable energy use authorizations''; and

(2) by striking ''section 365(d)'' and inserting ''subsections (d) and (k)(2) of section 365''.

TITLE IV—ROYALTY MANAGEMENT REFORMS

Subtitle A—Repeal of Deep Water Royalty Relief

SEC. 401. REPEAL OF DEEP WATER ROYALTY RELIEF.

Sections 344 and 345 of the Energy Policy Act of 2005 (42 U.S.C. 15904, 15905) are repealed.

Subtitle B—Royalty Reforms

SEC. 411. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702) is amended—

(1) in paragraph (20)—

(A) in subparagraph (A), by striking '': *Provided*, That'' and all that follows through ''subject of the judicial proceeding''; and

(B) in subparagraph (B), by striking ''(with written notice to the lessee who designated the designee)'';

(2) in paragraph (23)(A), by striking ''(with written notice to the lessee who designated the designee)'' ;

(3) by striking paragraph (24) and inserting the following:

''(24) 'designee' means any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments a lessee is required to make pursuant to section 102(a);'';

(4) in paragraph (25)(B), by striking ''(subject to the provisions of section 102(a) of this Act)''; and

(5) in paragraph (26), by striking ''(with notice to the lessee who designated the designee)''.

SEC. 412. LIABILITY FOR ROYALTY PAYMENTS.

Section 102 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712) is amended by striking subsection (a) and inserting the following:

''(a) LIABILITY FOR ROYALTY PAYMENTS.—

''(1) IN GENERAL.—To increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make the payments in the time and manner as may be specified by the Secretary or the applicable delegated State.

''(2) STATUS AS DESIGNEE.—Any person who pays, offsets, or credits funds, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee is required to make shall be considered the designee of the lessee under this Act.

''(3) LIABILITY OF DESIGNEE.—Notwithstanding any other provision of this Act, a designee shall be liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease.

''(4) OWNERS OF OPERATING RIGHTS AND TITLE.—The person owning operating rights in a lease and a person owning legal record title in a lease shall be liable for the pro rata share of the person of payment obligations under the lease.''.

SEC. 413. INTEREST.

(a) ESTIMATED PAYMENTS; INTEREST ON AMOUNT OF UNDERPAYMENT.—Section 111(j) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(j)) is amended by striking ''If the estimated payment exceeds the actual royalties due, interest is owed on the overpayment.''.

(b) OVERPAYMENTS.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended—

(1) by striking subsections (h) and (i); and

(2) by redesignating subsections (j), (k), and (l) as subsections (h), (i), and (j), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 414. OBLIGATION PERIOD.

Section 115(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(c)) is amended by adding at the end the following:

''(3) ADJUSTMENTS.—In the case of an adjustment under section 111A(a) in which a recoupment by the lessee results in an underpayment of an obligation, for purposes of this Act, the obligation shall become due on the date the lessee or a designee of the lessee makes the adjustment.''.

SEC. 415. TOLLING AGREEMENTS AND SUBPOENAS.

(a) TOLLING AGREEMENTS.—Section 115(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(1)) is amended by striking ''(with notice to the lessee who designated the designee)''.

(b) SUBPOENAS.—Section 115(d)(2)(A) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(2)(A)) is amended by striking ''(with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee)''.

SA 5136. Mr. GREGG (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—WARM ACT

SEC. 21. SHORT TITLE.

This title may be cited as the ''Weatherization, Assistance, and Relief for Middle-Income Households Act of 2008'' or the ''WARM Act of 2008''.

SEC. 22. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

In addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008—

(1) $1,265,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $1,265,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

SEC. 23. WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS.

In addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008 $523,000,000 to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.), to remain available until expended.

SEC. 24. CREDIT FOR HOME HEATING OIL EXPENDITURES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. HOME HEATING OIL EXPENDITURES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified home heating oil expenditures made by the taxpayer during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for any taxable year shall not exceed $1,000 ($2,000 in the case of a joint return).

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount which would (but for this paragraph) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by 10 percent (20 percent in the case of a joint return) of so much of the taxpayer's adjusted gross income as exceeds $60,000 ($90,000 in the case of a joint return).

''(c) QUALIFIED HOME HEATING OIL EXPENDITURES.—For purposes of this section, the term 'qualified home heating oil expenditures' means any expenditures for the purchase of heating oil that—

''(1) are made for the purpose of heating a dwelling unit or heating water for use in a dwelling unit located in the United States and used as a residence by the taxpayer, and

''(2) are made on or after June 1, 2008, and before January 1, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 25D(c)(2) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(5) Section 26(a)(1) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(6) Section 904(i) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(7) Section 1400C(d)(2) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 25E''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Home heating oil expenditures.''.

SEC. 25. 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) of the Internal Revenue Code of 1986 (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) of such Code 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. 26. CLARIFICATION OF DETERMINATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) IN GENERAL.—Paragraph (1) of section 907(c) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (B) as subparagraph (C), by striking ''or'' at the end of subparagraph (A), and by inserting after subparagraph (A) the following new subparagraph:

''(B) so much of any transportation of such minerals as occurs before the fair market value event, or''.

(b) FAIR MARKET VALUE EVENT.—Subsection (c) of section 907 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) FAIR MARKET VALUE EVENT.—For purposes of this section, the term 'fair market value event' means, with respect to any mineral, the first point in time at which such mineral—

''(A) has a fair market value which can be determined on the basis of a transfer, which

is an arm's length transaction, of such mineral from the taxpayer to a person who is not related (within the meaning of section 482) to such taxpayer, or

''(B) is at a location at which the fair market value is readily ascertainable by reason of transactions among unrelated third parties with respect to the same mineral (taking into account source, location, quality, and chemical composition).''.

(c) SPECIAL RULE FOR CERTAIN PETROLEUM TAXES.—Subsection (c) of section 907 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(7) OIL AND GAS TAXES.—In the case of any tax imposed by a foreign country which is limited in its application to taxpayers engaged in oil or gas activities—

''(A) the term 'oil and gas extraction taxes' shall include such tax,

''(B) the term 'foreign oil and gas extraction income' shall include any taxable income which is taken into account in determining such tax (or is directly attributable to the activity to which such tax relates), and

''(C) the term 'foreign oil related income' shall not include any taxable income which is treated as foreign oil and gas extraction income under subparagraph (B).''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 907(c)(1) of the Internal Revenue Code of 1986, as redesignated by this section, is amended by inserting ''or used by the taxpayer in the activity described in subparagraph (B)'' before the period at the end.

(2) Subparagraph (B) of section 907(c)(2) of such Code is amended to read as follows:

''(B) so much of the transportation of such minerals or primary products as is not taken into account under paragraph (1)(B),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 5137. Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. DEEP SEA EXPLORATION.

(a) PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.—Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

(b) PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

(c) CONFORMING AMENDMENTS.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SEC. ___. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; or

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

SA 5138. Mr. BARRASSO (for himself, Mr. BUNNING, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROCUREMENT OF UNCONVENTIONAL FUEL BY DEPARTMENT OF DEFENSE.

(a) PROCUREMENT AUTHORIZED.—Subchapter II of chapter 173 of title 10, United States Code, is amended by adding at the end the following new section:

''SEC. 2922g. PROCUREMENT OF UNCONVENTIONAL FUEL.

''(a) LONG TERM CONTRACTS FOR UNCONVENTIONAL FUEL.—The Secretary of Defense may enter into contracts for the procurement of unconventional fuel. The term of any contract under this section may be such period as the Secretary considers appropriate, but not more than 25 years.

''(b) WAIVER AUTHORITY.—(1) In procuring unconventional fuel, the Secretary may waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines that—

''(A) the waiver is necessary to procure such unconventional fuel for Government needs; and

''(B) in the case of a contract for a term in excess of five years, it would not be possible to procure such unconventional fuel from the source in an economical manner without the use of a contract for a period in excess of five years.

''(2) Any waiver that is applicable to a contract for the procurement of unconventional fuel under this subsection may also, at the election of the Secretary, apply to a subcontract under that contract.

''(c) PRICING AUTHORITY FOR UNCONVENTIONAL FUEL PURCHASED FROM DOMESTIC SOURCES.—(1) The Secretary shall ensure that any purchase of unconventional fuel under a contract under this section is cost effective for the Department of Defense.

''(2) The Secretary may procure unconventional fuel from domestic sources at a price higher than comparable petroleum products, or include a price guarantee for the procurement of unconventional fuel from such sources, if the Secretary determines that—

''(A) such price is necessary to develop or maintain an assured supply of unconventional fuel produced from domestic sources; and

''(B) supplies of unconventional fuel from domestic sources cannot be effectively increased or obtained at lower prices.

''(d) OBLIGATION OF FUNDS.—At the time of award of any contract for the procurement of unconventional fuel under this section in excess of one year, the Secretary may obligate annually funds sufficient to cover the annual costs of the contract. In the event that funds are not available for the continuation of the contract in any subsequent years, the contract shall be cancelled or terminated. The Secretary may fund any cancellation or termination liability out of funds originally available at the time of award, funds currently available at the time termination liability is incurred, or funds specifically appropriated for those payments.

''(e) DEFINITIONS.—In this section:

''(1) The term 'domestic source' means a facility (including feedstock) located physically in the United States that produces or generates unconventional fuel.

''(2) The term 'unconventional fuel' means transportation fuel that is derived from a feedstock other than conventional petroleum and includes transportation services related to the delivery of such fuel.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 173 of such title is amended by adding at the end the following new item:

''2922g. Procurement of unconventional fuel.''.

SEC. ___. REDUCTION OF GASOLINE CONSUMPTION BY FEDERAL AGENCIES.

The President shall take such action as is necessary to ensure, to the maximum extent practicable, that Federal agencies (other than agencies of the Department of Defense), individually and collectively, reduce consumption of gasoline during fiscal year 2009 and each subsequent fiscal year by not less than 2 percent from the level of gasoline consumed by the Federal agencies during fiscal year 2007.

SA 5139. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—ENERGY INFRASTRUCTURE

SEC. 21. TAX-EXEMPT FINANCING OF ENERGY TRANSPORTATION INFRASTRUCTURE NOT SUBJECT TO PRIVATE BUSINESS USE TESTS.

(a) IN GENERAL.—Section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR CERTAIN ENERGY TRANSPORTATION INFRASTRUCTURE.—

''(i) IN GENERAL.—For purposes of the 1st sentence of subparagraph (A), the operation or use of any property described in clause (ii) by any person which is not a governmental unit shall not be considered a private business use.

''(ii) PROPERTY DESCRIBED.—For purposes of clause (i), the following property is described in this clause:

''(I) Any tangible property used to transmit electricity at 230 or more kilovolts if such property is placed in service as part of a State or multi-State effort to improve interstate electricity transmission and is physically located in not less than 2 States.

''(II) Any tangible property used to transmit electricity generated from renewable resources.

''(III) Any tangible property used as a transmission pipeline for crude oil or diesel fuel produced from coal or other synthetic petroleum products produced from coal if such property is placed in service as part of a State or multi-State effort to improve the transportation of crude oil or diesel fuel produced from coal or other synthetic petroleum products produced from coal.

''(IV) Any tangible property used as a carbon dioxide transmission pipeline if such property is placed in service as part of a State or multi-State effort to improve interstate or intrastate efforts to develop transportation infrastructure for purposes of permanently sequestering carbon dioxide.''.

(b) EXCEPTION TO PRIVATE LOAN FINANCING TEST.—Section 141(c)(2) of the Internal Revenue Code of 1986 (relating to exception for tax assessment, etc., loans) is amended—

(1) by striking ''or'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting '', or'', and

(3) by adding at the end the following new subparagraph:

''(D) enables the borrower to finance any property described in subsection (b)(6)(C)(ii).''.

(c) REDUCTION OF STATE VOLUME CAP BY AMOUNT OF ENERGY TRANSPORTATION INFRASTRUCTURE FINANCING.—Section 146 of the Internal Revenue Code of 1986 (relating to volume cap) is amended by adding at the end the following new subsection:

''(o) REDUCTION FOR ENERGY TRANSPORTATION INFRASTRUCTURE FINANCING.—The volume cap of any issuing authority for any calendar year shall be reduced by the amount of bonds issued as part of an issue by such authority to provide for property described in section 141(b)(6)(C)(ii).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before December 31, 2015.

SEC. 22. LIMITATION ON DISCRIMINATORY TAXATION OF CERTAIN PIPELINE PROPERTY.

(a) DEFINITIONS.—For purposes of section:

(1) ASSESSMENT.—The term ''assessment'' means valuation for a property tax levied by a taxing authority.

(2) ASSESSMENT JURISDICTION.—The term ''assessment jurisdiction'' means a geographical area used in determining the assessed value of property for ad valorem taxation.

(3) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term ''commercial and industrial property'' means property (excluding pipeline property, public utility property, and land used primarily for agricultural purposes or timber growth) devoted to commercial or industrial use and subject to a property tax levy.

(4) PIPELINE PROPERTY.—The term ''pipeline property'' means all property, real, personal, and intangible, owned or used by a natural gas pipeline providing transportation or storage of natural gas, subject to the jurisdiction of the Federal Energy Regulatory Commission.

(5) PUBLIC UTILITY PROPERTY.—The term ''public utility property'' means property (excluding pipeline property) that is devoted to public service and is owned or used by any entity that performs a public service and is regulated by any governmental agency.

(b) DISCRIMINATORY ACTS.—The acts specified in this subsection unreasonably burden and discriminate against interstate commerce. A State, subdivision of a State, authority acting for a State or subdivision of a State, or any other taxing authority (including a taxing jurisdiction and a taxing district) may not do any of the following such acts:

(1) Assess pipeline property at a value that has a higher ratio to the true market value of the pipeline property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1).

(3) Levy or collect an ad valorem property tax on pipeline property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose any other tax that discriminates against a pipeline providing transportation subject to the jurisdiction of the Federal Energy Regulatory Commission.

(c) JURISDICTION OF COURTS; RELIEF.—

(1) GRANT OF JURISDICTION.—Notwithstanding section 1341 of title 28, United States Code, and notions of comity, and without regard to the amount in controversy or citizenship of the parties, the district courts of the United States shall have jurisdiction, concurrent with other jurisdiction of the courts of the United States, of States, and of all other taxing authorities and taxing jurisdictions, to prevent a violation of subsection (b).

(2) RELIEF.—Except as otherwise provided in this paragraph, relief may be granted under this Act only if the ratio of assessed value to true market value of pipeline property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), each of the following shall be a violation of subsection (b) for which relief under this section may be granted:

(A) An assessment of the pipeline property at a value that has a higher ratio of assessed value to the true market value of the pipeline property than the ratio of the assessed value of all other property (excluding public utility property) subject to a property tax levy in the assessment jurisdiction has to the true market value of all other property (excluding public utility property).

(B) The collection of an ad valorem property tax on the pipeline property at a tax rate that exceeds the tax rate applicable to all other taxable property (excluding public utility property) in the taxing jurisdiction.

SEC. 23. NATURAL GAS PIPELINE INTEGRITY REASSESSMENT INTERVALS BASED ON RISK.

(a) IN GENERAL.—Section 60109(c)(3)(B) of title 49, United States Code, is amended by inserting '', until the Secretary issues regulations basing the reassessment intervals on technical data, risk factors, and engineering analysis, consistent with the recommendations of the Comptroller General of the United States in Report 06–945'' after ''subparagraph (A)''.

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

SA 5140. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—NEW AND REAUTHORIZED PRODUCING AREAS

Subtitle A—Leasing Program for Land Within Coastal Plain

SEC. 201. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-

Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 202. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 203. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 204. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 203 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 205. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 202(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 206. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 202, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 207. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 208. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 209. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 210. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 212(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 212(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 211. PROHIBITION ON EXPORTS.

An oil lease issued under this subtitle shall prohibit the exportation of oil produced under the lease.

SEC. 212. ALLOCATION OF REVENUES.

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle shall be deposited in accordance with section 222(b).

Subtitle B—Repeal of Moratoria and Disposition of Qualified Revenues

SEC. 221. REPEAL OF MORATORIA.

(a) COMMERCIAL OIL SHALE LEASING.—Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

(b) OUTER CONTINENTAL SHELF LEASING.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

SEC. 222. DISPOSITION OF QUALIFIED REVENUES FROM NEW PRODUCING AREAS.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ''Fund'' means the Energy Independence Trust Fund established by subsection (c)(1).

(2) NEW PRODUCING AREA.—The term ''new producing area'' means—

(A) an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section) that is located greater than 50 miles from the coastline of the State;

(B) an area available for leasing under section 369(e) of the Energy Policy Act of 2005 (42 U.S.C. 15927(e)); or

(C) the Coastal Plain (as defined in section 201).

(3) QUALIFIED REVENUE.—The term ''qualified revenue'' means the Federal share of all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or section 369(e) of the Energy Policy Act of 2005 (42 U.S.C. 15927(e)).

(b) DISPOSITION OF QUALIFIED REVENUES.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) 20 percent of qualified revenues shall be deposited in the Highway Trust Fund; and

(B) 80 percent of qualified revenues shall be deposited in the Fund.

(2) LIMITATION.—Notwithstanding subparagraph (A) of paragraph (1), the total amount to be deposited under that subparagraph for any fiscal year shall not exceed the deficit in the Highway Trust Fund for the preceding fiscal year.

(c) ENERGY INDEPENDENCE TRUST FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Energy Independence Trust Fund'', consisting of such amounts as are deposited under subsection (b)(1)(B).

(2) EXPENDITURES FROM FUND.—On request by the Secretary of Energy, the Secretary of the Treasury shall transfer from the Fund to the Secretary of Energy such amounts as the Secretary of Energy determines are necessary to provide competitive grants for—

(A) the conduct of research on, and the development of, alternative fuels, energy conservation products, and products that develop and use energy in manners that are safer, cleaner, and more efficient than similar existing products; and

(B) activities to provide information to the public on the benefits of energy conservation.

(3) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SA 5141. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 4(e)(1)(B)(iii) of the Commodity Exchange Act (as added by section 3), strike ''legitimate and nonlegitimate hedge trading'' and insert ''bona fide and non-bona fide hedge trading (as those terms are defined in section 4a(h)(1))''.

In section 4a(g) of the Commodity Exchange Act (as added by section 5), strike ''nonlegitimate hedge trading'' and insert ''non-bona fide hedge trading (as defined in section 4a(h)(1))''.

In section 4a(h) of the Commodity Exchange Act (as added by section 6)—

(1) in the heading, strike ''NONLEGITIMATE HEDGE'' and insert ''NON-BONA FIDE HEDGE'';

(2) strike paragraph (1) and insert the following:

''(1) DEFINITIONS.—In this subsection:

''(A) BONA FIDE HEDGE TRADE.—

''(i) IN GENERAL.—The term 'bona fide hedge trade' means a transaction that—

''(I) represents a substitute for a transaction to be made or a position to be taken at a later time in a physical marketing channel;

''(II) is economically appropriate for the reduction of risks in the conduct and management of a commercial enterprise; and

''(III) arises from the potential change in the value of—

''(aa) assets that a person owns, produces, manufactures, possesses, or merchandises (or anticipates owning, producing, manufacturing, possessing, or merchandising);

''(bb) liabilities that a person incurs or anticipates incurring; or

''(cc) services that a person provides or purchases (or anticipates providing or purchasing).

''(ii) EXCLUSION.—The term 'bona fide hedge trade' does not include a transaction entered into on a designated contract market for the purpose of offsetting a financial risk arising from an over-the-counter commodity derivative.

''(B) NON-BONA FIDE HEDGE TRADE.—The term 'non-bona fide hedge trade' means a transaction that is not a bona fide hedge trade.'';

(3) in paragraph (2)—

(A) in the heading, strike ''LEGITIMATE HEDGE'' and insert ''BONA FIDE HEDGE''; and

(B) in subparagraph (A), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(4) in paragraph (3)(A), strike ''legitimate hedge'' and insert ''bona fide hedge''; and

(5) in paragraph (4)—

(A) in subparagraph (A)(i), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(B) in subparagraph (B)(i), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(C) in subparagraph (C)—

(i) in the heading, strike ''NONLEGITIMATE HEDGE'' and insert ''NON-BONA FIDE HEDGE'';

(ii) in clause (i)(I), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(iii) in clause (ii)(II)(aa), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(iv) in clause (iv)(I)(aa), strike ''nonlegitimate hedge'' and insert ''non-bona fide hedge''; and

(v) in clause (v)(I), in the matter preceding item (aa), strike ''nonlegitimate traders'' and insert ''non-bona fide traders''; and

(D) in subparagraph (D)(i)—

(i) in subclause (I), strike ''legitimate hedging'' and insert ''bona fide hedging'';

(ii) in subclause (III), strike ''legitimate hedge'' and insert ''bona fide hedge''; and

(iii) in subclause (IV), strike ''nonlegitimate hedge'' and insert ''non-bona fide hedge''.

In section 2(j) of the Commodity Exchange Act (as added by section 7)—

(1) in paragraph (1)(C)(iii), strike ''nonlegitimate hedge trading'' and insert ''non-bona fide hedge trading (as defined in section 4a(h)(1))''; and

(2) in paragraph (3)(B)(iii), strike ''legitimate hedge trading from nonlegitimate hedge trading'' and insert ''bona fide hedge trading from non-bona fide hedge trading (as those terms are defined in section 4a(h)(1))''.

In section 4(f)(4) of the Commodity Exchange Act (as added by section 8), strike ''legitimate and nonlegitimate hedge trading'' and insert ''bona fide hedge trading and non-bona fide hedge trading (as those terms are defined in section 4a(h)(1))''.

SA 5142. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 1(a), strike ''Energy Speculation'' and insert ''Commodity Speculation''.

In section 4(e) of the Commodity Exchange Act (as added by section 3)—

(1) in paragraph (1), in the matter preceding subparagraph (A), strike ''an energy commodity'' and insert ''a covered commodity (as defined in section 4a(h)(1))''; and

(2) in paragraph (2), strike ''an energy commodity'' and insert ''a covered commodity (as defined in section 4a(h)(1))''.

In section 4a(e) of the Commodity Exchange Act, in the second sentence (as amended by section 4(a)(2)(A)(ii))—

(1) strike ''an energy commodity'' and insert ''a covered commodity (as defined in subsection (h)(1))''; and

(2) strike ''or energy commodity'' and insert ''or covered commodity (as defined in subsection (h)(1))''.

In section 4a(h) of the Commodity Exchange Act (as added by section 6)—

(1) strike paragraph (1) and insert the following:

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED COMMODITY.—The term 'covered commodity' means—

''(i) an agricultural commodity; and

''(ii) an energy commodity.

''(B) LEGITIMATE HEDGE TRADING.—

''(i) IN GENERAL.—The term 'legitimate hedge trading' means the conduct of trading that involves transactions by commercial producers and purchasers of actual covered commodities for future delivery and the direct counterparties to such trades (regardless of whether the counterparties are commercial producers or purchasers).

''(ii) INCLUSION.—To the extent a commercial producer or purchaser of an actual physical covered commodity for future delivery trades with an intermediary (referred to in this subparagraph as an 'initial trade'), each subsequent trade by the intermediary arising solely due to the initial trade and that directly results from such initial trade (referred to in this subparagraph as a 'follow-on trade') shall be considered to be the conduct of 'legitimate hedge trading' if each follow-on trade executed by the intermediary is—

''(I) done proximate to the initial trade; and

''(II) in the aggregate, economically the same in size and substance as the initial trade.''; and

(2) in paragraph (4)(C)—

(A) in clause (i)(II), strike ''an energy commodity'' each place it appears and insert ''a covered commodity''; and

(B) in clause (iv)(I)(aa), strike ''an energy commodity'' and insert ''a covered commodity''.

In section 2(j) of the Commodity Exchange Act (as added by section 7)—

(1) in paragraph (1)(E), in the matter preceding clause (i), strike ''energy commodity'' and insert ''covered commodity (as defined in section 4a(h)(1))''; and

(2) in paragraph (5), strike ''energy commodity'' and insert ''covered commodity (as defined in section 4a(h)(1))''.

In section 15(a)—

(1) in the heading, strike ''ENERGY COMMODITY'' and insert ''AGRICULTURAL AND ENERGY COMMODITIES'';

(2) in paragraph (1), strike ''energy commodity'' and insert ''agricultural and energy commodities''; and

(3) in paragraph (2)(A), strike ''energy commodity'' and insert ''agricultural and energy commodities''.

SA 5143. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing Transparency and Accountability in Energy Prices Act of 2008''.

SEC. 2. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall jointly conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the heads of the Federal agencies described in subsection (a) shall jointly submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market.

SEC. 3. FOREIGN BOARDS OF TRADE.

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.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades directly into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trade information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or a foreign futures authority adopts position limitations (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limitations (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles; and

''(C) the foreign board of trade or a foreign futures authority provides such information to the Commission regarding the extent of speculative and non-speculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its weekly report of traders (commonly known as the Commitments of Traders report) for the contract or contracts against which it settles.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 1 year after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission's staff had granted relief from the requirements of this Act prior to the date of enactment of this subsection.''.

SEC. 4. INDEX TRADERS AND SWAP DEALERS; DISAGGREGATION OF INDEX FUNDS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 3) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule regarding routine reporting requirements for index traders and swap dealers (as those terms are defined by the Commission) in energy and agricultural transactions (as those terms are defined by the Commission) within the jurisdiction of the Commission not later than 180 days after the date of enactment of this subsection, and issue a final rule regarding such reporting requirements not later than 270 days after the date of enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive, long-only positions in the energy and agricultural futures markets.

''(2) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether classification of index traders and swap dealers in the futures markets can be improved for regulatory and reporting purposes; and

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SEC. 5. IMPROVED OVERSIGHT AND ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) crude oil prices are at record levels and consumers in the United States are paying record prices for gasoline;

(2) funding for the Commodity Futures Trading Commission has been insufficient to cover the significant growth of the futures markets;

(3) since the establishment of the Commodity Futures Trading Commission, the volume of trading on futures exchanges has grown 8,000 percent while staffing numbers have decreased 12 percent; and

(4) in today's dynamic market environment, it is essential that the Commodity Futures Trading Commission receive the funding necessary to enforce existing authority to ensure that all commodity markets, including energy markets, are properly monitored for market manipulation.

(b) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Commodity Futures Trading Commission shall hire at least 100 additional full-time employees—

(1) to increase the public transparency of operations in energy futures markets;

(2) to improve the enforcement in those markets; and

(3) to carry out such other duties as are prescribed by the Commission.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009.

SA 5144. Mr. MARTINEZ (for himself, Ms. COLLINS, Mrs. FEINSTEIN, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REPEAL OF TEMPORARY DUTY OF 54 CENTS PER GALLON.

(a) IN GENERAL.—Subchapter I of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking heading 9901.00.50; and

(2) by striking U.S. Notes 2 and 3 relating to heading 9901.00.50.

(b) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 5145. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—REFINERY STREAMLINING

SEC. _01. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) APPLICANT.—The term ''applicant'' means a person who is seeking a Federal refinery authorization.

(3) BIOMASS.—The term ''biomass'' has the meaning given that term in section 932(a) of

the Energy Policy Act of 2005 (42 U.S.C. 16232(a)).

(4) FEDERAL REFINERY AUTHORIZATION.—

(A) IN GENERAL.—The term ''Federal refinery authorization'' means any authorization required under Federal law, whether administered by a Federal or State administrative agency or official, with respect to expansion or operation of a refinery.

(B) INCLUSION.—The term ''Federal refinery authorization'' includes any permits, licenses, special use authorizations, certifications, opinions, or other approvals required under Federal law with respect to expansion or operation of a refinery.

(5) REFINERY.—The term ''refinery'' means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or distillate;

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline or diesel as the primary output; or

(C) a facility designed and operated to receive, load, unload, store, transport, process (including biochemical, photochemical, and biotechnology processes), and refine biomass in order to produce biofuel.

(6) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

SEC. __02. STATE ASSISTANCE.

(a) IN GENERAL.—At the request of a governor of a State, the Administrator is authorized to provide financial assistance to the State to facilitate the hiring of additional personnel to assist the State with expertise in fields relevant to consideration of Federal refinery authorizations.

(b) OTHER ASSISTANCE.—At the request of a governor of a State, a Federal agency responsible for a Federal refinery authorization shall provide technical, legal, or other nonfinancial assistance to the State to facilitate the consideration of the State of Federal refinery authorizations.

SEC. __03. REFINERY PROCESS COORDINATION AND PROCEDURES.

(a) APPOINTMENT OF FEDERAL COORDINATOR.—

(1) IN GENERAL.—The President shall appoint a Federal coordinator to perform the responsibilities assigned to the Federal coordinator under this Act.

(2) OTHER AGENCIES.—Each Federal and State agency or official required to provide a Federal refinery authorization shall cooperate with the Federal coordinator.

(b) FEDERAL REFINERY AUTHORIZATIONS.—

(1) MEETING PARTICIPANTS.—

(A) IN GENERAL.—Not later than 30 days after receiving a notification from an applicant that the applicant is seeking a Federal refinery authorization pursuant to Federal law, the Federal coordinator appointed under subsection (a) shall convene a meeting of representatives from all Federal and State agencies responsible for a Federal refinery authorization with respect to the refinery.

(B) IDENTIFICATION.—The governor of a State shall identify each agency of the State that is responsible for a Federal refinery authorization with respect to that refinery.

(2) MEMORANDUM OF AGREEMENT.—

(A) IN GENERAL.—Not later than 90 days after receipt of a notification described in paragraph (1), the Federal coordinator and the other participants at a meeting convened under that paragraph shall establish a memorandum of agreement that describes the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery, consistent with the full substantive and procedural review required by Federal law.

(B) SCHEDULE ACCOMMODATION.—If a Federal or State agency responsible for a Federal refinery authorization with respect to the refinery is not represented at a meeting convened under paragraph (1), the Federal coordinator shall ensure that the schedule accommodates those Federal refinery authorizations, consistent with Federal law.

(C) PRIORITY.—In the event of a conflict among Federal refinery authorization scheduling requirements, the requirements of the Administrator shall be given priority.

(D) PUBLICATION.—Not later than 15 days after completing the memorandum of agreement, the Federal coordinator shall publish the memorandum of agreement in the Federal Register.

(E) IMPLEMENTATION.—The Federal coordinator shall—

(i) ensure that all parties to the memorandum of agreement are working in good faith to carry out the memorandum of agreement; and

(ii) facilitate the maintenance of the schedule established in the memorandum of agreement.

(c) CONSOLIDATED RECORD.—

SA 5146. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. FEDERAL PERMIT STREAMLINING PILOT PROJECT.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall establish a Federal permit streamlining pilot project (referred to in this section as the ''Pilot Project'').

(b) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with the Secretary of Commerce.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), the Secretary of Commerce shall assign to each of the regional offices identified in subsection (d) an employee who has expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) the consultations and preparation of biological opinions under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(C) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the office of the Minerals Management Service Regional Director to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the Department of Commerce; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) REGIONAL PERMITTING OFFICES.—The following Minerals Management Service Regional Offices shall serve as Pilot Project offices:

(1) The Gulf of Mexico.

(2) Alaska.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) outlines the results of the Pilot Project; and

(2) makes a recommendation to the President regarding whether the Pilot Project should become a permanent program.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Pilot Project office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the Regional Offices, including leasing and regulation of energy development on the outer Continental Shelf in accordance with the requirements of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

SA 5147. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. OIL AND NATURAL GAS LEASING IN NEW PRODUCING AREAS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PRODUCING STATE.—The term ''eligible producing State'' means—

(A) a new producing State; and

(B) any other producing State that has, within the offshore administrative boundaries beyond the submerged land of a State, areas available for oil leasing, natural gas leasing, or both.

(2) NEW PRODUCING AREA.—The term ''new producing area'' means an area that is—

(A) within the offshore administrative boundaries beyond the submerged land of a State; and

(B) not available for oil or natural gas leasing as of the date of enactment of this Act.

(3) NEW PRODUCING STATE.—The term ''new producing State'' means a State with respect to which a petition has been approved by the Secretary under subsection (b).

(4) QUALIFIED REVENUES.—The term ''qualified revenues'' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Governor of a State, with the concurrence of the State legislature, may submit to the Secretary a petition requesting that the Secretary make a new producing area of the State eligible for oil leasing, gas leasing, or both, as determined by the State, in accordance with the

Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) ACTION BY SECRETARY.—As soon as practicable after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall approve or disapprove the petition.

(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM ELIGIBLE PRODUCING STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified revenues in the general fund of the Treasury; and

(2) 50 percent of qualified revenues in a special account in the Treasury, which the Secretary shall disburse to eligible producing States for new producing areas, to be allocated in accordance with subsection (d).

(d) ALLOCATION TO ELIGIBLE PRODUCING STATES.—The amount made available under subsection (c)(2) shall be allocated to eligible producing States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each eligible producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract, as determined by the Secretary.

(e) EFFECT.—Nothing in this section affects any authority that permits energy production under any other provision of law.

SA 5148. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—COLLABORATIVE PERMITTING PROCESS FOR DOMESTIC FUELS FACILITIES

SEC. 201. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COAL-TO-LIQUID.—The term ''coal-to-liquid'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is derived from the coal resources of the United States, using the class of reactions known as Fischer-Tropsch, to produce synthetic fuel suitable for transportation; and

(B) with respect to a facility, the portion of a facility related to producing the inputs for the Fischer-Tropsch process, or the finished fuel from the Fischer-Tropsch process, using a feedstock that is primarily domestic coal at the Fischer-Tropsch facility.

(3) DOMESTIC FUELS FACILITY.—

(A) IN GENERAL.—The term ''domestic fuels facility'' means—

(i) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other transportation fuel;

(ii) a facility that produces a renewable fuel (as defined in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1))); and

(iii) a facility at which crude oil is refined into transportation fuel or other petroleum products.

(B) INCLUSION.—The term ''domestic fuels facility'' includes a domestic fuels facility expansion.

(4) DOMESTIC FUELS FACILITY EXPANSION.—The term ''domestic fuels facility expansion'' means a physical change in a domestic fuels facility that results in an increase in the capacity of the domestic fuels facility.

(5) DOMESTIC FUELS FACILITY PERMITTING AGREEMENT.—The term ''domestic fuels facility permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under section 202.

(6) DOMESTIC FUELS PRODUCER.—The term ''domestic fuels producer'' means an individual or entity that—

(A) owns or operates a domestic fuels facility; or

(B) seeks to become an owner or operator of a domestic fuels facility.

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

(8) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated with authority by the Federal Government, or authorized under Federal law to issue permits.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

SEC. 202. COLLABORATIVE PERMITTING PROCESS FOR DOMESTIC FUELS FACILITIES.

(a) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a domestic fuels facility permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a domestic fuels facility shall be improved using a systematic interdisciplinary multimedia approach as provided in this section.

(b) AUTHORITY OF ADMINISTRATOR.—Under a domestic fuels facility permitting agreement—

(1) the Administrator shall have authority, as applicable and necessary, to—

(A) accept from a refiner a consolidated application for all permits that the domestic fuels producer is required to obtain to construct and operate a domestic fuels facility;

(B) establish a schedule under which each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit shall—

(i) concurrently consider, to the maximum extent practicable, each determination to be made; and

(ii) complete each step in the permitting process; and

(C) issue a consolidated permit that combines all permits that the domestic fuels producer is required to obtain; and

(2) the Administrator shall provide to State and Indian tribal government agencies—

(A) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under paragraph (1)(B); and

(B) technical, legal, and other assistance in complying with the domestic fuels facility permitting agreement.

(c) AGREEMENT BY THE STATE.—Under a domestic fuels facility permitting agreement, a State or governing body of an Indian tribe shall agree that—

(1) the Administrator shall have each of the authorities described in subsection (b); and

(2) each State or Indian tribal government agency shall—

(A) make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(B) comply, to the maximum extent practicable, with the applicable schedule established under subsection (b)(1)(B).

(d) INTERDISCIPLINARY APPROACH.—

(1) IN GENERAL.—The Administrator and a State or governing body of an Indian tribe shall incorporate an interdisciplinary approach, to the maximum extent practicable, in the development, review, and approval of domestic fuels facility permits subject to this section.

(2) OPTIONS.—Among other options, the interdisciplinary approach may include use of—

(A) environmental management practices; and

(B) third party contractors.

(e) DEADLINES.—

(1) NEW DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the construction of a new domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under subparagraph (A).

(2) EXPANSION OF EXISTING DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the expansion of an existing domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under subparagraph (A).

(f) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under subsection (b)(1)(B).

(g) JUDICIAL REVIEW.—Any civil action for review of any determination of any Federal, State, or Indian tribal government agency in a permitting process conducted under a domestic fuels facility permitting agreement brought by any individual or entity shall be brought exclusively in the United States district court for the district in which the domestic fuels facility is located or proposed to be located.

(h) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this section.

(i) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a domestic fuels facility are not approved on or before any deadline established under subsection (e), the Administrator may issue a consolidated permit that

combines all other permits that the domestic fuels producer is required to obtain other than any permits that are not approved.

(j) SAVINGS.—Nothing in this section affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a domestic fuels facility.

(k) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this section.

(l) EFFECT ON LOCAL AUTHORITY.—Nothing in this section affects—

(1) the authority of a local government with respect to the issuance of permits; or

(2) any requirement or ordinance of a local government (such as zoning regulations).

SA 5149. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4.

SA 5150. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

SA 5151. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATIONS ON LEGISLATION THAT WOULD INCREASE NATIONAL AVERAGE FUEL PRICES FOR AUTOMOBILES.

(a) DEFINITION OF LEGISLATION.—In this section, the term ''legislation'' means a bill, joint resolution, amendment, motion, or conference report.

(b) POINT OF ORDER.—

(1) IN GENERAL.—Subject to subsection (c), if the Senate is considering legislation, on a point of order being made by any Senator against legislation, or any part of the legislation, that it has been determined in accordance with paragraph (2) that the legislation, if enacted, would result in an increase in the national average fuel price for automobiles, and the point of order is sustained by the Presiding Officer, the Senate shall cease consideration of the legislation.

(2) DETERMINATION.—For the purpose of paragraph (1), the determination described in this paragraph means a determination by the Director of the Congressional Budget Office, in consultation with the Energy Information Administration and the heads of other appropriate Federal Government agencies, that is made on the request of a Senator for review of legislation, that the legislation, or part of the legislation, would, if enacted, result in an increase in the national average fuel price for automobiles.

(c) WAIVERS AND APPEALS.—

(1) WAIVERS.—

(A) IN GENERAL.—Before the Presiding Officer rules on a point of order described in subsection (b)(1), any Senator may move to waive the point of order.

(B) AMENDMENTS.—The motion to waive under this paragraph shall not be subject to amendment.

(C) VOTING REQUIREMENT.—A point of order described in subsection (b)(1) shall be waived only by the affirmative vote of at least 60 Members of the Senate, duly chosen and sworn.

(2) APPEALS.—

(A) IN GENERAL.—After the Presiding Officer rules on a point of order described in subsection (b)(1), any Senator may appeal the ruling of the Presiding Officer on the point of order as the ruling applies to some or all of the provisions on which the Presiding Officer ruled.

(B) VOTING REQUIREMENT.—A ruling of the Presiding Officer on a point of order described in subsection (b)(1) shall be sustained unless at least 60 Members of the Senate, duly chosen and sworn, vote not to sustain the ruling.

(3) DEBATE.—

(A) IN GENERAL.—Debate on the motion to waive under paragraph (1) or on an appeal of the ruling of the Presiding Officer under paragraph (2) shall be limited to 1 hour.

(B) DIVISION OF TIME.—The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the Senate, or designees.

SA 5152. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Section 4a(h)(1)(B) of the Commodity Exchange Act (as added by section 6) is amended in the matter preceding clause (i) by inserting '', or a commercial consumer of a product derived from,'' after ''producer or purchaser of''.

SA 5153. Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MORATORIUM OF OIL AND GAS LEASING IN CERTAIN AREAS OF GULF OF MEXICO.

(a) IN GENERAL.—Section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking ''125 miles'' and inserting ''50 miles'';

(3) in paragraph (3), by striking ''100 miles'' each place it appears and inserting ''50 miles''; and

(4) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall promulgate regulations that establish appropriate environmental safeguards for the exploration and production of oil and natural gas on the outer Continental Shelf.

(2) MINIMUM REQUIREMENTS.—At a minimum, the regulations shall include—

(A) provisions requiring surety bonds of sufficient value to ensure the mitigation of any foreseeable incident;

(B) provisions assigning liability to the leaseholder in the event of an incident causing damage or loss, regardless of the negligence of the leaseholder or lack of negligence;

(C) provisions no less stringent than those contained in the Spill Prevention, Control, and Countermeasure regulations promulgated under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

(D) provisions ensuring that—

(i) no facility for the exploration or production of resources is visible to the unassisted eye from any shore of any coastal State; and

(ii) the impact of offshore production facilities on coastal vistas is otherwise mitigated;

(E) provisions to ensure, to the maximum extent practicable, that exploration and production activities will result in no significant adverse effect on fish or wildlife (including habitat), subsistence resources, or the environment; and

(F) provisions that will impose seasonal limitations on activity to protect breeding, spawning, and wildlife migration patterns.

(c) CONFORMING AMENDMENT.—Section 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521) (as amended by section 103(d) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432)) is amended by inserting ''and any other area that the Secretary of the Interior may offer for leasing, preleasing, or any related activity under section 104 of that Act'' after ''2006)''.

SEC. ___. DISPOSITION OF REVENUES FROM NEW PRODUCING AREAS OF THE EASTERN GULF OF MEXICO.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. DISPOSITION OF REVENUES FROM NEW PRODUCING AREAS OF THE EASTERN GULF OF MEXICO.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of an Eastern Gulf producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Eastern Gulf producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) EASTERN GULF PRODUCING STATE.—The term 'Eastern Gulf producing State' means each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

''(3) MORATORIUM AREA.—The term 'moratorium area' means an area covered by section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) (as in effect on the day before the date of enactment of this section).

''(4) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State of Florida.

''(5) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(b) LEASING NEW PRODUCING AREAS.—The Secretary shall make new producing areas available for leasing in accordance with this Act.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to Eastern Gulf producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO EASTERN GULF PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO EASTERN GULF PRODUCING STATES.—Effective for fiscal year 2009 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each Eastern Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Eastern Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each Eastern Gulf producing State, as determined under subparagraph (A), to the coastal political subdivisions of the Eastern Gulf producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to an Eastern Gulf producing State each fiscal year under paragraph (2)(A) shall be at least 10 percent of the amounts available under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each Eastern Gulf producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by an Eastern Gulf producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.''.

SA 5154. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION B—AMERICAN ENERGY ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''American Energy Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—AMERICAN ENERGY

Subtitle A—OCS

Sec. 101. Short title.
Sec. 102. Policy.
Sec. 103. Definitions under the Submerged Lands Act.
Sec. 104. Seaward boundaries of States.
Sec. 105. Exceptions from confirmation and establishment of States' title, power, and rights.
Sec. 106. Definitions under the Outer Continental Shelf Lands Act.
Sec. 107. Determination of adjacent zones and planning areas.
Sec. 108. Administration of leasing.
Sec. 109. Grant of leases by Secretary.
Sec. 110. Disposition of receipts.
Sec. 111. Reservation of lands and rights.
Sec. 112. Outer Continental Shelf leasing program.
Sec. 113. Coordination with adjacent States.
Sec. 114. Environmental studies.
Sec. 115. Termination of effect of laws prohibiting the spending of appropriated funds for certain purposes.
Sec. 116. Outer Continental Shelf incompatible use.
Sec. 117. Repurchase of certain leases.
Sec. 118. Offsite environmental mitigation.
Sec. 119. OCS regional headquarters.
Sec. 120. Leases for areas located within 100 miles of California or Florida.
Sec. 121. Coastal impact assistance.
Sec. 122. Repeal of the Gulf of Mexico Energy Security Act of 2006.

Subtitle B—ANWR

Sec. 141. Short title.
Sec. 142. Definitions.
Sec. 143. Leasing program for lands within the Coastal Plain.
Sec. 144. Lease sales.
Sec. 145. Grant of leases by the Secretary.
Sec. 146. Lease terms and conditions.
Sec. 147. Coastal Plain environmental protection.
Sec. 148. Expedited judicial review.
Sec. 149. Federal and State distribution of revenues.
Sec. 150. Rights-of-way across the Coastal Plain.
Sec. 151. Conveyance.
Sec. 152. Local government impact aid and community service assistance.

Subtitle C—Oil Shale

Sec. 161. Repeal.

TITLE II—CONSERVATION AND EFFICIENCY

Subtitle A—Tax Incentives for Fuel Efficiency

Sec. 201. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 202. Extension of credit for alternative fuel vehicles.
Sec. 203. Extension of alternative fuel vehicle refueling property credit.

Subtitle B—Tapping America's Ingenuity and Creativity

Sec. 211. Definitions.
Sec. 212. Statement of policy.
Sec. 213. Prize authority.
Sec. 214. Eligibility.
Sec. 215. Intellectual property.
Sec. 216. Waiver of liability.
Sec. 217. Authorization of appropriations.
Sec. 218. Next generation automobile prize program.
Sec. 219. Advanced battery manufacturing incentive program.

Subtitle C—Home and Business Tax Incentives

Sec. 221. Extension of credit for energy efficient appliances.
Sec. 222. Extension of credit for nonbusiness energy property.
Sec. 223. Extension of credit for residential energy efficient property.
Sec. 224. Extension of new energy efficient home credit.
Sec. 225. Extension of energy efficient commercial buildings deduction.
Sec. 226. Extension of special rule to implement FERC and State electric restructuring policy.
Sec. 227. Home energy audits.
Sec. 228. Accelerated recovery period for depreciation of smart meters.

Subtitle D—Refinery Permit Process Schedule

Sec. 231. Short title.
Sec. 232. Definitions.
Sec. 233. State assistance.
Sec. 234. Refinery process coordination and procedures.
Sec. 235. Designation of closed military bases.
Sec. 236. Savings clause.
Sec. 237. Refinery revitalization repeal.

TITLE III—NEW AND EXPANDING TECHNOLOGIES

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Sec. 324. Waste Confidence.
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Subtitle D—American Renewable and Alternative Energy Trust Fund

Sec. 331. American Renewable and Alternative Energy Trust Fund.

TITLE I—AMERICAN ENERGY

Subtitle A—OCS

SEC. 101. SHORT TITLE.

This subtitle may be cited as the ''Deep Ocean Energy Resources Act of 2008''.

SEC. 102. POLICY.

It is the policy of the United States that—

(1) the United States is blessed with abundant energy resources on the outer Continental Shelf and has developed a comprehensive framework of environmental laws and regulations and fostered the development of state-of-the-art technology that allows for the responsible development of these resources for the benefit of its citizenry;

(2) Adjacent States are required by the circumstances to commit significant resources in support of exploration, development, and production activities for mineral resources on the outer Continental Shelf, and it is fair and proper for a portion of the receipts from such activities to be shared with Adjacent States and their local coastal governments;

(3) the existing laws governing the leasing and production of the mineral resources of the outer Continental Shelf have reduced the production of mineral resources, have preempted Adjacent States from being sufficiently involved in the decisions regarding the allowance of mineral resource development, and have been harmful to the national interest;

(4) the national interest is served by granting the Adjacent States more options related to whether or not mineral leasing should occur in the outer Continental Shelf within their Adjacent Zones;

(5) it is not reasonably foreseeable that exploration of a leased tract located more than 25 miles seaward of the coastline, development and production of a natural gas discovery located more than 25 miles seaward of the coastline, or development and production of an oil discovery located more than 50 miles seaward of the coastline will adversely affect resources near the coastline;

(6) transportation of oil from a leased tract might reasonably be foreseen, under limited circumstances, to have the potential to adversely affect resources near the coastline if the oil is within 50 miles of the coastline, but such potential to adversely affect such resources is likely no greater, and probably less, than the potential impacts from tanker transportation because tanker spills usually involve large releases of oil over a brief period of time; and

(7) among other bodies of inland waters, the Great Lakes, Long Island Sound, Delaware Bay, Chesapeake Bay, Albemarle Sound, San Francisco Bay, and Puget Sound are not part of the outer Continental Shelf, and are not subject to leasing by the Federal Government for the exploration, development, and production of any mineral resources that might lie beneath them.

SEC. 103. DEFINITIONS UNDER THE SUBMERGED LANDS ACT.

Section 2 of the Submerged Lands Act (43 U.S.C. 1301) is amended—

(1) in subparagraph (2) of paragraph (a) by striking all after ''seaward to a line'' and inserting ''twelve nautical miles distant from the coast line of such State;'';

(2) by striking out paragraph (b) and redesignating the subsequent paragraphs in order as paragraphs (b) through (g);

(3) by striking the period at the end of paragraph (g) (as so redesignated) and inserting ''; and'';

(4) by adding the following: ''(i) The term 'Secretary' means the Secretary of the Interior.''; and

(5) by defining ''State'' as it is defined in section 2(r) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(r)).

SEC. 104. SEAWARD BOUNDARIES OF STATES.

Section 4 of the Submerged Lands Act (43 U.S.C. 1312) is amended—

(1) in the first sentence by striking ''original'', and in the same sentence by striking ''three geographical'' and inserting ''twelve nautical''; and

(2) by striking all after the first sentence and inserting the following: ''Extension and delineation of lateral offshore State boundaries under the provisions of this Act shall follow the lines used to determine the Adjacent Zones of coastal States under the Outer Continental Shelf Lands Act to the extent such lines extend twelve nautical miles for the nearest coastline.''

SEC. 105. EXCEPTIONS FROM CONFIRMATION AND ESTABLISHMENT OF STATES' TITLE, POWER, AND RIGHTS.

Section 5 of the Submerged Lands Act (43 U.S.C. 1313) is amended—

(1) by redesignating paragraphs (a) through (c) in order as paragraphs (1) through (3);

(2) by inserting ''(a)'' before ''There is excepted''; and

(3) by inserting at the end the following:

''(b) EXCEPTION OF OIL AND GAS MINERAL RIGHTS.—There is excepted from the operation of sections 3 and 4 all of the oil and gas mineral rights for lands beneath the navigable waters that are located within the expanded offshore State seaward boundaries established under this Act. These oil and gas mineral rights shall remain Federal property and shall be considered to be part of the Federal outer Continental Shelf for purposes of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and subject to leasing under the authority of that Act and to laws applicable to the leasing of the oil and gas resources of the Federal outer Continental Shelf. All existing Federal oil and gas leases within the expanded offshore State seaward boundaries shall continue unchanged by the provisions of this Act, except as otherwise provided herein. However, a State may exercise all of its sovereign powers of taxation within the entire extent of its expanded offshore State boundaries.''.

SEC. 106. DEFINITIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended—

(1) by amending paragraph (f) to read as follows:

''(f) The term 'affected State' means the 'Adjacent State'.'';

(2) by striking the semicolon at the end of each of paragraphs (a) through (o) and inserting a period;

(3) by striking ''; and'' at the end of paragraph (p) and inserting a period;

(4) by adding at the end the following:

''(r) The term 'Adjacent State' means, with respect to any program, plan, lease sale, leased tract or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State the laws of which are declared, pursuant to section 4(a)(2), to be the law of the United States for the portion of the outer Continental Shelf on which such program, plan, lease sale, leased tract or activity appertains or is, or is proposed to be, conducted. For purposes of this paragraph, the term 'State' includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and the other Territories of the United States.

''(s) The term 'Adjacent Zone' means, with respect to any program, plan, lease sale, leased tract, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, the portion of the outer Continental Shelf for which the laws of a particular Adjacent State are declared, pursuant to section 4(a)(2), to be the law of the United States.

''(t) The term 'miles' means statute miles.

''(u) The term 'coastline' has the same meaning as the term 'coast line' as defined in section 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(v) The term 'Neighboring State' means a coastal State having a common boundary at the coastline with the Adjacent State.''; and

(5) in paragraph (a), by inserting after ''control'' the following: ''or lying within the United States exclusive economic zone adjacent to the Territories of the United States''.

SEC. 107. DETERMINATION OF ADJACENT ZONES AND PLANNING AREAS.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the first sentence by striking '', and the President'' and all that follows through the end of the sentence and inserting the following: ''. The lines extending seaward and defining each State's Adjacent Zone, and each OCS Planning Area, are as indicated on the maps for each outer Continental Shelf region entitled 'Alaska OCS Region State Adjacent Zone and OCS Planning Areas', 'Pacific OCS Region State Adjacent Zones and OCS Planning Areas', 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas', and 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas', all of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.''.

SEC. 108. ADMINISTRATION OF LEASING.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following:

''(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A LEASE.—Any lessee of a producing lease may relinquish to the Secretary any portion of a lease that the lessee has no interest in producing and that the Secretary finds is geologically prospective. In return for any such relinquishment, the Secretary shall provide to the lessee a royalty incentive for the portion of the lease retained by the lessee, in accordance with regulations promulgated by the Secretary to carry out this subsection. The Secretary shall publish final regulations implementing this subsection within 365 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008.

''(l) NATURAL GAS LEASE REGULATIONS.—Not later than July 1, 2010, the Secretary shall publish a final regulation that shall—

''(1) establish procedures for entering into natural gas leases;

''(2) ensure that natural gas leases are only available for tracts on the outer Continental Shelf that are wholly within 100 miles of the coastline within an area withdrawn from disposition by leasing on the day after the date of enactment of the Deep Ocean Energy Resources Act of 2008;

''(3) provide that natural gas leases shall contain the same rights and obligations established for oil and gas leases, except as otherwise provided in the Deep Ocean Energy Resources Act of 2008;

''(4) provide that, in reviewing the adequacy of bids for natural gas leases, the

value of any crude oil estimated to be contained within any tract shall be excluded;

''(5) provide that any crude oil produced from a well and reinjected into the leased tract shall not be subject to payment of royalty, and that the Secretary shall consider, in setting the royalty rates for a natural gas lease, the additional cost to the lessee of not producing any crude oil; and

''(6) provide that any Federal law that applies to an oil and gas lease on the outer Continental Shelf shall apply to a natural gas lease unless otherwise clearly inapplicable.''.

SEC. 109. GRANT OF LEASES BY SECRETARY.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended—

(1) in subsection (a)(1) by inserting after the first sentence the following: ''Further, the Secretary may grant natural gas leases in a manner similar to the granting of oil and gas leases and under the various bidding systems available for oil and gas leases.'';

(2) by adding at the end of subsection (b) the following:

''The Secretary may issue more than one lease for a given tract if each lease applies to a separate and distinct range of vertical depths, horizontal surface area, or a combination of the two. The Secretary may issue regulations that the Secretary determines are necessary to manage such leases consistent with the purposes of this Act.'';

(3) by amending subsection (p)(2)(B) to read as follows:

''(B) The Secretary shall provide for the payment to coastal States, and their local coastal governments, of 75 percent of Federal receipts from projects authorized under this section located partially or completely within the area extending seaward of State submerged lands out to 4 marine leagues from the coastline, and the payment to coastal States of 50 percent of the receipts from projects completely located in the area more than 4 marine leagues from the coastline. Payments shall be based on a formula established by the Secretary by rulemaking no later than 180 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008 that provides for equitable distribution, based on proximity to the project, among coastal States that have coastline that is located within 200 miles of the geographic center of the project.''.

(4) by adding at the end the following:

''(q) NATURAL GAS LEASES.—

''(1) RIGHT TO PRODUCE NATURAL GAS.—A lessee of a natural gas lease shall have the right to produce the natural gas from a field on a natural gas leased tract if the Secretary estimates that the discovered field has at least 40 percent of the economically recoverable Btu content of the field contained within natural gas and such natural gas is economical to produce.

''(2) CRUDE OIL.—A lessee of a natural gas lease may not produce crude oil from the lease unless the Governor of the Adjacent State agrees to such production.

''(3) ESTIMATES OF BTU CONTENT.—The Secretary shall make estimates of the natural gas Btu content of discovered fields on a natural gas lease only after the completion of at least one exploration well, the data from which has been tied to the results of a three-dimensional seismic survey of the field. The Secretary may not require the lessee to further delineate any discovered field prior to making such estimates.

''(4) DEFINITION OF NATURAL GAS.—For purposes of a natural gas lease, natural gas means natural gas and all substances produced in association with gas, including, but not limited to, hydrocarbon liquids (other than crude oil) that are obtained by the condensation of hydrocarbon vapors and separate out in liquid form from the produced gas stream.

''(r) REMOVAL OF RESTRICTIONS ON JOINT BIDDING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—Restrictions on joint bidders shall no longer apply to tracts located in the Alaska OCS Region. Such restrictions shall not apply to tracts in other OCS regions determined to be 'frontier tracts' or otherwise 'high cost tracts' under final regulations that shall be published by the Secretary by not later than 365 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008.

''(s) ROYALTY SUSPENSION PROVISIONS.—After the date of the enactment of the Deep Ocean Energy Resources Act of 2008, price thresholds shall apply to any royalty suspension volumes granted by the Secretary. Unless otherwise set by Secretary by regulation or for a particular lease sale, the price thresholds shall be $40.50 for oil (January 1, 2006 dollars) and $6.75 for natural gas (January 1, 2006 dollars).

''(t) CONSERVATION OF RESOURCES FEES.—Not later than one year after the date of the enactment of the Deep Ocean Energy Resources Act of 2008, the Secretary by regulation shall establish a conservation of resources fee for nonproducing leases that will apply to new and existing leases which shall be set at $3.75 per acre per year. This fee shall apply from and after October 1, 2008, and shall be treated as offsetting receipts.'';

(5) by striking subsection (a)(3)(A) and redesignating the subsequent subparagraphs as subparagraphs (A) and (B), respectively;

(6) in subsection (a)(3)(A) (as so redesignated) by striking ''In the Western'' and all that follows through ''the Secretary'' the first place it appears and inserting ''The Secretary''; and

(7) effective October 1, 2008, in subsection (g)—

(A) by striking all after ''(g)'', except paragraph (3);

(B) by striking the last sentence of paragraph (3); and

(C) by striking ''(3)''.

SEC. 110. DISPOSITION OF RECEIPTS.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) by designating the existing text as subsection (a);

(2) in subsection (a) (as so designated) by inserting '', if not paid as otherwise provided in this title'' after ''receipts''; and

(3) by adding the following:

''(b) TREATMENT OF OCS RECEIPTS FROM TRACTS COMPLETELY WITHIN 100 MILES OF THE COASTLINE.—

''(1) DEPOSIT.—The Secretary shall deposit into a separate account in the Treasury the portion of OCS Receipts for each fiscal year that will be shared under paragraphs (2), (3), and (4).

''(2) PHASED-IN RECEIPTS SHARING.—

''(A) Beginning October 1, 2008, the Secretary shall share OCS Receipts derived from the following areas:

''(i) Lease tracts located on portions of the Gulf of Mexico OCS Region completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline that were available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(ii) Lease tracts in production prior to October 1, 2008, completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline located on portions of the OCS that were not available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(iii) Lease tracts for which leases are issued prior to October 1, 2008, located in the Alaska OCS Region completely beyond 4 marine leagues from any coastline and completely within 100 miles of the coastline.

''(B) The Secretary shall share the following percentages of OCS Receipts from the leases described in subparagraph (A) derived during the fiscal year indicated:

''(i) For fiscal year 2009, 5 percent.

''(ii) For fiscal year 2010, 8 percent.

''(iii) For fiscal year 2011, 11 percent.

''(iv) For fiscal year 2012, 14 percent.

''(v) For fiscal year 2013, 17 percent.

''(vi) For fiscal year 2014, 20 percent.

''(vii) For fiscal year 2015, 23 percent.

''(viii) For fiscal year 2016, 26 percent.

''(ix) For fiscal year 2017, 29 percent.

''(x) For fiscal year 2018, 32 percent.

''(xi) For fiscal year 2019, 35 percent.

''(xii) For fiscal year 2020 and each subsequent fiscal year, 37.5 percent.

''(C) The provisions of this paragraph shall not apply to leases that could not have been issued but for section 5(k) of this Act or section 6(2) of the Deep Ocean Energy Resources Act of 2008.

''(3) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2008, the Secretary shall share 37.50 percent of OCS Receipts derived from all leases located completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline not included within the provisions of paragraph (2), and 90 percent of the balance of such OCS Receipts shall be deposited into the American Renewable and Alternative Energy Trust Fund established by section 331 of the American Energy Act.

''(4) RECEIPTS SHARING FROM TRACTS WITHIN 4 MARINE LEAGUES OF ANY COASTLINE.—

''(A) AREAS DESCRIBED IN PARAGRAPH (2).—Beginning October 1, 2008, and continuing through September 30, 2010, the Secretary shall share 25 percent of OCS Receipts derived from all leases located within 4 marine leagues from any coastline within areas described in paragraph (2). For each fiscal year after September 30, 2010, the Secretary shall increase the percent shared in 5 percent increments each fiscal year until the sharing rate for all leases located within 4 marine leagues from any coastline within areas described in paragraph (2) becomes 75 percent.

''(B) AREAS NOT DESCRIBED IN PARAGRAPH (2).—Beginning October 1, 2008, the Secretary shall share 75 percent of OCS receipts derived from all leases located completely or partially within 4 marine leagues from any coastline within areas not described paragraph (2).

''(5) ALLOCATIONS.—The Secretary shall allocate the OCS Receipts deposited into the separate account established by paragraph (1) that are shared under paragraphs (2), (3), and (4) as follows:

''(A) BONUS BIDS.—Deposits derived from bonus bids from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State.

''(B) ROYALTIES.—Deposits derived from royalties from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State and any other producing State or States with a leased tract within its Adjacent Zone within 100 miles of its coastline that generated royalties during the fiscal year, if the other producing or States have a coastline point within 300 miles of any portion of the leased tract, in which case the amount allocated for the leased tract shall be—

''(i) one-third to the Adjacent State; and

''(ii) two-thirds to each producing State, including the Adjacent State, inversely proportional to the distance between the nearest point on the coastline of the producing State and the geographic center of the leased tract.

''(c) TREATMENT OF OCS RECEIPTS FROM TRACTS PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE COASTLINE.—

''(1) DEPOSIT.—The Secretary shall deposit into a separate account in the Treasury the portion of OCS Receipts for each fiscal year that will be shared under paragraphs (2) and (3).

''(2) PHASED-IN RECEIPTS SHARING.—

''(A) Beginning October 1, 2008, the Secretary shall share OCS Receipts derived from the following areas:

''(i) Lease tracts located on portions of the Gulf of Mexico OCS Region partially or completely beyond 100 miles of any coastline that were available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(ii) Lease tracts in production prior to October 1, 2008, partially or completely beyond 100 miles of any coastline located on portions of the OCS that were not available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(iii) Lease tracts for which leases are issued prior to October 1, 2008, located in the Alaska OCS Region partially or completely beyond 100 miles of the coastline.

''(B) The Secretary shall share the following percentages of OCS Receipts from the leases described in subparagraph (A) derived during the fiscal year indicated:

''(i) For fiscal year 2009, 5 percent.

''(ii) For fiscal year 2010, 8 percent.

''(iii) For fiscal year 2011, 11 percent.

''(iv) For fiscal year 2012, 14 percent.

''(v) For fiscal year 2013, 17 percent.

''(vi) For fiscal year 2014, 20 percent.

''(vii) For fiscal year 2015, 23 percent.

''(viii) For fiscal year 2016, 26 percent.

''(ix) For fiscal year 2017, 29 percent.

''(x) For fiscal year 2018, 32 percent.

''(xi) For fiscal year 2019, 35 percent.

''(xii) For fiscal year 2020 and each subsequent fiscal year, 37.5 percent.

''(C) The provisions of this paragraph shall not apply to leases that could not have been issued but for section 5(k) of this Act or section 106(2) of the Deep Ocean Energy Resources Act of 2008.

''(3) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2008, the Secretary shall share 37.5 percent of OCS Receipts derived on and after October 1, 2008, from all leases located partially or completely beyond 100 miles of any coastline not included within the provisions of paragraph (2), except that the Secretary shall only share 25 percent of such OCS Receipts derived from all such leases within a State's Adjacent Zone if no leasing is allowed within any portion of that State's Adjacent Zone located completely within 100 miles of any coastline.

''(4) ALLOCATIONS.—The Secretary shall allocate the OCS Receipts deposited into the separate account established by paragraph (1) that are shared under paragraphs (2) and (3) as follows:

''(A) BONUS BIDS.—Deposits derived from bonus bids from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State.

''(B) ROYALTIES.—Deposits derived from royalties from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State and any other producing State or States with a leased tract within its Adjacent Zone partially or completely beyond 100 miles of its coastline that generated royalties during the fiscal year, if the other producing State or States have a coastline point within 300 miles of any portion of the leased tract, in which case the amount allocated for the leased tract shall be—

''(i) one-third to the Adjacent State; and

''(ii) two-thirds to each producing State, including the Adjacent State, inversely proportional to the distance between the nearest point on the coastline of the producing State and the geographic center of the leased tract.

''(d) TRANSMISSION OF ALLOCATIONS.—

''(1) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Secretary shall transmit—

''(A) to each State 60 percent of such State's allocations under subsections (b)(5)(A), (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the immediate prior fiscal year;

''(B) to each coastal county-equivalent and municipal political subdivisions of such State a total of 40 percent of such State's allocations under subsections (b)(5)(A), (b)(5)(B), (c)(4)(A), and (c)(4)(B), together with all accrued interest thereon; and

''(C) the remaining allocations under subsections (b)(5) and (c)(4), together with all accrued interest thereon.

''(2) ALLOCATIONS TO COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISIONS.—The Secretary shall make an initial allocation of the OCS Receipts to be shared under paragraph (1)(B) as follows:

''(A) 25 percent shall be allocated to coastal county-equivalent political subdivisions that are completely more than 25 miles landward of the coastline and at least a part of which lies not more than 75 miles landward from the coastline, with the allocation among such coastal county-equivalent political subdivisions based on population.

''(B) 75 percent shall be allocated to coastal county-equivalent political subdivisions that are completely or partially less than 25 miles landward of the coastline, with the allocation among such coastal county-equivalent political subdivisions to be further allocated as follows:

''(i) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's population to the coastal population of all coastal county-equivalent political subdivisions in the State.

''(ii) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's coastline miles to the coastline miles of all coastal county-equivalent political subdivisions in the State as calculated by the Secretary. In such calculations, coastal county-equivalent political subdivisions without a coastline shall be considered to have 50 percent of the average coastline miles of the coastal county-equivalent political subdivisions that do have coastlines.

''(iii) 25 percent shall be allocated to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared based on a formula that allocates the funds based on such coastal county-equivalent political subdivision's relative distance from the leased tract.

''(iv) 25 percent shall be allocated to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision compared to the level of outer Continental Shelf activities in all coastal political subdivisions in the State. The Secretary shall define the term 'outer Continental Shelf oil and gas activities' for purposes of this subparagraph to include, but not be limited to, construction of vessels, drillships, and platforms involved in exploration, production, and development on the outer Continental Shelf; support and supply bases, ports, and related activities; offices of geologists, geophysicists, engineers, and other professionals involved in support of exploration, production, and development of oil and gas on the outer Continental Shelf; pipelines and other means of transporting oil and gas production from the outer Continental Shelf; and processing and refining of oil and gas production from the outer Continental Shelf. For purposes of this subparagraph, if a coastal county-equivalent political subdivision does not have a coastline, its coastal point shall be the point on the coastline closest to it.

''(3) ALLOCATIONS TO COASTAL MUNICIPAL POLITICAL SUBDIVISIONS.—The initial allocation to each coastal county-equivalent political subdivision under paragraph (2) shall be further allocated to the coastal county-equivalent political subdivision and any coastal municipal political subdivisions located partially or wholly within the boundaries of the coastal county-equivalent political subdivision as follows:

''(A) One-third shall be allocated to the coastal county-equivalent political subdivision.

''(B) Two-thirds shall be allocated on a per capita basis to the municipal political subdivisions and the county-equivalent political subdivision, with the allocation to the latter based upon its population not included within the boundaries of a municipal political subdivision.

''(e) INVESTMENT OF DEPOSITS.—Amounts deposited under this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account in which they are deposited and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

''(f) USE OF FUNDS.—A recipient of funds under this section may use the funds for one or more of the following:

''(1) To reduce in-State college tuition at public institutions of higher learning and otherwise support public education, including career technical education.

''(2) To make transportation infrastructure improvements.

''(3) To reduce taxes.

''(4) To promote, fund, and provide for—

''(A) coastal or environmental restoration;

''(B) fish, wildlife, and marine life habitat enhancement;

''(C) waterways construction and maintenance;

''(D) levee construction and maintenance and shore protection; and

''(E) marine and oceanographic education and research.

''(5) To promote, fund, and provide for—

''(A) infrastructure associated with energy production activities conducted on the outer Continental Shelf;

''(B) energy demonstration projects;

''(C) supporting infrastructure for shore-based energy projects;

''(D) State geologic programs, including geologic mapping and data storage programs, and State geophysical data acquisition;

''(E) State seismic monitoring programs, including operation of monitoring stations;

''(F) development of oil and gas resources through enhanced recovery techniques;

''(G) alternative energy development, including bio fuels, coal-to-liquids, oil shale, tar sands, geothermal, geopressure, wind, waves, currents, hydro, and other renewable energy;

''(H) energy efficiency and conservation programs; and

''(I) front-end engineering and design for facilities that produce liquid fuels from hydrocarbons and other biological matter.

''(6) To promote, fund, and provide for—

''(A) historic preservation programs and projects;

''(B) natural disaster planning and response; and

''(C) hurricane and natural disaster insurance programs.

''(7) For any other purpose as determined by State law.

''(g) NO ACCOUNTING REQUIRED.—No recipient of funds under this section shall be required to account to the Federal Government for the expenditure of such funds, except as otherwise may be required by law. However, States may enact legislation providing for accounting for and auditing of such expenditures. Further, funds allocated under this section to States and political subdivisions may be used as matching funds for other Federal programs.

''(h) EFFECT OF FUTURE LAWS.—Enactment of any future Federal statute that has the effect, as determined by the Secretary, of restricting any Federal agency from spending appropriated funds, or otherwise preventing it from fulfilling its pre-existing responsibilities as of the date of enactment of the statute, unless such responsibilities have been reassigned to another Federal agency by the statute with no prevention of performance, to issue any permit or other approval impacting on the OCS oil and gas leasing program, or any lease issued thereunder, or to implement any provision of this Act shall automatically prohibit any sharing of OCS Receipts under this section directly with the States, and their coastal political subdivisions, for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting effects within 30 days of a petition by any outer Continental Shelf lessee or producing State.

''(i) DEFINITIONS.—In this section:

''(1) COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISION.—The term 'coastal county-equivalent political subdivision' means a political jurisdiction immediately below the level of State government, including a county, parish, borough in Alaska, independent municipality not part of a county, parish, or borough in Alaska, or other equivalent subdivision of a coastal State, that lies within the coastal zone.

''(2) COASTAL MUNICIPAL POLITICAL SUBDIVISION.—The term 'coastal municipal political subdivision' means a municipality located within and part of a county, parish, borough in Alaska, or other equivalent subdivision of a State, all or part of which coastal municipal political subdivision lies within the coastal zone.

''(3) COASTAL POPULATION.—The term 'coastal population' means the population of all coastal county-equivalent political subdivisions, as determined by the most recent official data of the Census Bureau.

''(4) COASTAL ZONE.—The term 'coastal zone' means that portion of a coastal State, including the entire territory of any coastal county-equivalent political subdivision at least a part of which lies, within 75 miles landward from the coastline, or a greater distance as determined by State law enacted to implement this section.

''(5) BONUS BIDS.—The term 'bonus bids' means all funds received by the Secretary to issue an outer Continental Shelf minerals lease.

''(6) ROYALTIES.—The term 'royalties' means all funds received by the Secretary from production of oil or natural gas, or the sale of production taken in-kind, from an outer Continental Shelf minerals lease.

''(7) PRODUCING STATE.—The term 'producing State' means an Adjacent State having an Adjacent Zone containing leased tracts from which OCS Receipts were derived.

''(8) OCS RECEIPTS.—The term 'OCS Receipts' means bonus bids, royalties, and conservation of resources fees.''.

SEC. 111. RESERVATION OF LANDS AND RIGHTS.

Section 12 of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended—

(1) in subsection (a) by adding at the end the following: ''The President may partially or completely revise or revoke any prior withdrawal made by the President under the authority of this section. The President may not revise or revoke a withdrawal that is extended by a State under subsection (h), nor may the President withdraw from leasing any area for which a State failed to prohibit, or petition to prohibit, leasing under subsection (g). Further, in the area of the outer Continental Shelf more than 100 miles from any coastline, not more than 25 percent of the acreage of any OCS Planning Area may be withdrawn from leasing under this section at any point in time. A withdrawal by the President may be for a term not to exceed 10 years. When considering potential uses of the outer Continental Shelf, to the maximum extent possible, the President shall accommodate competing interests and potential uses.'';

(2) by adding at the end the following:

''(g) AVAILABILITY FOR LEASING WITHIN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—

''(1) PROHIBITION AGAINST LEASING.—

''(A) UNAVAILABLE FOR LEASING WITHOUT STATE REQUEST.—Except as otherwise provided in this subsection, from and after enactment of the Deep Ocean Energy Resources Act of 2008, the Secretary shall not offer for leasing for oil and gas, or natural gas, any area within 50 miles of the coastline that was withdrawn from disposition by leasing in the Atlantic OCS Region or the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the maps referred to in this subparagraph, under the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, or any area within 50 miles of the coastline not withdrawn under that Memorandum that is included within the Gulf of Mexico OCS Region Eastern Planning Area as indicated on the map entitled 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas' or the Florida Straits Planning Area as indicated on the map entitled 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas', both of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

''(B) AREAS BETWEEN 50 AND 100 MILES FROM THE COASTLINE.—Unless an Adjacent State petitions under subsection (h) within one year after the date of the enactment of the Deep Ocean Energy Resources Act of 2008 for natural gas leasing or by June 30, 2010, for oil and gas leasing, the Secretary shall offer for leasing any area more than 50 miles but less than 100 miles from the coastline that was withdrawn from disposition by leasing in the Atlantic OCS Region, the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the maps referred to in this subparagraph, under the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, or any area more than 50 miles but less than 100 miles of the coastline not withdrawn under that Memorandum that is included within the Gulf of Mexico OCS Region Eastern Planning Area as indicated on the map entitled 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas' or within the Florida Straits Planning Area as indicated on the map entitled 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas', both of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

''(2) PETITION FOR LEASING.—

''(A) IN GENERAL.—The Governor of the State, upon concurrence of its legislature, may submit to the Secretary a petition requesting that the Secretary make available any area that is within the State's Adjacent Zone, included within the provisions of paragraph (1), and that (i) is greater than 25 miles from any point on the coastline of a Neighboring State for the conduct of offshore leasing, pre-leasing, and related activities with respect to natural gas leasing; or (ii) is greater than 50 miles from any point on the coastline of a Neighboring State for the conduct of offshore leasing, pre-leasing, and related activities with respect to oil and gas leasing. The Adjacent State may also petition for leasing any other area within its Adjacent Zone if leasing is allowed in the similar area of the Adjacent Zone of the applicable Neighboring State, or if not allowed, if the Neighboring State, acting through its Governor, expresses its concurrence with the petition. The Secretary shall only consider such a petition upon making a finding that leasing is allowed in the similar area of the Adjacent Zone of the applicable Neighboring State or upon receipt of the concurrence of the Neighboring State. The date of receipt by the Secretary of such concurrence by the Neighboring State shall constitute the date of receipt of the petition for that area for which the concurrence applies.

''(B) LIMITATIONS ON LEASING.—In its petition, a State with an Adjacent Zone that contains leased tracts may condition new leasing for oil and gas, or natural gas for tracts within 25 miles of the coastline by—

''(i) requiring a net reduction in the number of production platforms;

''(ii) requiring a net increase in the average distance of production platforms from the coastline;

''(iii) limiting permanent surface occupancy on new leases to areas that are more than 10 miles from the coastline;

''(iv) limiting some tracts to being produced from shore or from platforms located on other tracts; or

''(v) other conditions that the Adjacent State may deem appropriate as long as the Secretary does not determine that production is made economically or technically impracticable or otherwise impossible.

''(C) ACTION BY SECRETARY.—Not later than 90 days after receipt of a petition under subparagraph (A), the Secretary shall approve the petition, unless the Secretary determines that leasing the area would probably cause serious harm or damage to the marine resources of the State's Adjacent Zone. Prior to approving the petition, the Secretary shall complete an environmental assessment that documents the anticipated environmental effects of leasing in the area included within the scope of the petition.

''(D) FAILURE TO ACT.—If the Secretary fails to approve or deny a petition in accordance with subparagraph (C) the petition shall be considered to be approved 90 days after receipt of the petition.

''(E) AMENDMENT OF THE 5-YEAR LEASING PROGRAM.—Notwithstanding section 18, within 180 days of the approval of a petition under subparagraph (C) or (D), after the expiration of the time limits in paragraph (1)(B), the Secretary shall amend the current 5-Year Outer Continental Shelf Oil and Gas Leasing Program to include a lease sale or sales for at least 75 percent of the associated areas, unless there are, from the date of approval, expiration of such time limits, as applicable, fewer than 12 months remaining in the current 5-Year Leasing Program in which case the Secretary shall include the

associated areas within lease sales under the next 5-Year Leasing Program. For purposes of amending the 5-Year Program in accordance with this section, further consultations with States shall not be required. For purposes of this section, an environmental assessment performed under the provisions of the National Environmental Policy Act of 1969 to assess the effects of approving the petition shall be sufficient to amend the 5-Year Leasing Program.

''(h) OPTION TO EXTEND WITHDRAWAL FROM LEASING WITHIN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—A State, through its Governor and upon the concurrence of its legislature, may extend for a period of time of up to 5 years for each extension the withdrawal from leasing for all or part of any area within the State's Adjacent Zone located more than 50 miles, but less than 100 miles, from the coastline that is subject to subsection (g)(1)(B). A State may extend multiple times for any particular area but not more than once per calendar year for any particular area. A State must prepare separate extensions, with separate votes by its legislature, for oil and gas leasing and for natural gas leasing. An extension by a State may affect some areas to be withdrawn from all leasing and some areas to be withdrawn only from one type of leasing.

''(i) EFFECT OF OTHER LAWS.—Adoption by any Adjacent State of any constitutional provision, or enactment of any State statute, that has the effect, as determined by the Secretary, of restricting either the Governor or the Legislature, or both, from exercising full discretion related to subsection (g) or (h), or both, shall automatically (1) prohibit any sharing of OCS Receipts under this Act with the Adjacent State, and its coastal political subdivisions, and (2) prohibit the Adjacent State from exercising any authority under subsection (h), for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting constitutional provision or State statute within 30 days of a petition by any outer Continental Shelf lessee or coastal State.

''(j) PROHIBITION ON LEASING EAST OF THE MILITARY MISSION LINE.—

''(1) Notwithstanding any other provision of law, from and after the enactment of the Deep Ocean Energy Resources Act of 2008, prior to January 1, 2022, no area of the outer Continental Shelf located in the Gulf of Mexico east of the military mission line may be offered for leasing for oil and gas or natural gas unless a waiver is issued by the Secretary of Defense. If such a waiver is granted, 62.5 percent of the OCS Receipts from a lease within such area issued because of such waiver shall be paid annually to the National Guards of all States having a point within 1000 miles of such a lease, allocated among the States on a per capita basis using the entire population of such States.

''(2) In this subsection, the term 'military mission line' means a line located at 86 degrees, 41 minutes West Longitude, and extending south from the coast of Florida to the outer boundary of United States territorial waters in the Gulf of Mexico.''.

SEC. 112. OUTER CONTINENTAL SHELF LEASING PROGRAM.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended—

(1) in subsection (a), by adding at the end of paragraph (3) the following: ''The Secretary shall, in each 5-Year Program, include lease sales that when viewed as a whole propose to offer for oil and gas or natural gas leasing at least 75 percent of the available unleased acreage within each OCS Planning Area. Available unleased acreage is that portion of the outer Continental Shelf that is not under lease at the time of the proposed lease sale, and has not otherwise been made unavailable for leasing by law.'';

(2) in subsection (c), by striking so much as precedes paragraph (3) and inserting the following:

''(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall consider and analyze leasing throughout the entire outer Continental Shelf without regard to any other law affecting such leasing. During this preparation the Secretary shall invite and consider suggestions from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any coastal State. The Secretary may also invite or consider any suggestions from the executive of any local government in a coastal State that have been previously submitted to the Governor of such State, and from any other person. Further, the Secretary shall consult with the Secretary of Defense regarding military operational needs in the outer Continental Shelf. The Secretary shall work with the Secretary of Defense to resolve any conflicts that might arise regarding offering any area of the outer Continental Shelf for oil and gas or natural gas leasing. If the Secretaries are not able to resolve all such conflicts, any unresolved issues shall be elevated to the President for resolution.

''(2) After the consideration and analysis required by paragraph (1), including the consideration of the suggestions received from any interested Federal agency, the Federal Trade Commission, the Governor of any coastal State, any local government of a coastal State, and any other person, the Secretary shall publish in the Federal Register a proposed leasing program accompanied by a draft environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. After the publishing of the proposed leasing program and during the comment period provided for on the draft environmental impact statement, the Secretary shall submit a copy of the proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in the Governor's State that the Governor, in the discretion of the Governor, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least 15 days prior to submission to the Congress pursuant to paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating the Secretary's reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.''; and

(3) by adding at the end the following:

''(i) PROJECTION OF STATE ADJACENT ZONE RESOURCES AND STATE AND LOCAL GOVERNMENT SHARES OF OCS RECEIPTS.—Concurrent with the publication of the scoping notice at the beginning of the development of each 5-Year Outer Continental Shelf Oil and Gas Leasing Program, or as soon thereafter as possible, the Secretary shall—

''(1) provide to each Adjacent State a current estimate of proven and potential oil and gas resources located within the State's Adjacent Zone; and

''(2) provide to each Adjacent State, and coastal political subdivisions thereof, a best-efforts projection of the OCS Receipts that the Secretary expects will be shared with each Adjacent State, and its coastal political subdivisions, using the assumption that the unleased tracts within the State's Adjacent Zone are fully made available for leasing, including long-term projected OCS Receipts. In addition, the Secretary shall include a macroeconomic estimate of the impact of such leasing on the national economy and each State's economy, including investment, jobs, revenues, personal income, and other categories.''.

SEC. 113. COORDINATION WITH ADJACENT STATES.

Section 19 of the Outer Continental Shelf Lands Act (43 U.S.C. 1345) is amended—

(1) in subsection (a) in the first sentence by inserting '', for any tract located within the Adjacent State's Adjacent Zone,'' after ''government''; and

(2) by adding the following:

''(f)(1) No Federal agency may permit or otherwise approve, without the concurrence of the Adjacent State, the construction of a crude oil or petroleum products (or both) pipeline within the part of the Adjacent State's Adjacent Zone that is withdrawn from oil and gas or natural gas leasing, except that such a pipeline may be approved, without such Adjacent State's concurrence, to pass through such Adjacent Zone if at least 50 percent of the production projected to be carried by the pipeline within its first 10 years of operation is from areas of the Adjacent State's Adjacent Zone.

''(2) No State may prohibit the construction within its Adjacent Zone or its State waters of a natural gas pipeline that will transport natural gas produced from the outer Continental Shelf. However, an Adjacent State may prevent a proposed natural gas pipeline landing location if it proposes two alternate landing locations in the Adjacent State, acceptable to the Adjacent State, located within 50 miles on either side of the proposed landing location.''.

SEC. 114. ENVIRONMENTAL STUDIES.

Section 20(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) For all programs, lease sales, leases, and actions under this Act, the following shall apply regarding the application of the National Environmental Policy Act of 1969:

''(A) Granting or directing lease suspensions and the conduct of all preliminary activities on outer Continental Shelf tracts, including seismic activities, are categorically excluded from the need to prepare either an environmental assessment or an environmental impact statement, and the Secretary shall not be required to analyze whether any exceptions to a categorical exclusion apply for activities conducted under the authority of this Act.

''(B) The environmental impact statement developed in support of each 5-Year Oil and Gas Leasing Program provides the environmental analysis for all lease sales to be conducted under the program and such sales shall not be subject to further environmental analysis.

''(C) Exploration plans shall not be subject to any requirement to prepare an environmental impact statement, and the Secretary may find that exploration plans are eligible for categorical exclusion due to the impacts already being considered within an environmental impact statement or due to mitigation measures included within the plan.

''(D) Within each OCS Planning Area, after the preparation of the first development and production plan environmental impact statement for a leased tract within the Area, future development and production plans for leased tracts within the Area shall only require the preparation of an environmental assessment unless the most recent development and production plan environmental impact statement within the Area was finalized

more than 10 years prior to the date of the approval of the plan, in which case an environmental impact statement shall be required.''.

SEC. 115. TERMINATION OF EFFECT OF LAWS PROHIBITING THE SPENDING OF APPROPRIATED FUNDS FOR CERTAIN PURPOSES.

All provisions of existing Federal law prohibiting the spending of appropriated funds to conduct oil and natural gas leasing and preleasing activities, or to issue a lease to any person, for any area of the outer Continental Shelf shall have no force or effect.

SEC. 116. OUTER CONTINENTAL SHELF INCOMPATIBLE USE.

(a) IN GENERAL.—No Federal agency may permit construction or operation (or both) of any facility, or designate or maintain a restricted transportation corridor or operating area on the Federal outer Continental Shelf or in State waters, that will be incompatible with, as determined by the Secretary of the Interior, oil and gas or natural gas leasing and substantially full exploration and production of tracts that are geologically prospective for oil or natural gas (or both).

(b) EXCEPTIONS.—Subsection (a) shall not apply to any facility, transportation corridor, or operating area the construction, operation, designation, or maintenance of which is or will be—

(1) located in an area of the outer Continental Shelf that is unavailable for oil and gas or natural gas leasing by operation of law;

(2) used for a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note); or

(3) required in the national interest, as determined by the President.

SEC. 117. REPURCHASE OF CERTAIN LEASES.

(a) AUTHORITY TO REPURCHASE AND CANCEL CERTAIN LEASES.—The Secretary of the Interior shall repurchase and cancel any Federal oil and gas, geothermal, coal, oil shale, tar sands, or other mineral lease, whether onshore or offshore, but not including any outer Continental Shelf oil and gas leases that were subject to litigation in the Court of Federal Claims on January 1, 2006, if the Secretary finds that such lease qualifies for repurchase and cancellation under the regulations authorized by this section.

(b) REGULATIONS.—Not later than 365 days after the date of the enactment of this Act, the Secretary shall publish a final regulation stating the conditions under which a lease referred to in subsection (a) would qualify for repurchase and cancellation, and the process to be followed regarding repurchase and cancellation. Such regulation shall include, but not be limited to, the following:

(1) The Secretary shall repurchase and cancel a lease after written request by the lessee upon a finding by the Secretary that—

(A) a request by the lessee for a required permit or other approval complied with applicable law, except the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and terms of the lease and such permit or other approval was denied;

(B) a Federal agency failed to act on a request by the lessee for a required permit, other approval, or administrative appeal within a regulatory or statutory time-frame associated with the requested action, whether advisory or mandatory, or if none, within 180 days; or

(C) a Federal agency attached a condition of approval, without agreement by the lessee, to a required permit or other approval if such condition of approval was not mandated by Federal statute or regulation in effect on the date of lease issuance, or was not specifically allowed under the terms of the lease.

(2) A lessee shall not be required to exhaust administrative remedies regarding a permit request, administrative appeal, or other required request for approval for the purposes of this section.

(3) The Secretary shall make a final agency decision on a request by a lessee under this section within 180 days of request.

(4) Compensation to a lessee to repurchase and cancel a lease under this section shall be the amount that a lessee would receive in a restitution case for a material breach of contract.

(5) Compensation shall be in the form of a check or electronic transfer from the Department of the Treasury from funds deposited into miscellaneous receipts under the authority of the same Act that authorized the issuance of the lease being repurchased.

(6) Failure of the Secretary to make a final agency decision on a request by a lessee under this section within 180 days of request shall result in a 10 percent increase in the compensation due to the lessee if the lease is ultimately repurchased.

(c) NO PREJUDICE.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

SEC. 118. OFFSITE ENVIRONMENTAL MITIGATION.

Notwithstanding any other provision of law, any person conducting activities under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30 U.S.C. 1001 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16 U.S.C. 552 et seq.), the General Mining Act of 1872 (30 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C. 601 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), may in satisfying any mitigation requirements associated with such activities propose mitigation measures on a site away from the area impacted and the Secretary of the Interior shall accept these proposed measures if the Secretary finds that they generally achieve the purposes for which mitigation measures appertained.

SEC. 119. OCS REGIONAL HEADQUARTERS.

Not later than July 1, 2010, the Secretary of the Interior shall establish the headquarters for the Atlantic OCS Region, the headquarters for the Gulf of Mexico OCS Region, and the headquarters for the Pacific OCS Region within a State bordering the Atlantic OCS Region, a State bordering the Gulf of Mexico OCS Region, and a State bordering the Pacific OCS Region, respectively, from among the States bordering those Regions, that petitions by no later than January 1, 2010, for leasing, for oil and gas or natural gas, covering at least 40 percent of the area of its Adjacent Zone within 100 miles of the coastline. Such Atlantic and Pacific OCS Regions headquarters shall be located within 25 miles of the coastline and each MMS OCS regional headquarters shall be the permanent duty station for all Minerals Management Service personnel that on a daily basis spend on average 60 percent or more of their time in performance of duties in support of the activities of the respective Region, except that the Minerals Management Service may house regional inspection staff in other locations. Each OCS Region shall each be led by a Regional Director who shall be an employee within the Senior Executive Service.

SEC. 120. LEASES FOR AREAS LOCATED WITHIN 100 MILES OF CALIFORNIA OR FLORIDA.

(a) AUTHORIZATION TO CANCEL AND EXCHANGE CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN LEASES PRIOR TO JUNE 30, 2012.—

(1) AUTHORITY.—Within 2 years after the date of enactment of this Act, the lessee of an existing oil and gas lease for an area located completely within 100 miles of the coastline within the California or Florida Adjacent Zones shall have the option, without compensation, of exchanging such lease for a new oil and gas lease having a primary term of 5 years. For the area subject to the new lease, the lessee may select any unleased tract on the outer Continental Shelf that is in an area available for leasing. Further, with the permission of the relevant Governor, such a lessee may convert its existing oil and gas lease into a natural gas lease having a primary term of 5 years and covering the same area as the existing lease or another area within the same State's Adjacent Zone within 100 miles of the coastline.

(2) ADMINISTRATIVE PROCESS.—The Secretary of the Interior shall establish a reasonable administrative process to implement paragraph (1). Exchanges and conversions under subsection (a), including the issuance of new leases, shall not be considered to be major Federal actions for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Further, such actions conducted in accordance with this section are deemed to be in compliance all provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(3) OPERATING RESTRICTIONS.—A new lease issued in exchange for an existing lease under this section shall be subject to such national defense operating stipulations on the OCS tract covered by the new lease as may be applicable upon issuance.

(4) PRIORITY.—The Secretary shall give priority in the lease exchange process based on the amount of the original bonus bid paid for the issuance of each lease to be exchanged. The Secretary shall allow leases covering partial tracts to be exchanged for leases covering full tracts conditioned upon payment of additional bonus bids on a per-acre basis as determined by the average per acre of the original bonus bid per acre for the partial tract being exchanged.

(5) EXPLORATION PLANS.—Any exploration plan submitted to the Secretary of the Interior after the date of the enactment of this Act and before July 1, 2012, for an oil and gas lease for an area wholly within 100 miles of the coastline within the California Adjacent Zone or Florida Adjacent Zone shall not be treated as received by the Secretary until the earlier of July 1, 2012, or the date on which a petition by the Adjacent State for oil and gas leasing covering the area within which is located the area subject to the oil and gas lease was approved.

(b) FURTHER LEASE CANCELLATION AND EXCHANGE PROVISIONS.—

(1) CANCELLATION OF LEASE.—As part of the lease exchange process under this section, the Secretary shall cancel a lease that is exchanged under this section.

(2) CONSENT OF LESSEES.—All lessees holding an interest in a lease must consent to cancellation of their leasehold interests in order for the lease to be cancelled and exchanged under this section.

(3) WAIVER OF RIGHTS.—As a prerequisite to the exchange of a lease under this section, the lessee must waive any rights to bring any litigation against the United States related to the transaction.

(4) PLUGGING AND ABANDONMENT.—The plugging and abandonment requirements for any wells located on any lease to be cancelled and exchanged under this section must be complied with by the lessees prior to the cancellation and exchange.

(c) AREA PARTIALLY WITHIN 100 MILES OF FLORIDA.—An existing oil and gas lease for an area located partially within 100 miles of the coastline within the Florida Adjacent Zone may only be developed and produced using wells drilled from well-head locations

at least 100 miles from the coastline to any bottom-hole location on the area of the lease. This subsection shall not apply if Florida has petitioned for leasing closer to the coastline than 100 miles.

(d) EXISTING OIL AND GAS LEASE DEFINED.—In this section the term ''existing oil and gas lease'' means an oil and gas lease in effect on the date of the enactment of this Act.

SEC. 121. COASTAL IMPACT ASSISTANCE.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is repealed.

SEC. 122. REPEAL OF THE GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

The Gulf of Mexico Energy Security Act of 2006 is repealed effective October 1, 2008.

Subtitle B—ANWR

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''American Energy Independence and Price Reduction Act''.

SEC. 142. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 143. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this subtitle that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this subtitle shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the Special Area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 144. LEASE SALES.

(a) IN GENERAL.—Lands may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this subtitle within 22 months after the date of the enactment of this Act;

(2) evaluate the bids in such sale and issue leases resulting from such sale, within 90 days after the date of the completion of such sale; and

(3) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 145. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 144 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 146. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible

and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this subtitle shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to section 143(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this subtitle and the regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 147. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 143, administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this subtitle, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LANDS.—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

SEC. 148. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this subtitle or any action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of any provision of this subtitle or any action of the Secretary under this subtitle may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this subtitle, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this subtitle and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this subtitle shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 149. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle—

(1) 50 percent shall be paid to the State of Alaska; and

(2) except as provided in section 152(d), 90 percent of the balance shall be deposited into the American Renewable and Alternative Energy Trust Fund established by section 331.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

SEC. 150. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 143(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 151. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 152. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this subtitle.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, the City of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, as determined by the Secretary, shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including fire-fighting, police, water, waste treatment, medivac, and medical services; and

(4) establishment of a coordination office, by the North Slope Borough, in the City of Kaktovik, which shall—

(A) coordinate with and advise developers on local conditions, impact, and history of the areas utilized for development; and

(B) provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) DEPOSITS.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties from Federal leases and lease sales authorized under this subtitle.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed $11,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

Subtitle C—Oil Shale

SEC. 161. REPEAL.

Section 433 of the Consolidated Appropriations Act, 2008 is repealed.

TITLE II—CONSERVATION AND EFFICIENCY

Subtitle A—Tax Incentives for Fuel Efficiency

SEC. 201. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) of such Code is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (31) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(32) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2) of such Code is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) of such Code is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) of such Code is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) of such Code is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) of such Code is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 202. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLES.

Paragraph (4) of section 30B(j) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2010'' and inserting ''December 31, 2014''.

SEC. 203. EXTENSION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

Paragraph (1) of section 30C(g) of the Internal Revenue Code of 1986 is amended by striking ''hydrogen,'' inserting ''hydrogen or alternative fuels (as defined in section 30B(e)(4)(B)),''.

Subtitle B—Tapping America's Ingenuity and Creativity

SEC. 211. DEFINITIONS.

In this subtitle:

(1) ADMINISTERING ENTITY.—The term ''administering entity'' means the entity with which the Secretary enters into an agreement under section 214(c).

(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 212. STATEMENT OF POLICY.

It is the policy of the United States to provide incentives to encourage the development and implementation of innovative energy technologies and new energy sources that will reduce our reliance on foreign energy.

SEC. 213. PRIZE AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program to competitively award cash

prizes in conformity with this subtitle to advance the research, development, demonstration, and commercial application of innovative energy technologies and new energy sources.

(b) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(1) ADVERTISING.—The Secretary shall widely advertise prize competitions to encourage broad participation in the program carried out under subsection (a), including individuals, universities, communities, and large and small businesses.

(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

(c) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competitions, subject to the provisions of this subtitle. The administering entity shall perform the following functions:

(1) Advertise the competition and its results.

(2) Raise funds from private entities and individuals to pay for administrative costs and cash prizes.

(3) Develop, in consultation with and subject to the final approval of the Secretary, criteria to select winners based upon the goal of safely and adequately storing nuclear used fuel.

(4) Determine, in consultation with and subject to the final approval of the Secretary, the appropriate amount of the awards.

(5) Protect against the administering entity's unauthorized use or disclosure of a registered participant's intellectual property, trade secrets, and confidential business information. Any information properly identified as trade secrets or confidential business information that is submitted by a participant as part of a competitive program under this subtitle may be withheld from public disclosure.

(6) Develop and promulgate sufficient rules to define the parameters of designing and proposing innovative energy technologies and new energy sources with input from industry, citizens, and corporations familiar with such activities.

(d) FUNDING SOURCES.—Prizes under this subtitle may consist of Federal appropriated funds, funds provided by the administering entity, or funds raised through grants or donations. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, United States Code, may use such funds for the cash prize program. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

(e) ANNOUNCEMENT OF PRIZES.—The Secretary may not publish a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated to the Department or the Department has received from the administering entity a written commitment to provide all necessary funds.

SEC. 214. ELIGIBILITY.

To be eligible to win a prize under this subtitle, an individual or entity—

(1) shall notify the administering entity of intent to submit ideas and intent to collect the prize upon selection;

(2) shall comply with all the requirements stated in the Federal Register notice required under section 213(b)(2);

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of the United States;

(4) shall not be a Federal entity, a Federal employee acting within the scope of his or her employment, or an employee of a national laboratory acting within the scope of employment;

(5) shall not use Federal funding or other Federal resources to compete for the prize; and

(6) shall not be an entity acting on behalf of any foreign government or agent.

SEC. 215. INTELLECTUAL PROPERTY.

The Federal Government shall not, by virtue of offering or awarding a prize under this subtitle, be entitled to any intellectual property rights derived as a consequence of, or in direct relation to, the participation by a registered participant in a competition authorized by this subtitle. This section shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this subtitle. The Federal Government may seek assurances that technologies for which prizes are awarded under this subtitle are offered for commercialization in the event an award recipient does not take, or is not expected to take within a reasonable time, effective steps to achieve practical application of the technology.

SEC. 216. WAIVER OF LIABILITY.

The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this subtitle. The Secretary shall give notice of any waiver required under this section in the notice required by section 213(b)(2). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant's intellectual property, trade secrets, or confidential business information.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

(a) AWARDS.—40 percent of amounts in the American Energy Trust Fund shall be available without further appropriation to carry out specified provisions of this section.

(b) TREATMENT OF AWARDS.—Amounts received pursuant to an award under this subtitle may not be taxed by any Federal, State, or local authority.

(c) ADMINISTRATION.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary for each of fiscal years 2009 through 2020 $2,000,000 for the administrative costs of carrying out this subtitle.

(d) CARRYOVER OF FUNDS.—Funds appropriated for prize awards under this subtitle shall remain available until expended and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 11 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this subtitle permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

SEC. 218. NEXT GENERATION AUTOMOBILE PRIZE PROGRAM.

The Secretary of Energy shall establish a program to award a prize in the amount of $500,000,000 to the first automobile manufacturer incorporated in the United States to manufacture and sell in the United States 50,000 midsized sedan automobiles which operate on gasoline and can travel 100 miles per gallon.

SEC. 219. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) incorporation of qualifying components into the design of advanced batteries; and

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subtitle, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $100,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

(e) FEES.—The cost of administering a loan made under this section shall not exceed $100,000.

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the American Energy Trust Fund such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

Subtitle C—Home and Business Tax Incentives

SEC. 221. EXTENSION OF CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subsection (b) of section 45M of the Internal Revenue Code of 1986 (relating to applicable amount) is amended by striking ''calendar year 2006 or 2007'' each place it appears in paragraphs (1)(A)(i), (1)(B)(i), (1)(C)(ii)(I), and (1)(C)(iii)(I), and inserting ''calendar year 2006, 2007, 2008, 2009, 2010, 2011, 2012, or 2013''.

(b) RESTART OF CREDIT LIMITATION.—Paragraph (1) of section 45M(e) of such Code (relating to aggregate credit amount allowed) is amended by inserting ''beginning after December 31, 2007'' after ''for all prior taxable years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 222. EXTENSION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C(g) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. 223. EXTENSION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

Section 25D(g) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 224. EXTENSION OF NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 225. EXTENSION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Section 179D(h) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 226. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Paragraph (3) of section 451(i) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2008'' and inserting ''January 1, 2014''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) of such Code is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

SEC. 227. HOME ENERGY AUDITS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

''SEC. 25E. HOME ENERGY AUDITS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount of qualified energy audit paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) with respect to a residence of the taxpayer for a taxable year shall not exceed $400.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of any taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(c) QUALIFIED ENERGY AUDIT.—For purposes of this section, the term 'qualified energy audit' means an energy audit of the principal residence of the taxpayer performed by a qualified energy auditor through a comprehensive site visit. Such audit may include a blower door test, an infra-red camera test, and a furnace combustion efficiency test. In addition, such audit shall include such substitute tests for the tests specified in the preceding sentence, and such additional tests, as the Secretary may by regulation require. A principal residence shall not be taken into consideration under this subparagraph unless such residence is located in the United States.

''(d) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(e) QUALIFIED ENERGY AUDITOR.—

''(1) IN GENERAL.—The Secretary shall specify by regulations the qualifications required to be a qualified energy auditor for purposes of this section. Such regulations shall include rules prohibiting conflicts-of-interest, including the disallowance of commissions or other payments based on goods or non-audit services purchased by the taxpayer from the auditor.

''(2) CERTIFICATION.—The Secretary shall prescribe the procedures and methods for certifying that an auditor is a qualified energy auditor. To the maximum extent practicable, such procedures and methods shall provide for a variety of sources to obtain certifications.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) of the Internal Revenue Code of 1986 is amended by inserting ''and section 25E'' after ''this section''.

(2) Section 23(c)(1) of such Code is amended by inserting '', 25E,'' after ''25D''.

(3) Section 24(b)(3)(B) of such Code is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(4) Clauses (i) and (ii) of section 25(e)(1)(C) of such Code are each amended by inserting ''25E,'' after ''25D,''.

(5) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(6) Section 25D(c)(1) of such Code is amended by inserting ''and section 25E'' after ''this section''.

(7) Section 25D(c)(2) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(8) The table of sections for subpart A of part IV of subchapter A chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Home energy audits.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by paragraphs (1) and (3) of subsection (b) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 228. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS.

(a) IN GENERAL.—Section 168(e)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any qualified smart electric meter.''.

(b) DEFINITION.—Section 168(i) of such Code is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) of such Code is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter, or''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle D—Refinery Permit Process Schedule

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Refinery Permit Process Schedule Act''.

SEC. 232. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) the term ''applicant'' means a person who (with the approval of the governor of the State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, where the proposed refinery would be located) is seeking a Federal refinery authorization;

(3) the term ''biomass'' has the meaning given that term in section 932(a)(1) of the Energy Policy Act of 2005;

(4) the term ''Federal refinery authorization''—

(A) means any authorization required under Federal law, whether administered by a Federal or State administrative agency or official, with respect to siting, construction, expansion, or operation of a refinery; and

(B) includes any permits, licenses, special use authorizations, certifications, opinions, or other approvals required under Federal law with respect to siting, construction, expansion, or operation of a refinery;

(5) the term ''refinery'' means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or distillate;

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline or diesel as its primary output; or

(C) a facility designed and operated to receive, load, unload, store, transport, process (including biochemical, photochemical, and biotechnology processes), and refine biomass in order to produce biofuel; and

(6) the term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 233. STATE ASSISTANCE.

(a) STATE ASSISTANCE.—At the request of a governor of a State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, the Administrator is authorized to provide financial assistance to that State or tribe or tribal community to facilitate the hiring of additional personnel to assist the State or tribe or tribal community with expertise in fields relevant to consideration of Federal refinery authorizations.

(b) OTHER ASSISTANCE.—At the request of a governor of a State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, a Federal agency responsible for a Federal refinery authorization shall provide technical, legal, or other nonfinancial assistance to that State or tribe or tribal community to facilitate its consideration of Federal refinery authorizations.

SEC. 234. REFINERY PROCESS COORDINATION AND PROCEDURES.

(a) APPOINTMENT OF FEDERAL COORDINATOR.—

(1) IN GENERAL.—The President shall appoint a Federal coordinator to perform the responsibilities assigned to the Federal coordinator under this subtitle.

(2) OTHER AGENCIES.—Each Federal and State agency or official required to provide a Federal refinery authorization shall cooperate with the Federal coordinator.

(b) FEDERAL REFINERY AUTHORIZATIONS.—

(1) MEETING PARTICIPANTS.—Not later than 30 days after receiving a notification from an applicant that the applicant is seeking a Federal refinery authorization pursuant to Federal law, the Federal coordinator appointed under subsection (a) shall convene a meeting of representatives from all Federal and State agencies responsible for a Federal refinery authorization with respect to the refinery. The governor of a State shall identify each agency of that State that is responsible for a Federal refinery authorization with respect to that refinery.

(2) MEMORANDUM OF AGREEMENT.—(A) Not later than 90 days after receipt of a notification described in paragraph (1), the Federal coordinator and the other participants at a meeting convened under paragraph (1) shall establish a memorandum of agreement setting forth the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery, consistent with the full substantive and procedural review required by Federal law. If a Federal or State agency responsible for a Federal refinery authorization with respect to the refinery is not represented at such meeting, the Federal coordinator shall ensure that the schedule accommodates those Federal refinery authorizations, consistent with Federal law. In the event of conflict among Federal refinery authorization scheduling requirements, the requirements of the Environmental Protection Agency shall be given priority.

(B) Not later than 15 days after completing the memorandum of agreement, the Federal coordinator shall publish the memorandum of agreement in the Federal Register.

(C) The Federal coordinator shall ensure that all parties to the memorandum of agreement are working in good faith to carry out the memorandum of agreement, and shall facilitate the maintenance of the schedule established therein.

(c) CONSOLIDATED RECORD.—The Federal coordinator shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Federal coordinator or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal refinery authorization. Such record shall be the record for judicial review under subsection (d) of decisions made or actions taken by Federal and State administrative agencies and officials, except that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Federal coordinator for further development of the consolidated record.

(d) REMEDIES.—

(1) IN GENERAL.—The United States District Court for the district in which the proposed refinery is located shall have exclusive jurisdiction over any civil action for the review of the failure of an agency or official to act on a Federal refinery authorization in accordance with the schedule established pursuant to the memorandum of agreement.

(2) STANDING.—If an applicant or a party to a memorandum of agreement alleges that a failure to act described in paragraph (1) has occurred and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, such applicant or other party may bring a cause of action under this subsection.

(3) COURT ACTION.—If an action is brought under paragraph (2), the Court shall review whether the parties to the memorandum of agreement have been acting in good faith, whether the applicant has been cooperating fully with the agencies that are responsible for issuing a Federal refinery authorization, and any other relevant materials in the consolidated record. Taking into consideration those factors, if the Court finds that a failure to act described in paragraph (1) has occurred, and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, the Court shall establish a new schedule that is the most expeditious coordinated schedule possible for completion of proceedings, consistent with the full substantive and procedural review required by Federal law. The court may issue orders to enforce any schedule it establishes under this paragraph.

(4) FEDERAL COORDINATOR'S ACTION.—When any civil action is brought under this subsection, the Federal coordinator shall immediately file with the Court the consolidated record compiled by the Federal coordinator pursuant to subsection (c).

(5) EXPEDITED REVIEW.—The Court shall set any civil action brought under this subsection for expedited consideration.

SEC. 235. DESIGNATION OF CLOSED MILITARY BASES.

(a) DESIGNATION REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall designate no less than 3 closed military installations, or portions thereof, as potentially suitable for the construction of a refinery. At least 1 such site shall be designated as potentially suitable for construction of a refinery to refine biomass in order to produce biofuel.

(b) REDEVELOPMENT AUTHORITY.—The redevelopment authority for each installation designated under subsection (a), in preparing or revising the redevelopment plan for the installation, shall consider the feasibility and practicability of siting a refinery on the installation.

(c) MANAGEMENT AND DISPOSAL OF REAL PROPERTY.—The Secretary of Defense, in managing and disposing of real property at an installation designated under subsection (a) pursuant to the base closure law applicable to the installation, shall give substantial deference to the recommendations of the redevelopment authority, as contained in the redevelopment plan for the installation, regarding the siting of a refinery on the installation. The management and disposal of real property at a closed military installation or portion thereof found to be suitable for the siting of a refinery under subsection (a) shall be carried out in the manner provided by the base closure law applicable to the installation.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''base closure law'' means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); and

(2) the term ''closed military installation'' means a military installation closed or approved for closure pursuant to a base closure law.

SEC. 236. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect the application of any environmental or other law, or to prevent any party from bringing a cause of action under any environmental or other law, including citizen suits.

SEC. 237. REFINERY REVITALIZATION REPEAL.

Subtitle H of title III of the Energy Policy Act of 2005 and the items relating thereto in the table of contents of such Act are repealed.

TITLE III—NEW AND EXPANDING TECHNOLOGIES

Subtitle A—Alternative Fuels

SEC. 301. REPEAL.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

SEC. 302. GOVERNMENT AUCTION OF LONG TERM PUT OPTION CONTRACTS ON COAL-TO-LIQUID FUEL PRODUCED BY QUALIFIED COAL-TO-LIQUID FACILITIES.

(a) IN GENERAL.—The Secretary shall, from time to time, auction to the public coal-to-

liquid fuel put option contracts having expiration dates of 5 years, 10 years, 15 years, or 20 years.

(b) CONSULTATION WITH SECRETARY OF ENERGY.—The Secretary shall consult with the Secretary of Energy regarding—

(1) the frequency of the auctions;

(2) the strike prices specified in the contracts;

(3) the number of contracts to be auctioned with a given strike price and expiration date; and

(4) the capacity of existing or planned facilities to produce coal-to-liquid fuel.

(c) DEFINITIONS.—In this section:

(1) COAL-TO-LIQUID FUEL.—The term ''coal-to-liquid fuel'' means any transportation-grade liquid fuel derived primarily from coal (including peat) and produced at a qualified coal-to-liquid facility.

(2) COAL-TO-LIQUID PUT OPTION CONTRACT.—The term ''coal-to-liquid put option contract'' means a contract, written by the Secretary, which—

(A) gives the holder the right (but not the obligation) to sell to the Government of the United States a certain quantity of a specific type of coal-to-liquid fuel produced by a qualified coal-to-liquid facility specified in the contract, at a strike price specified in the contract, on or before an expiration date specified in the contract; and

(B) is transferable by the holder to any other entity.

(3) QUALIFIED COAL-TO-LIQUID FACILITY.—The term ''qualified coal-to-liquid facility'' means a manufacturing facility that has the capacity to produce at least 10,000 barrels per day of transportation grade liquid fuels from a feedstock that is primarily domestic coal (including peat and any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(5) STRIKE PRICE.—The term ''strike price'' means, with respect to a put option contract, the price at which the holder of the contract has the right to sell the fuel which is the subject of the contract.

(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section.

(e) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 303. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQUIDS PROJECTS.

Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following new subsection:

''(k) STANDBY LOANS FOR QUALIFYING CTL PROJECTS.—

''(1) DEFINITIONS.—For purposes of this subsection:

''(A) CAP PRICE.—The term 'cap price' means a market price specified in the standby loan agreement above which the project is required to make payments to the United States.

''(B) FULL TERM.—The term 'full term' means the full term of a standby loan agreement, as specified in the agreement, which shall not exceed the lesser of 30 years or 90 percent of the projected useful life of the project (as determined by the Secretary).

''(C) MARKET PRICE.—The term 'market price' means the average quarterly price of a petroleum price index specified in the standby loan agreement.

''(D) MINIMUM PRICE.—The term 'minimum price' means a market price specified in the standby loan agreement below which the United States is obligated to make disbursements to the project.

''(E) OUTPUT.—The term 'output' means some or all of the liquid or gaseous transportation fuels produced from the project, as specified in the loan agreement.

''(F) PRIMARY TERM.—The term 'primary term' means the initial term of a standby loan agreement, as specified in the agreement, which shall not exceed the lesser of 20 years or 75 percent of the projected useful life of the project (as determined by the Secretary).

''(G) QUALIFYING CTL PROJECT.—The term 'qualifying CTL project' means—

''(i) a commercial-scale project that converts coal to one or more liquid or gaseous transportation fuels; or

''(ii) not more than one project at a facility that converts petroleum refinery waste products, including petroleum coke, into one or more liquids or gaseous transportation fuels,

that demonstrates the capture, and sequestration or disposal or use of, the carbon dioxide produced in the conversion process, and that, on the basis of a carbon dioxide sequestration plan prepared by the applicant, is certified by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, as producing fuel with life cycle carbon dioxide emissions at or below the average life cycle carbon dioxide emissions for the same type of fuel produced at traditional petroleum based facilities with similar annual capacities.

''(H) STANDBY LOAN AGREEMENT.—The term 'standby loan agreement' means a loan agreement entered into under paragraph (2).

''(2) STANDBY LOANS.—

''(A) LOAN AUTHORITY.—The Secretary may enter into standby loan agreements with not more than six qualifying CTL projects, at least one of which shall be a project jointly or in part owned by two or more small coal producers. Such an agreement—

''(i) shall provide that the Secretary will make a direct loan (within the meaning of section 502(1) of the Federal Credit Reform Act of 1990) to the qualifying CTL project; and

''(ii) shall set a cap price and a minimum price for the primary term of the agreement.

''(B) LOAN DISBURSEMENTS.—Such a loan shall be disbursed during the primary term of such agreement whenever the market price falls below the minimum price. The amount of such disbursements in any calendar quarter shall be equal to the excess of the minimum price over the market price, times the output of the project (but not more than a total level of disbursements specified in the agreement).

''(C) LOAN REPAYMENTS.—The Secretary shall establish terms and conditions, including interest rates and amortization schedules, for the repayment of such loan within the full term of the agreement, subject to the following limitations:

''(i) If in any calendar quarter during the primary term of the agreement the market price is less than the cap price, the project may elect to defer some or all of its repayment obligations due in that quarter. Any unpaid obligations will continue to accrue interest.

''(ii) If in any calendar quarter during the primary term of the agreement the market price is greater than the cap price, the project shall meet its scheduled repayment obligation plus deferred repayment obligations, but shall not be required to pay in that quarter an amount that is more than the excess of the market price over the cap price, times the output of the project.

''(iii) At the end of the primary term of the agreement, the cumulative amount of any deferred repayment obligations, together with accrued interest, shall be amortized (with interest) over the remainder of the full term of the agreement.

''(3) PROFIT-SHARING.—The Secretary is authorized to enter into a profit-sharing agreement with the project at the time the standby loan agreement is executed. Under such an agreement, if the market price exceeds the cap price in a calendar quarter, a profit-sharing payment shall be made for that quarter, in an amount equal to—

''(A) the excess of the market price over the cap price, times the output of the project; less

''(B) any loan repayments made for the calendar quarter.

''(4) COMPLIANCE WITH FEDERAL CREDIT REFORM ACT.—

''(A) UPFRONT PAYMENT OF COST OF LOAN.—No standby loan agreement may be entered into under this subsection unless the project makes a payment to the United States that the Office of Management and Budget determines is equal to the cost of such loan (determined under 502(5)(B) of the Federal Credit Reform Act of 1990). Such payment shall be made at the time the standby loan agreement is executed.

''(B) MINIMIZATION OF RISK TO THE GOVERNMENT.—In making the determination of the cost of the loan for purposes of setting the payment for a standby loan under subparagraph (A), the Secretary and the Office of Management and Budget shall take into consideration the extent to which the minimum price and the cap price reflect historical patterns of volatility in actual oil prices relative to projections of future oil prices, based upon publicly available data from the Energy Information Administration, and employing statistical methods and analyses that are appropriate for the analysis of volatility in energy prices.

''(C) TREATMENT OF PAYMENTS.—The value to the United States of a payment under subparagraph (A) and any profit-sharing payments under paragraph (3) shall be taken into account for purposes of section 502(5)(B)(iii) of the Federal Credit Reform Act of 1990 in determining the cost to the Federal Government of a standby loan made under this subsection. If a standby loan has no cost to the Federal Government, the requirements of section 504(b) of such Act shall be deemed to be satisfied.

''(5) OTHER PROVISIONS.—

''(A) NO DOUBLE BENEFIT.—A project receiving a loan under this subsection may not, during the primary term of the loan agreement, receive a Federal loan guarantee under subsection (a) of this section, or under other laws.

''(B) SUBROGATION, ETC.—Subsections (g)(2) (relating to subrogation), (h) (relating to fees), and (j) (relating to full faith and credit) shall apply to standby loans under this subsection to the same extent they apply to loan guarantees.''.

Subtitle B—Tax Provisions

SEC. 311. EXTENSION OF RENEWABLE ELECTRICITY, REFINED COAL, AND INDIAN COAL PRODUCTION CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Subsection (d) of section 45 of the Internal Revenue Code of 1986 (relating to qualified facilities) is amended—

(A) by striking ''and before January 1, 2009'' each place it occurs,

(B) by striking '', and before January 1, 2009'' in paragraphs (1) and (2)(A)(i), and

(C) by striking ''before January 1, 2009'' in paragraph (10).

(2) OPEN-LOOP BIOMASS FACILITIES.—Subparagraph (A) of section 45(d)(3) of such Code is amended to read as follows:

''(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after October 22, 2004.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity produced and sold after December 31, 2008, in taxable years ending after such date.

(b) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of section 45(e) of such Code is amended by adding at the end the following new sentence: ''The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.''.

(c) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Clause (ii) of section 38(c)(4)(B) of such Code (relating to specified credits) is amended by striking ''produced—'' and all that follows and inserting ''produced at a facility which is originally placed in service after the date of the enactment of this paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 312. EXTENSION OF ENERGY CREDIT.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal Revenue Code of 1986 (relating to energy credit) are each amended by striking ''but only with respect to periods ending before January 1, 2009''.

(b) FUEL CELL PROPERTY.—Section 48(c)(1) of such Code (relating to qualified fuel cell property) is amended by striking subparagraph (E).

(c) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) of the Internal Revenue Code of 1986 (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

(d) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (B) of section 38(c)(4) of such Code (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 48, and''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 313. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) of such Code (relating to limitation on amount of bonds designated) is amended—

(1) by striking ''$1,200,000,000'' in paragraph (1) and inserting ''$1,600,000,000'', and

(2) by striking ''$750,000,000'' in paragraph (2) and inserting ''$1,000,000,000''.

(c) MODIFICATION OF RATABLE PRINCIPAL AMORTIZATION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (5) of section 54(l) of such Code is amended to read as follows:

''(5) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each 12-month period that the issue is outstanding (other than the first 12-month period).''.

(2) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) of such Code is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 314. EXTENSION OF CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

Subtitle C—Nuclear

SEC. 321. USE OF FUNDS FOR RECYCLING.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended—

(1) in subsection (d), by striking ''The Secretary may'' and inserting ''Except as provided in subsection (f), the Secretary may''; and

(2) by adding at the end the following new subsection:

''(f) RECYCLING.—

''(1) IN GENERAL.—Amounts in the Waste Fund may be used by the Secretary of Energy to make grants to or enter into long-term contracts with private sector entities for the recycling of spent nuclear fuel.

''(2) COMPETITIVE SELECTION.—Grants and contracts authorized under paragraph (1) shall be awarded on the basis of a competitive bidding process that—

''(A) maximizes the competitive efficiency of the projects funded;

''(B) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

''(C) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.''.

SEC. 322. RULEMAKING FOR LICENSING OF SPENT NUCLEAR FUEL RECYCLING FACILITIES.

(a) REQUIREMENT.—The Nuclear Regulatory Commission shall, as expeditiously as possible, but in no event later than 2 years after the date of enactment of this Act, complete a rulemaking establishing a process for the licensing by the Nuclear Regulatory Commission, under the Atomic Energy Act of 1954, of facilities for the recycling of spent nuclear fuel.

(b) FUNDING.—Amounts in the Nuclear Waste Fund established under section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be made available to the Nuclear Regulatory Commission to cover the costs of carrying out subsection (a) of this section.

SEC. 323. NUCLEAR WASTE FUND BUDGET STATUS.

Section 302(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(e)) is amended by adding at the end the following new paragraph:

''(7) The receipts and disbursements of the Waste Fund shall not be counted as new budget authority, outlays, receipts, or deficits or surplus for purposes of—

''(A) the budget of the United States Government as submitted by the President;

''(B) the congressional budget; or

''(C) the Balanced Budget and Emergency Deficit Control Act of 1985.''.

SEC. 324. WASTE CONFIDENCE.

The Nuclear Regulatory Commission may not deny an application for a license, permit, or other authorization under the Atomic Energy Act of 1954 on the grounds that sufficient capacity does not exist, or will not become available on a timely basis, for disposal of spent nuclear fuel or high-level radioactive waste from the facility for which the license, permit, or other authorization is sought.

SEC. 325. ASME NUCLEAR CERTIFICATION CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45O. ASME NUCLEAR CERTIFICATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the ASME Nuclear Certification credit determined under this section for any taxable year is an amount equal to 15 percent of the qualified nuclear expenditures paid or incurred by the taxpayer.

''(b) QUALIFIED NUCLEAR EXPENDITURES.—For purposes of this section, the term 'qualified nuclear expenditures' means any expenditure related to—

''(1) obtaining a certification under the American Society of Mechanical Engineers Nuclear Component Certification program, or

''(2) increasing the taxpayer's capacity to construct, fabricate, assemble, or install components—

''(A) for any facility which uses nuclear energy to produce electricity, and

''(B) with respect to the construction, fabrication, assembly, or installation of which the taxpayer is certified under such program.

''(c) TIMING OF CREDIT.—The credit allowed under subsection (a) for any expenditures shall be allowed—

''(1) in the case of a qualified nuclear expenditure described in subsection (b)(1), for the taxable year of such certification, and

''(2) in the case of any other qualified nuclear expenditure, for the taxable year in which such expenditure is paid or incurred.

''(d) SPECIAL RULES.—

''(1) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for an expenditure, the increase in basis which would result (but for this subsection) for such expenditure shall be reduced by the amount of the credit allowed under this section.

''(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.

''(e) TERMINATION.—This section shall not apply to any expenditures paid or incurred in taxable years beginning after December 31, 2019.''.

(b) CONFORMING AMENDMENTS.—(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following new paragraph:

''(32) the ASME Nuclear Certification credit determined under section 45O(a).''.

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 45O(e)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2007.

Subtitle D—American Renewable and Alternative Energy Trust Fund

SEC. 331. AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''American Renewable and Alternative Energy Trust Fund'', consisting of such

amounts as may be transferred to the American Renewable and Alternative Energy Trust Fund as provided in section 149 and the amendments made by section 110 of this division.

(b) EXPENDITURES FROM AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND.—

(1) IN GENERAL.—Amounts in the American Renewable and Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109–58; in this section referred to as ''EPAct2005'') and the Energy Independence and Security Act of 2007 (Public Law 110–140; in this section referred to as ''EISAct2007''), as follows:

(A) Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes, section 210 of EPAct2005, 3 percent

(B) Hydroelectric production incentives, section 242 of EPAct2005, 2 percent.

(C) Oil shale, tar sands, and other strategic unconventional fuels, section 369 of EPAct2005, 3 percent.

(D) Clean Coal Power Initiative, section 401 of EPAct2005, 7 percent.

(E) Solar and wind technologies, section 812 of EPAct2005, 7 percent.

(F) Renewable Energy, section 931 of EPAct2005, 20 percent.

(G) Production incentives for cellulosic biofuels, section 942 of EPAct2005, 2.5 percent.

(H) Coal and related technologies program, section 962 of EPAct2005, 4 percent.

(I) Methane hydrate research, section 968 of EPAct2005, 2.5 percent.

(J) Incentives for Innovative Technologies, section 1704 of EPAct2005, 7 percent.

(K) Grants for production of advanced biofuels, section 207 of EISAct2007, 16 percent.

(L) Photovoltaic demonstration program, section 607 EISAct2007, 2.5 percent.

(M) Geothermal Energy, title VI, subtitle B of EISAct2007, 4 percent.

(N) Marine and Hydrokinetic Renewable Energy Technologies, title VI, subtitle C of EISAct2007, 2.5 percent.

(O) Energy storage competitiveness, section 641 of EISAct2007, 10 percent.

(P) Smart grid technology research, development, and demonstration, section 1304 of EISAct2007, 7 percent.

(2) APPORTIONMENT OF EXCESS AMOUNT.—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in paragraph (1), up to the amounts otherwise authorized by law to carry out such sections and subtitles, in proportion to the amounts authorized by law to be appropriated for such other sections and subtitles.

SA 5155. Mr. CRAPO submitted an amendment intended to be proposed by bim to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing Transparency and Accountability in Energy Prices Act of 2008''.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term ''excessive speculation'' has the meaning described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)).

SEC. 3. SENSE OF SENATE ON THE NEED FOR GREATER TRANSPARENCY IN AND REGULATORY RESOURCES OVERSEEING THE ENERGY FUTURES MARKETS.

(a) SENSE OF SENATE.—It is the sense of the Senate that—

(1) excessive speculation may be adding to the price of oil and other energy commodities;

(2) the public and Congress are concerned that because the regulator of the energy futures markets, the Commodity Futures Trading Commission, does not have access to all of the national and international data required to fully assess the role of excessive speculation, it cannot definitively determine whether energy futures prices are being driven solely by supply and demand;

(3) the staffing levels of the Commission have dropped to the lowest levels in the 33-year history of the Commission, thereby making it difficult for the Commission to analyze the growing volumes of futures transactions adequately;

(4) the acting Chairman of the Commission has said publicly that an additional 100 employees are needed in light of the inflow of trading data; and

(5) a more robust regulator over the energy futures markets can help restore public confidence in the proper functioning of energy futures markets with respect to the price discovery mechanism they are meant to provide, at least in part by more aggressively applying and enforcing section 9 of the Act, including provisions relating to manipulation or attempted manipulation, the making of false statements, and willful violations of this Act; and

(6) the Commodity Futures Trading Commission should be provided with additional resources sufficient to—

(A) help restore public confidence in energy commodities markets;

(B) significantly improve the information technology capabilities of the Commission to help the Commission effectively regulate energy futures markets; and

(C) fund at least 100 new full-time positions at the Commission to oversee energy commodity market speculation and to enforce the Commodity Exchange Act (7 U.S.C. 1 et seq.).

SEC. 4. ADDITIONAL COMMISSION EMPLOYEES FOR IMPROVED OVERSIGHT AND ENFORCEMENT.

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

''(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of enactment of this subparagraph)—

''(i) to increase the public transparency of operations in energy futures markets;

''(ii) to improve the enforcement of this Act in those markets; and

''(iii) to carry out such other duties as are prescribed by the Commission.''.

SEC. 5. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including market oversight and enforcement standards and activities;

(2) variations among countries in the use of position limits, accountability limits, or other thresholds to detect and prevent price manipulation, excessive speculation, or other unfair trading practices;

(3) variations in practices regarding the differentiation of commercial and noncommercial trading;

(4) agreements and practices for sharing market and trading data between regulatory bodies and between individual regulators and the entities they oversee; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that—

(1) describes the results of the study;

(2) addresses the effects of excessive speculation and energy price volatility on energy futures; and

(3) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market in a manner that protects consumers in the United States.

SEC. 6. 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.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or foreign futures authority adopts position limits (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles;

''(C) the foreign board of trade or foreign futures authority has the authority to require or direct market participants to limit, reduce, or liquidate any position it deems necessary to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process;

''(D) the foreign board of trade or foreign futures authority provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its Commitment of Traders report for the contract or contracts against which it settles; and

''(E) the foreign board of trade or foreign futures authority regularly notifies the Commission before implementing any regulatory changes regarding the information it will make public, the position and accountability limits it will adopt and enforce, the position reductions it will require to prevent manipulation, or any other area of interest expressed by the Commission.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 6 months after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission had granted relief prior to the date of enactment of this subsection.''.

SEC. 7. COMMISSION AUTHORITY OVER TRADERS.

(a) IN GENERAL.—

(1) VIOLATIONS.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by inserting '', including any person trading on a foreign board of trade,'' after ''Any person''.

(2) EXCESSIVE SPECULATION AS A BURDEN ON INTERSTATE COMMERCE.—Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended by adding after ''fixed by the Commission.'' the following: ''It shall be a violation of this Act for any person located within the United States, its territories, or possessions, or who enters trades into a foreign board of trade's trade matching system from the United States, its territories, or possessions, to violate any bylaw, rule, regulation, or resolution of any foreign board of trade or foreign futures authority fixing limits on the amount of trading which may be done or positions which may be held under contacts of a sale of an energy commodity (as defined by the Commission) for future delivery or under options on such contracts or commodities, that settle against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity.''

(3) RESTRICTION OF FUTURES TRADING TO CONTRACT MARKETS OR DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended by adding after the first sentence the following: ''The Commission may adopt rules and regulations requiring the keeping of books and records by any person located within the United States, its territories, or possessions, or who enters trades into a foreign board of trade's trade matching system from the United States, its territories, or possessions.''

(b) CONSULTATION.—Prior to the issuance of any order to reduce a position on a foreign board of trade located outside located outside the United States, its territories, or possessions, the Commission shall consult with the foreign board of trade and the appropriate regulatory authority.

(c) ADMINISTRATION.—Nothing in this subsection limits any of the otherwise applicable authorities of the Commission.

SEC. 8. DETAILED REPORTING FROM INDEX TRADERS AND SWAP DEALERS.

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

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule defining and classifying index traders and swap dealers (as those terms are defined in the rulemaking by the Commission) for purposes of data reporting requirements and setting routine detailed reporting requirements for such entities in energy and agricultural transactions within the jurisdiction of the Commission not later than 60 days after the enactment of this subsection, and issue a final rule within 120 days after the enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive positions in the energy and agricultural futures markets, comparing these positions and values to the speculative positions of bona fide physical hedgers in those markets.

''(2) REPORT.—The Commission shall submit a report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Agriculture Committee, not later than September 15, 2008, regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether and how the classification of index traders and swap dealers in the futures markets can be improved for regulatory reporting purposes;

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SA 5156. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall jointly conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the heads of the Federal agencies described in subsection (a) shall jointly submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market.

SEC. 2. FOREIGN BOARDS OF TRADE.

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.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades directly into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trade information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or a foreign futures authority adopts position limitations (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limitations (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles; and

''(C) the foreign board of trade or a foreign futures authority provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its weekly report of traders (commonly known as the Commitments of Traders report) for the contract or contracts against which it settles.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 1 year after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission's staff had granted relief from the requirements of this Act prior to the date of enactment of this subsection.''.

SEC. 3. INDEX TRADERS AND SWAP DEALERS; DISAGGREGATION OF INDEX FUNDS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 2) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule regarding routine reporting requirements for index traders and swap dealers (as those terms are defined by the Commission) in energy and agricultural transactions (as those terms are defined by the Commission) within the jurisdiction of the Commission not later than 180 days after the date of enactment of this subsection, and issue a final rule regarding such reporting requirements not later than 270 days after the date of enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive, long-only positions in the energy and agricultural futures markets.

''(2) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether classification of index traders and swap dealers in the futures markets can be improved for regulatory and reporting purposes; and

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SEC. 4. IMPROVED OVERSIGHT AND ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) crude oil prices are at record levels and consumers in the United States are paying record prices for gasoline;

(2) funding for the Commodity Futures Trading Commission has been insufficient to cover the significant growth of the futures markets;

(3) since the establishment of the Commodity Futures Trading Commission, the volume of trading on futures exchanges has grown 8,000 percent while staffing numbers have decreased 12 percent; and

(4) in today's dynamic market environment, it is essential that the Commodity Futures Trading Commission receive the funding necessary to enforce existing authority to ensure that all commodity markets, including energy markets, are properly monitored for market manipulation.

(b) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Commodity Futures Trading Commission shall hire at least 100 additional full-time employees—

(1) to increase the public transparency of operations in energy futures markets;

(2) to improve the enforcement in those markets; and

(3) to carry out such other duties as are prescribed by the Commission.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009.

SA 5157. Mr. ENZI (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert the following:

SEC. ___. TERMINATION OF AUTHORITY TO DEDUCT AMOUNTS FROM SHARE OF OIL AND GAS LEASING REVENUES PROVIDED TO STATES.

(a) IN GENERAL.—Effective December 26, 2007, the matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Subdivision F of Public Law 110–161; 121 Stat. 2109) is amended by striking the second undesignated paragraph.

(b) ADMINISTRATION.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of the Interior shall not deduct any amount from or reduce the amount of payments otherwise payable to States under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

SA 5158. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows;

Strike section 3.

SA 5159. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows;

Strike section 6.

SA 5160. Mr. STEVENS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Supporting Alternative and Viable Energy for America Act of 2008''.

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

Sec. 1. Short title; table of contents.

TITLE I—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

Sec. 101. Definitions.
Sec. 102. Leasing program for land within the Coastal Plain.
Sec. 103. Lease sales.
Sec. 104. Grant of leases by the Secretary.
Sec. 105. Lease terms and conditions.
Sec. 106. Coastal plain environmental protection.
Sec. 107. Expedited judicial review.
Sec. 108. Rights-of-way and easements across Coastal Plain.
Sec. 109. Conveyance.
Sec. 110. Federal and State distribution of revenues.
Sec. 111. Local government impact aid and community service assistance.
Sec. 112. ANWR Alternative Energy Trust Fund.
Sec. 113. Prohibition on exports.
Sec. 114. Severability.

TITLE II—OCS IMPACT READINESS ACT OF 2008

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Disposition of qualified outer continental shelf receipts from outer continental shelf oil and gas leasing planning areas.

TITLE III—ALASKA NATURAL GAS PIPELINE

Sec. 301. Discharges into navigable waters.
Sec. 302. Federal Coordinator.

TITLE IV—INVENTORY OF ALASKA WATER POWER RESOURCES

Sec. 401. Inventory of Alaska water power resources.

TITLE V—NUCLEAR POWER GENERATION

Subtitle A—Nuclear Power Technology and Manufacturing

Sec. 501. Definitions.
Sec. 502. Spent fuel recycling program.
Sec. 503. Financial incentives program.
Sec. 504. Forms of awards.
Sec. 505. Selection criteria.

Subtitle B—Accelerated Depreciation

Sec. 511. 5-year accelerated depreciation period for new nuclear power plants.

TITLE VI—JUDICIAL REVIEW

Sec. 601. Judicial review.

TITLE VII—OIL SPECULATION

Sec. 701. Short title.
Sec. 702. Definition of institutional investor.
Sec. 703. Inspector General.
Sec. 704. Trading practices review with respect to index traders, swap dealers, and institutional investors.
Sec. 705. Bona fide hedging transactions or positions.
Sec. 706. Speculation limits relating to speculators in energy markets.
Sec. 707. Large trader reporting with respect to index traders, swap dealers, and institutional investors.
Sec. 708. Institutional investor speculation limits.

TITLE VIII—OIL SPILL DAMAGES CONSISTENCY

Sec. 801. Short title.
Sec. 802. Punitive damages for discharges of oil or hazardous substances.

TITLE IX—TELEWORK ENHANCEMENT

Sec. 901. Short title.
Sec. 902. Definitions.
Sec. 903. Executive Agencies telework requirement.
Sec. 904. Training and monitoring.
Sec. 905. Policy and support.
Sec. 906. Telework Managing Officer.
Sec. 907. Annual Report to Congress.
Sec. 908. Compliance of executive agencies.
Sec. 909. Extension of travel expenses test programs.

TITLE I—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

SEC. 101. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 102. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this title, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this title that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this title; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of an environmental analysis.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this title.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 103. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this title;

(2) not later than 90 days after the date of the completion of the sale, evaluate the bids in the sale and issue leases resulting from the sale; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 104. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 103 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

SEC. 105. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this title shall be, as nearly as practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting

prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 102(a)(2);

(7) provide that the lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this title and regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this title negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 106. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 102, the Secretary shall administer this title through regulations, lease terms, conditions, restrictions, prohibitions, or stipulations that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, or stipulations designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations, the duration of which shall not exceed 120 days, on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this title for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards; and

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping may be limited.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations; and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of

section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 107. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed during the 90-day period beginning on the date on which the action being challenged was carried out.

(2) VENUE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this title (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this title; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this title shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding.

SEC. 108. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 109. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 110. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this title for each fiscal year—

(1) 50 percent shall be paid to the State of Alaska each fiscal year, of which not less than 37.5 percent shall be used each fiscal year to provide local government impact aid and community service assistance under section 111; and

(2) the balance shall be transferred to the ANWR Alternative Energy Trust Fund established by section 112.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

SEC. 111. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 110(a)(1), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the amount made available under section 110(a)(1) to provide local government impact aid and community service assistance shall be deposited into the Fund.

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this title, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 112. ANWR ALTERNATIVE ENERGY TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''ANWR Alternative Energy Trust Fund'', consisting of such amounts as may be transferred to the ANWR Alternative Energy Trust Fund as provided in section 110(a)(2).

(b) EXPENDITURES FROM ANWR ALTERNATIVE ENERGY TRUST FUND.—

(1) IN GENERAL.—Amounts in the ANWR Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109–58; referred to in this section as ''EPAct2005''), the Energy Independence and Security Act of 2007 (Public Law 110–140; referred to in this section as ''EISAct2007''), and subtitle A of title V of this Act, as follows:

To carry out the provisions of:	The following percentage of annual receipts to the ANWR Alternative Energy Trust Fund, but not to exceed the limit on amount authorized, if any:
EPAct2005:	
Section 210	1.5 percent
Section 242	1.0 percent
Section 369	2.0 percent
Section 401	6.0 percent
Section 812	6.0 percent
Section 931	16.0 percent
Section 942	1.5 percent
Section 962	3.0 percent
Section 968	1.5 percent
Section 1704	5.5 percent
EISAct2007:	
Section 207	15.0 percent
Section 607	1.0 percent
Title VI, Subtitle B	3.0 percent
Title VI, Subtitle C	1.5 percent
Section 641	9.0 percent
Title VII, Subtitle A	10.0 percent
Section 1112	1.5 percent
Section 1304	5.0 percent
Title V of this Act, Subtitle A:	10.0 percent.

(2) APPORTIONMENT OF EXCESS AMOUNT.—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in

paragraph (1), up to the amounts otherwise authorized by law to carry out those sections and subtitles, in proportion to the amounts authorized by law to be appropriated for those other sections and subtitles.

SEC. 113. PROHIBITION ON EXPORTS.

An oil or gas lease issued under this title shall prohibit the exportation of oil or gas produced under the lease.

SEC. 114. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title and the application of such provisions to any person or circumstance shall not be affected thereby.

TITLE II—OCS IMPACT READINESS ACT OF 2008

SEC. 201. SHORT TITLE.

This title may be cited as the ''OCS Impact Readiness Act of 2008''.

SEC. 202. DEFINITIONS.

In this title:

(1) COASTAL POLITICAL SUBDIVISION.—The term ''coastal political subdivision'', with respect to a Fairness State, means a county-equivalent subdivision of a Fairness State—

(A) all or a portion of which lies within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453); and

(B) the closest point of which is not more than 300 statute miles from the geographical center of any leased tract.

(2) DISTANCE.—The term ''distance'' means minimum great circle distance.

(3) FAIRNESS STATE.—The term ''Fairness State'' means a coastal State with a coastal seaward boundary within a distance of 300 statute miles of the geographical center of a leased tract in an outer Continental Shelf planning area that, as of January 1, 2000—

(A) had no oil or natural gas production; and

(B) is not a ''Gulf producing State'' (as defined in section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432)).

(4) LEASED TRACT.—The term ''leased tract'' means a tract leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) for the purpose of drilling for, developing, and producing oil or natural gas resources.

(5) QUALIFIED OUTER CONTINENTAL SHELF RECEIPTS.—

(A) IN GENERAL.—The term ''qualified outer Continental Shelf receipts'' means all amounts received by the United States, in the fiscal year immediately following the fiscal year in which this Act is enacted and each fiscal year thereafter—

(i) from each leased tract or portion of a leased tract, the geographical center of which lies within a distance of 300 statute miles from any part of the coastline of a Fairness State, including—

(I) bonus bids;

(II) rents;

(III) royalties (including the value of royalties taken in kind);

(IV) net profit share payments;

(V) fees; and

(VI) related late payment interest; and

(ii) from leases entered into on or after January 1, 2000.

(B) EXCLUSIONS.—The term ''qualified outer Continental Shelf receipts'' does not include—

(i) receipts from the forfeiture of a bond or other surety securing obligations other than royalties, or civil penalties; or

(ii) receipts generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 203. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF RECEIPTS FROM OUTER CONTINENTAL SHELF OIL AND GAS LEASING PLANNING AREAS.

(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 62.5 percent of qualified outer Continental Shelf receipts in the miscellaneous receipts of the Treasury; and

(2) 37.5 percent of qualified outer Continental Shelf receipts in a special account in the Treasury that the Secretary shall disburse to Fairness States and certain coastal political subdivisions of those Fairness States.

(b) ALLOCATION AMONG FAIRNESS STATES AND THEIR COASTAL POLITICAL SUBDIVISIONS.—

(1) ALLOCATION AMONG FAIRNESS STATES.—

(A) IN GENERAL.—Effective for the fiscal year immediately following the fiscal year in which this Act is enacted and each fiscal year thereafter, the amount made available under subsection (a)(2) shall be allocated by the Secretary to each Fairness State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Fairness State that is closest to the geographical center of the applicable leased tract and the geographical center of the leased tract.

(B) SINGLE FAIRNESS STATE.—If only 1 Fairness State is within a distance of 300 miles of the geographical center of a lease described in subparagraph (A), the entire amount made available under subsection (a)(2) from the lease shall be allocated to that Fairness State.

(2) ALLOCATION AMONG COASTAL POLITICAL SUBDIVISIONS OF FAIRNESS STATES.—

(A) IN GENERAL.—The Secretary shall pay 40 percent of the allocable share of each Fairness State, as determined under paragraph (1), to certain coastal political subdivisions of the Fairness State.

(B) ALLOCATION.—

(i) IN GENERAL.—For each leased tract used to calculate the allocation for a Fairness State, the Secretary shall pay each coastal political subdivision located within a distance of 300 miles of the geographical center of the leased tract based on the relative distance of the coastal political subdivision from the leased tract in accordance with clauses (ii) and (iii).

(ii) DETERMINATION OF DISTANCES.—For each coastal political subdivision described in clause (i), the Secretary shall determine the distance between the point on the coastal political subdivision coastline closest to the geographical center of the leased tract and the geographical center of the tract.

(iii) INVERSELY PROPORTIONAL ALLOCATION.—The Secretary shall divide and allocate the qualified Outer Continental Shelf receipts derived from the leased tract among coastal political subdivisions described in clause (i) in amounts that are inversely proportional to the distances determined under clause (ii).

(c) TIMING.—The amounts required to be deposited under subsection (a)(2) for the applicable fiscal year shall be made available in accordance with subsection (a)(2) during the first 90 days of the fiscal year immediately following the applicable fiscal year.

(d) AUTHORIZED USES.—Each Fairness State and coastal political subdivision shall use all amounts received under subsection (b), in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(1) Projects and activities for the purposes of coastal protection (including conservation), coastal restoration, storm protection, and infrastructure directly affected by coastal wetland and tundra losses.

(2) Mitigation of damage to fish, wildlife, or natural resources.

(3) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(4) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

(5) Any other purpose authorized for the use of those amounts under State law.

(e) REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), revenues from production that occurs beginning on the date that is 5 years after the date of enactment of this Act in an area in the Alaska Adjacent Zone shall be distributed in the same proportion as provided in subsection (b).

(2) ESTABLISHMENT OF ALASKA OFFSHORE CONTINENTAL SHELF COORDINATION OFFICE.—Before disbursing funds otherwise allocable to coastal political subdivisions in the State of Alaska under subsection (b)(2), the Secretary shall annually set aside $10,000,000 for an Alaska Offshore Continental Shelf Coordination Office to be established and maintained by the Mayor of the North Slope Borough.

(3) DEPOSITS.—

(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall pay to the North Slope Borough $10,000,000 from the amount otherwise allocable to coastal political subdivisions in the State of Alaska under subsection (b)(2) for the purpose of establishing and maintaining a local coordination office.

(B) INSUFFICIENT AMOUNTS.—If, for any fiscal year, less than $10,000,000 is available under subsection (b)(2), the Secretary shall set aside and pay to the North Slope Borough all funds available under subsection (b)(2) for the purpose of establishing and maintaining the Alaska Offshore Continental Shelf Coordination Office.

(4) USE OF FUNDS FOR LOCAL COORDINATION OFFICE.—The North Slope Borough shall use amounts received under paragraph (3), in accordance with all applicable Federal and State laws, to establish a local coordination office—

(A) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(B) to provide to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(C) to collect from residents of the North Slope information regarding the impacts of development on marine wildlife, coastal habitats, marine and coastal subsistence resources, and the marine and coastal environment of the North Slope region of the State of Alaska; and

(D) to ensure that the information collected under subparagraph (C) is submitted to—

(i) developers of the Alaska outer Continental Shelf; and

(ii) any appropriate Federal agency.

(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF RECEIPTS.—The total amount of qualified outer Continental Shelf receipts made available under subsection (a)(2) to an individual Fairness State and coastal political subdivisions of the Fairness State shall not exceed $500,000,000 for each fiscal year, as indexed

for United States dollar inflation from fiscal year 2008 (as measured by the Consumer Price Index).

TITLE III—ALASKA NATURAL GAS PIPELINE

SEC. 301. DISCHARGES INTO NAVIGABLE WATERS.

Section 104 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720b) is amended by adding at the end the following:

''(e) DISCHARGES INTO NAVIGABLE WATERS.—The discharge of dredged or fill material into the navigable waters at any site necessary for the construction of the pipeline under this Act or to otherwise carry out this Act shall not be subject to section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251) (including any consultation or mitigation requirements of that section) unless the discharge directly enters into navigable waters that exhibit a continuous, visible surface flow for a substantial part of the year during which the discharge takes place.''.

SEC. 302. FEDERAL COORDINATOR.

(a) PROHIBITION OF CERTAIN ACTIONS.—Section 106(d)(3) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d(d)(3)) is amended by striking ''Unless required by law'' and inserting ''Unless explicitly required by statute''.

(b) STATE COORDINATION.—Section 106(e) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d(e)) is amended by adding at the end the following:

''(3) ADMINISTRATIVE COMPLIANCE.—The Federal Coordinator may establish a schedule and deadline for administrative compliance of Federal agencies with this Act using authority that is commensurate with and parallel to the authority provided to the Commission under section 104(c)(1).''.

(c) AGENCY AUTHORIZED OFFICERS.—Section 106(h) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d(h)) is amended by adding at the end the following:

''(5) AGENCY AUTHORIZED OFFICERS.—The Federal Coordinator may require a Federal agency to designate and provide mutually-agreed on agency authorized officers to the Office of the Federal Coordinator for purposes of expediting and coordinating the duties of the agency in furtherance of the objectives of the Federal Coordinator.''.

TITLE IV—INVENTORY OF ALASKA WATER POWER RESOURCES

SEC. 401. INVENTORY OF ALASKA WATER POWER RESOURCES.

(a) IN GENERAL.—The Secretary of Energy, in consultation with representatives of the State of Alaska, shall conduct an inventory of water power resources of the State of Alaska, including hydropower, stream, and ocean (including current, wave, tidal, kinetic, and thermal) resources.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, the President, and the Governor of the State of Alaska a report describing the results of the inventory.

TITLE V—NUCLEAR POWER GENERATION

Subtitle A—Nuclear Power Technology and Manufacturing

SEC. 501. DEFINITIONS.

In this subtitle:

(1) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the costs of engineering tasks relating to—

(A) the redesign of manufacturing processes to produce qualifying components and nuclear power generation technologies;

(B) the design of new tooling and equipment for production facilities that produce qualifying components and nuclear power generation technologies; and

(C) the establishment or expansion of manufacturing or processing operations for qualifying components and nuclear power generation technologies.

(2) NUCLEAR POWER GENERATION.—The term ''nuclear power generation'' means generation of electricity by an electric generation unit that—

(A) emits no carbon dioxide into the atmosphere;

(B) uses uranium as its fuel source; and

(C) was placed into commercial service after the date of enactment of this Act.

(3) NUCLEAR POWER GENERATION TECHNOLOGY.—The term ''nuclear power generation technology'' means a technology used to produce nuclear power generation.

(4) QUALIFYING COMPONENT.—The term ''qualifying component'' means a component that the Secretary determines to be specially designed for nuclear power generation technology.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 502. SPENT FUEL RECYCLING PROGRAM.

(a) PURPOSE.—It is the policy of the United States to recycle spent nuclear fuel to advance energy independence by maximizing the energy potential of nuclear fuel in a proliferation-resistant manner that reduces the quantity of waste dedicated to a permanent Federal repository.

(b) SPENT FUEL RECYCLING RESEARCH AND DEVELOPMENT FACILITY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin construction of a spent fuel recycling research and development facility.

(2) PURPOSE.—The facility described in paragraph (1) shall serve as the lead site for continuing research and development of advanced nuclear fuel cycles and separation technologies.

(3) SITE SELECTION.—In selecting a site for the facility, the Secretary shall give preference to a site that has—

(A) the most technically sound bid;

(B) a demonstrated technical expertise in spent fuel recycling; and

(C) proximity to existing and proposed nuclear reactors.

(c) CONTRACTS.—The Secretary shall use amounts made available under section 112(b), and such other amounts as are appropriated to carry out this section, to enter into long-term contracts with private sector entities for the recycling of spent nuclear fuel.

(d) COMPETITIVE SELECTION.—Contracts awarded under subsection (c) shall be awarded on the basis of a competitive bidding process that—

(1) maximizes the competitive efficiency of the projects funded;

(2) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

(3) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.

(e) REGULATORY AUTHORITY.—Not later than 1 year after the date of enactment of this Act, the Nuclear Regulatory Commission, in collaboration with the Secretary, shall promulgate regulations for the licensing of facilities for recovery and use of spent nuclear fuel that provide reasonable assurance that licenses issued for that purpose will not be counter to the defense, security, and national interests of the United States.

SEC. 503. FINANCIAL INCENTIVES PROGRAM.

(a) IN GENERAL.—For each fiscal year beginning on or after October 1, 2010, the Secretary shall use amounts made available under section 112(b) (but not to exceed a total amount of $1,000,000,000 for any fiscal year) to competitively award financial incentives under this subtitle in the following technology categories:

(1) The production of electricity from new nuclear power generation.

(2) Facility establishment or conversion by manufacturers and suppliers of nuclear power generation technology and qualifying components.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall make awards under this section to—

(A) domestic producers of new nuclear power generation;

(B) manufacturers and suppliers of nuclear power generation technology and qualifying components; and

(C) owners or operators of existing nuclear power generation facilities.

(2) BASIS FOR AWARDS.—The Secretary shall make awards under this section—

(A) in the case of producers of new nuclear power generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated;

(B) in the case of manufacturers and suppliers of nuclear power generation technology and qualifying components, based on the criteria described in section 505; and

(C) in the case of owners or operators of existing nuclear power generating facilities, based upon criteria described in section 505.

(3) ACCEPTANCE OF BIDS.—In making awards under this subsection, the Secretary shall—

(A) solicit bids for reverse auction from appropriate producers, manufacturers, and suppliers, as determined by the Secretary; and

(B) award financial incentives to the producers, manufacturers, and suppliers that submit the lowest bids that meet the requirements established by the Secretary.

SEC. 504. FORMS OF AWARDS.

(a) NUCLEAR POWER GENERATORS.—

(1) IN GENERAL.—An award for nuclear power generation under this subtitle shall be in the form of a contract to provide a production payment for commercial service of the generation unit in an amount equal to the product obtained by multiplying—

(A) the amount bid by the producer of the nuclear power generation; and

(B) except as provided in paragraph (2), the net megawatt-hours generated by the nuclear power generation unit each year during the first 10 years following the end of the calendar year of the award.

(2) FIRST YEAR.—For purposes of paragraph (1)(B), the first year of commercial service of the generating unit shall be within 5 years of the end of the calendar year of the award.

(b) MANUFACTURING OF NUCLEAR POWER GENERATION TECHNOLOGY.—

(1) IN GENERAL.—An award for facility establishment or conversion costs for nuclear power generation technology under this subtitle shall be in an amount equal to not more than 30 percent of the cost of—

(A) establishing, reequipping, or expanding a manufacturing facility to produce—

(i) qualifying nuclear power generation technology; or

(ii) qualifying components;

(B) engineering integration costs of nuclear power generation technology and qualifying components; and

(C) property, machine tools, and other equipment acquired or constructed primarily to enable the recipient to test equipment necessary for the construction or operation of a nuclear power generation facility.

(2) AMOUNT.—The Secretary shall use the amounts made available to carry out this section to make awards to entities for the manufacturing of nuclear power generation technology.

SEC. 505. SELECTION CRITERIA.

In making awards under this subtitle to producers, manufacturers, and suppliers of

nuclear power generation technology and qualifying components, the Secretary shall select producers, manufacturers, and suppliers that—

(1) document the greatest use of domestically-sourced parts and components;

(2) return to productive service existing idle manufacturing capacity;

(3) are located in States or political subdivisions with the greatest dependence on fossil fuel-based energy;

(4) demonstrate a high probability of commercial success; and

(5) meet other appropriate criteria, as determined by the Secretary.

Subtitle B—Accelerated Depreciation

SEC. 511. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

TITLE VI—JUDICIAL REVIEW

SEC. 601. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including any failure to act) of any Federal agency or officer under or in furtherance of titles II and V;

(2) the constitutionality of any provision of this Act, or any decision made or action taken under or in furtherance of titles II and V; and

(3) the adequacy of any environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under or in furtherance of titles II and V, including—

(A) the final environmental impact statement for Chukchi Sea Planning Area Oil and Gas Lease Sale 193 as the statement relates to activities proposed and undertaken in affected areas, including activities to lease blocks—

(i) NR 03–01;

(ii) NR 03–02;

(iii) NR 03–03;

(iv) NR 03–04;

(v) NR 03–08; and

(vi) NR 04–01; and

(B) the environmental assessment for Proposed Beaufort Sea Planning Area Oil and Gas Lease Sale 202 as the assessment relates to activities proposed and undertaken in affected areas, including activities to lease blocks—

(i) NR 05–01;

(ii) NR 05–02;

(iii) NR 05–04;

(iv) NR 06–03;

(v) NR 06–04;

(vi) NR 07–03; and

(vii) NR 07–05.

(b) DEADLINE FOR FILING CLAIM.—A claim arising under title II or V may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant resources needed to meet the continuing and anticipated domestic demand for energy.

(d) ADMINISTRATIVE APPEAL.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy may not extend the time period for administrative review of, or action against, any project, proposal, or activity taken under title II or V.

(2) CONSTRUCTIVE APPROVAL.—If no decision on administrative review of an action under title II or V is made within the time period required under that title, the decision shall be considered affirmed.

TITLE VII—OIL SPECULATION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Oil Speculation Control Act of 2008''.

SEC. 702. DEFINITION OF INSTITUTIONAL INVESTOR.

(a) DEFINITION.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (22) through (34) as paragraphs (23) through (35), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) INSTITUTIONAL INVESTOR.—The term 'institutional investor' means a long-term investor in financial markets (including pension funds, endowments, and foundations) that—

''(A) invests in energy commodities as an asset class in a portfolio of financial investments; and

''(B) does not take or make physical delivery of energy commodities on a frequent basis, as determined by the Commission.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking ''section 1a(32)'' and inserting ''section 1a''.

(2) Section 402(d)(1)(B) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(d)(1)(B)) is amended by striking ''section 1a(33)'' and inserting ''section 1a''.

SEC. 703. INSPECTOR GENERAL.

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

''(13) INSPECTOR GENERAL.—

''(A) OFFICE.—There shall be in the Commission, as an independent office, an Office of the Inspector General.

''(B) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).

''(C) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ADMINISTRATION.—The Inspector General shall exert independent control of the budget allocations, expenditures, and staffing levels, personnel decisions and processes, procurement, and other administrative and management functions of the Office.''.

SEC. 704. TRADING PRACTICES REVIEW WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.

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

''(e) TRADING PRACTICES REVIEW WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.—

''(1) REVIEW.—

''(A) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall carry out a review of the trading practices of index traders, swap dealers, and institutional investors in markets under the jurisdiction of the Commission—

''(i) to ensure that index trading is not adversely impacting the price discovery process;

''(ii) to determine whether different practices or regulations should be implemented; and

''(iii) to gather data for use in proposing regulations to limit the size and influence of institutional investor positions in commodity markets.

''(B) EMERGENCY AUTHORITY.—For the 60-day period described in subparagraph (A), in accordance with each applicable rule adopted under section 5(d)(6), the Commission shall exercise the emergency authority of the Commission to prevent institutional investors from increasing the positions of the institutional investors in—

''(i) energy commodity futures; and

''(ii) commodity future index funds.

''(2) REPORT.—Not later than 30 days after the date described in paragraph (1)(A), the Commission shall submit to the appropriate committees of Congress a report that contains recommendations for such legislation as the Commission determines to be necessary to limit the size and influence of institutional investor positions in commodity markets.''.

SEC. 705. BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.

Section 4a(c) of the Commodity Exchange Act (7 U.S.C. 6a(c)) is amended by striking ''(c) No rule'' and inserting the following:

''(c) BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.—

''(1) DEFINITION OF BONA FIDE HEDGING TRANSACTION OR POSITION.—The term 'bona fide hedging transaction or position' means a transaction or position that represents a hedge against price risk exposure relating to physical transactions involving an energy commodity.

''(2) APPLICATION WITH RESPECT TO BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.—No rule''.

SEC. 706. SPECULATION LIMITS RELATING TO SPECULATORS IN ENERGY MARKETS.

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

''(f) SPECULATION LIMITS RELATING TO SPECULATORS IN ENERGY MARKETS.—

''(1) DEFINITION OF SPECULATOR.—In this subsection, the term 'speculator' includes any institutional investor or investor of an investment fund that holds a position through an intermediary broker or dealer.

''(2) ENFORCEMENT OF SPECULATION LIMITS.—The Commission shall enforce speculation limits with respect to speculators in energy markets.''.

SEC. 707. LARGE TRADER REPORTING WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.

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

''(g) LARGE TRADER REPORTING WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.—

''(1) IN GENERAL.—Each recordkeeping and reporting requirement under this section relating to large trader transactions and positions shall apply to index traders, swaps

dealers, and institutional investors in markets under the jurisdiction of the Commission.

''(2) PROMULGATION OF REGULATIONS.—As soon as practicable after the date of enactment of this subsection, the Commission shall promulgate regulations to establish separate classifications for index traders, swaps dealers, and institutional investors—

''(A) to enforce the recordkeeping and reporting requirements described in paragraph (1); and

''(B) to enforce position limits and position accountability levels with respect to energy commodities under section 4a(f).''.

SEC. 708. INSTITUTIONAL INVESTOR SPECULATION LIMITS.

(a) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h)(7)(C)(ii)(IV) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by inserting after ''speculators'' the following: ''(including institutional investors that do not take delivery of energy commodities and that hold positions in energy commodities through swaps dealers or other third parties)''.

(b) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C. 7(d)(5)) is amended by inserting after ''speculators'' the following: ''(including institutional investors that do not take delivery of energy commodities and that hold positions in energy commodities through swaps dealers or other third parties)''.

TITLE VIII—OIL SPILL DAMAGES CONSISTENCY

SEC. 801. SHORT TITLE.

This title may be cited as the ''Oil Spill Damages Consistency Act''.

SEC. 802. PUNITIVE DAMAGES FOR DISCHARGES OF OIL OR HAZARDOUS SUBSTANCES.

Title III of the Federal Water Pollution Control Act is amended by inserting after section 311 (33 U.S.C. 1321) the following:

''SEC. 311A. DISCHARGES OF CARGO.

''(a) DEFINITIONS.—In this section:

''(1) IN GENERAL.—The terms 'contiguous zone', 'discharge', 'hazardous substance', 'inland waters of the United States', 'oil', 'owner or operator', and 'vessel' have the meanings given the terms in section 311.

''(2) CARGO.—The term 'cargo' means any lading or freight of a vessel, including—

''(A) oil; and

''(B) a hazardous substance.

''(3) DETRIMENTAL DISCHARGE.—The term 'detrimental discharge' means a discharge of the cargo of a vessel—

''(A)(i) into or on—

''(I) navigable waters or inland waters of the United States;

''(II) an adjoining shoreline; or

''(III) the waters of the contiguous zone; or

''(ii) in connection with an activity carried out under—

''(I) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

''(II) the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); and

''(B) in a quantity that, as determined by the Secretary, may adversely affect a natural resource belonging to, or under the exclusive management authority of, the United States (including any resource under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

''(b) PROHIBITION ON DETRIMENTAL DISCHARGES.—

''(1) PROHIBITION.—Except as provided in paragraph (2) or any other provision of this Act, a detrimental discharge is prohibited.

''(2) EXCEPTIONS.—The prohibition under paragraph (1) shall not apply to a detrimental discharge that is—

''(A) permitted under the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL); or

''(B) in such quantities and at such times and locations or under such circumstances or conditions as the Secretary determines, by regulation, not to be harmful.

''(c) ENFORCEMENT ACTIONS.—

''(1) IN GENERAL.—A person who has been harmed by a detrimental discharge may bring a civil action for relief against any owner or operator or person in charge of a vessel from which the detrimental discharge was made, in accordance with this subsection.

''(2) RELIEF.—In a civil action under paragraph (1), a court of competent jurisdiction may award appropriate relief, including—

''(A) compensatory damages; and

''(B) punitive damages in an amount not to exceed an amount equal to the product obtained by multiplying—

''(i) the amount of compensatory damages awarded under subparagraph (A); and

''(ii) 5.

''(3) CORPORATE LIABILITY.—A corporation shall be liable under this section for punitive damages awarded under paragraph (2)(B) for harm resulting from any act of recklessness by a managerial employee of the corporation, including the captain of any applicable vessel.

''(4) JURISDICTION.—A civil action under paragraph (1) may be brought in—

''(A) the United States District Court for the District of Columbia; or

''(B) the United States district court for the district in which the applicable detrimental discharge is alleged to have occurred.

''(d) RELATIONSHIP TO OTHER PROVISIONS.—Nothing in this section limits or otherwise affects the application of any administrative or civil penalty under—

''(1) section 311; or

''(2) any other provision of law.''.

TITLE IX—TELEWORK ENHANCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 902. DEFINITIONS.

In this title:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this title.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 903. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 904. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 905. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, and equipment.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 906. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief

Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 907. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 908. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this title if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 903, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 907(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 907, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 909. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

SA 5161. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRESIDENTIAL APPROVAL OF EXPLORATION, DEVELOPMENT, AND PRODUCTION PROJECTS UNDER FEDERAL OIL AND GAS LEASES.

(a) FINDINGS.—Congress finds that—

(1) the responsible development of the domestic oil and gas resources of the United States is vital to the economy and national security of the United States;

(2) the immediate and long-term interests of the people of United States are served by encouraging domestic oil and gas exploration, development, and production;

(3) to achieve those objectives, domestic energy development projects should proceed without persistent litigation, subject to the regulatory oversight of responsible Federal agencies; and

(4) the long-term planning and heavy investments of human and financial resources necessary to develop and produce domestic oil and gas resources are frustrated, and future investments discouraged, when projects that have been reviewed and approved by the responsible executive branch agencies are enjoined or otherwise halted in the courts.

(b) PURPOSE.—The purpose of this section is to authorize the President to review and approve oil and gas exploration, development, and production projects under Federal oil and gas leases, both onshore and offshore, on a finding that the project complies with all applicable Federal law.

(c) REVIEW BY PRESIDENT.—Notwithstanding any other provision of law, the President may review any project for the exploration, development, or production of oil or gas resources under a Federal lease, located onshore or offshore, to determine whether the project complies with all applicable Federal law.

(d) APPROVAL.—A project described in subsection (c) (including all authorizations, permits, studies, or other forms of executive branch approvals otherwise required to conduct the project) shall be conclusively approved and authorized to proceed on a written finding submitted by the President to Congress that the project—

(1) serves the public interest in responsible domestic oil or gas development; and

(2) complies with all applicable Federal law.

(e) ADMINISTRATIVE OR JUDICIAL REVIEW.—The decision of the President under this section and the project approved under subsection (d) shall not be subject to further administrative or judicial review, stay, or injunction or, if pending, continued administrative or judicial review, stay, or injunction, except with respect to an appeal filed by an applicant for a permit to carry out the project or a claim based on the Constitution of the United States.

(f) REGULATORY OVERSIGHT.—A project approved by the President under this section shall—

(1) continue to be subject to the regulatory oversight of the Federal agencies with jurisdiction over activities conducted under the project, as otherwise provided by law; and

(2) be regulated under the terms, conditions, and requirements of any authorization, permit, or other approval necessary to conduct the activities.

SA 5162. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AVAILABILITY OF CERTAIN AREAS FOR LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(q) AVAILABILITY OF CERTAIN AREAS FOR LEASING.—

''(1) DEFINITIONS.—In this subsection:

''(A) ATLANTIC COASTAL STATE.—The term 'Atlantic Coastal State' means each of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, Delaware, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.

''(B) GOVERNOR.—The term 'Governor' means the Governor of the State.

''(C) QUALIFIED REVENUES.—The term 'qualified revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for natural gas exploration and extraction activities authorized by the Secretary under this subsection.

''(D) STATE.—The term 'State' means the State of Virginia.

''(2) PETITION.—

''(A) IN GENERAL.—The Governor may submit to the Secretary—

''(i) a petition requesting that the Secretary issue leases authorizing the conduct of natural gas exploration activities only to ascertain the presence or absence of a natural gas reserve in any area that is at least 50 miles beyond the coastal zone of the State; and

''(ii) if a petition for exploration by the State described in clause (i) has been approved in accordance with paragraph (3) and the geological finding of the exploration justifies extraction, a second petition requesting that the Secretary issue leases authorizing the conduct of natural gas extraction activities in any area that is at least 50 miles beyond the coastal zone of the State.

''(B) CONTENTS.—In any petition under subparagraph (A), the Governor shall include a detailed plan of the proposed exploration and subsequent extraction activities, as applicable.

''(3) ACTION BY SECRETARY.—

''(A) IN GENERAL.—Subject to subparagraph (F), as soon as practicable after the date of receipt of a petition under paragraph (2), the Secretary shall approve or deny the petition.

''(B) REQUIREMENTS FOR EXPLORATION.—The Secretary shall not approve a petition submitted under paragraph (2)(A)(i) unless the State legislature has enacted legislation supporting exploration for natural gas in the coastal zone of the State.

''(C) REQUIREMENTS FOR EXTRACTION.—The Secretary shall not approve a petition submitted under paragraph (2)(A)(ii) unless the State legislature has enacted legislation supporting extraction for natural gas in the coastal zone of the State.

''(D) CONSISTENCY WITH LEGISLATION.—The plan provided in the petition under paragraph (2)(B) shall be consistent with the legislation described in subparagraph (B) or (C), as applicable.

''(E) COMMENTS FROM ATLANTIC COASTAL STATES.—On receipt of a petition under paragraph (2), the Secretary shall—

''(i) provide Atlantic Coastal States with an opportunity to provide to the Secretary comments on the petition; and

''(ii) take into consideration, but not be bound by, any comments received under clause (i).

''(F) CONFLICTS WITH MILITARY OPERATIONS.—The Secretary shall not approve a petition for a drilling activity under this paragraph if the drilling activity would conflict with any military operation, as determined by the Secretary of Defense.

''(4) DISPOSITION OF REVENUES.—Notwithstanding section 9, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified revenues in a Clean Energy Fund in the Treasury, which shall be established by the Secretary; and

''(B) 50 percent of qualified revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to the State;

''(ii) 12.5 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 4601–5); and

''(iii) 12.5 percent to a reserve fund to be used to mitigate for any environmental damage that occurs as a result of extraction activities authorized under this subsection, regardless of whether the damage is—

''(I) reasonably foreseeable; or

''(II) caused by negligence, natural disasters, or other acts.''.

SA 5163. Mr. WARNER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commmodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMEDIATE STEPS TO CONSERVE GASOLINE ACT.

(a) SHORT TITLE.—This section may be cited as the ''Immediate Steps to Conserve Gasoline Act''.

(b) FEDERAL CONSERVATION OF GASOLINE.—

(1) FINDINGS.—Congress finds that—

(A) each day, as Americans contend with rising gasoline prices, personal stories reflect the ways in which Americans are altering their family budgets, including food budgets, to cope with record high gasoline costs;

(B) as a consequence of economic pressures, Americans are taking initiatives to reduce consumption of gasoline, such as—

(i) driving less frequently;

(ii) altering daily routines; and

(iii) changing, or even cancelling, family vacation plans;

(C) the conservation efforts being taken by Americans, on their own initiative, bring hardships but save funds that can be redirected—

(i) to meet essential family needs; and

(ii) to relieve, to some extent, the demand for gasoline;

(D) just as individuals are taking initiatives to reduce gasoline consumption, the Federal Government, including Congress, should take initiatives to conserve gasoline;

(E) such Government-wide initiatives to conserve gasoline would send a signal to Americans that the Federal Government—

(i) recognizes the burdens imposed by unprecedented gasoline costs; and

(ii) will participate in activities to reduce gasoline consumption;

(F) an overall reduction of gasoline consumption by the Federal Government by even 3 percentage points would send a strong signal that, as a nation, the United States is working to conserve energy;

(G) in 2005, policies directed at reducing the usage of energy in Federal agency and department buildings by 20 percent by 2015, at a rate of a 2-percent reduction per calendar year, were enacted by the President and Congress;

(H) in 2007, policies increasing the energy reduction goal to 30 percent by 2015, at a rate of a 3-percent reduction per calendar year, were enacted by the President and Congress; and

(I) Congress and the President should extend the precedent of those mandatory conservation initiatives taken in 2005 and 2007 to usage by the Federal Government of gasoline.

(2) REDUCTION OF GASOLINE USAGE BY FEDERAL DEPARTMENTS AND AGENCIES.—For fiscal year 2009, each Federal department and agency shall develop and carry out initiatives to reduce by not less than 3 percent the annual consumption of gasoline by the department or agency.

(3) CONGRESSIONAL CONSERVATION OF GASOLINE.—For fiscal year 2009, Congress shall develop and carry out initiatives to reduce by not less than 3 percent the annual consumption of gasoline by Congress.

(c) STUDIES AND REPORTS ON NATIONAL SPEED LIMIT AND FUTURE GASOLINE CONSERVATION.—

(1) NATIONAL SPEED LIMIT.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Energy Information Administration shall conduct, and submit to Congress a report describing the results of, a study of the potential transportation fuel savings of imposing a national speed limit on highways on the Interstate System of 60 miles per hour.

(B) INCLUSIONS.—The study under subparagraph (B) shall include—

(i) an examination of the fuel efficiency of automobiles in use as of the date on which the study is conducted;

(ii) a description of the range at which those automobiles are most fuel-efficient on highways on the Interstate System;

(iii) an analysis of actions carried out by the Federal Government, with the full support of Congress, during the 1973–1974 energy crisis, resulting in a national speed limit on highways on the Interstate System of 55 miles per hour, which remained in effect until 1995;

(iv) a recognition that in 1974, when fewer than 137,000,000 cars traveled in the United States (as compared to 250,000,000 cars in 2006) and only 30 percent of United States oil was imported from foreign sources (as compared to 60 percent of oil so imported on the date of enactment of this Act), 167,000 barrels of oil per day were saved by the imposition of a national speed limit, such that greater savings are possible on the date of enactment of this Act than the savings realized in 1974; and

(v) a determination of whether a limitation on the national speed limit on highways on the Interstate System similar to the limitation described in clause (iii) could serve as a model to generate gasoline savings, through a national speed limit on highways on the Interstate System of 60 miles per hour, given the improved fuel efficiency of automobile engines in use on the date of enactment of this Act.

(2) FUTURE GASOLINE CONSERVATION.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to the Committees on Homeland Security and Governmental Affairs, Environment and Public Works, and Energy and Natural Resources of the Senate and the Committees on House Administration, Transportation and Infrastructure, and Energy and Commerce of the House of Representatives a report describing the results of, a study to determine whether additional gasoline reduction measures by Federal departments and agencies and Congress are technically feasible.

(B) INCLUSION.—The report under subparagraph (A) shall include a proposed schedule of future gasoline reduction measures, if the measures are determined to be technically feasible.

SA 5164. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commmodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MORATORIUM ON ALL OUTER CONTINENTAL SHELF LEASING.

Notwithstanding the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432), or any other provision of law, the Secretary of the Interior shall not offer for leasing, preleasing, or any related activity any area on the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

SA 5165. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. USE OF INFORMATION ABOUT OIL AND GAS PUBLIC CHALLENGES.

(a) FINDINGS.—Congress finds that the Government Accountability Office, in report GAO–05–124, found that—

(1) the Bureau of Land Management does not systematically gather and use nationwide information on public challenges to manage the oil and gas program of the Bureau; and

(2) that failure—

(A) prevents the Director of the Bureau from assessing the impact of public challenges on the workload of the Bureau of Land Management State offices; and

(B) eliminates the ability of the Director to make appropriate staffing and funding resource allocation decisions.

(b) REQUIREMENTS.—The Secretary of the Interior and the Secretary of Agriculture shall systematically—

(1) collect and use nationwide information on public challenges to manage the oil and gas programs of the Department of the Interior and the Department of Agriculture, respectively;

(2) gather the information at the planning, leasing, exploration, and development stages; and

(3) maintain the information electronically with current data.

SA 5166. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—DEEP SEA EXPLORATION

SEC. 201. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 202. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that

subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

SEC. 203. CONFORMING AMENDMENTS.

Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SEC. 204. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), in addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008—

(1) $1,265,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $1,265,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

(b) NEW PRODUCING STATES.—In the case of a new producing State (as defined in section 32(a) of the Outer Continental Shelf Lands Act), amounts made available under subsection (a) shall not be allocated for a new producing State until the legislature of the new producing State considers and approves or disapproves legislation that would make new producing areas (as so defined) in the new producing State available for oil and gas leasing.

(c) EMERGENCY REQUIREMENT.—The amount provided under this section is designated as an emergency requirement and necessary to meet emergency needs, pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SA 5167. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMPROVING MOTOR FUEL SUPPLY AND DISTRIBUTION.

(a) LIMITING NUMBER OF BOUTIQUE FUELS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by striking the second clause (v) (as added by section 1541(b) of Public Law 109–58) and inserting the following:

''(vi)(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval would be to increase the total number of fuels approved under this paragraph as of January 1, 2009 in all State implementation plans.

''(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of January 1, 2009, in all State implementation plans and shall publish a list of such fuels, including the states and Petroleum Administration for Defense District in which they are used, in the Federal Register no later than 90 days after enactment.

''(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

''(IV) Subclause (I) shall not apply to approval by the Administrator of a control or prohibition respecting any new fuel under this paragraph in a State's implementation plan or a revision to that State's implementation plan after the date of enactment of this Act if the fuel, as of the date of consideration by the Administrator—

''(aa) would replace completely a fuel on the list published under subclause (II);

''(bb) has been approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District; or

''(cc) is a fuel that differs from the Federal conventional gasoline specifications under subsection (k)(8) only with respect to the requirement of a summertime Reid Vapor Pressure of 7.0 or 7.8 pounds per square inch.

''(V) Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b), including any fuel additive registered in accordance with subsection (b) after the enactment of this subclause.

''(VI) In this clause:

''(aa) The term 'control or prohibition respecting a new fuel' means a control or prohibition on the formulation, composition, or emissions characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

''(bb) The term 'fuel' means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and non-road motor vehicles.''.

(b) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4) of the Clean Air Act (42 U.S.C. 7545(c)(4)) is amended by adding at the end the following:

''(D) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—The Administrator may temporarily waive a control or prohibition with respect to the use of a fuel or fuel additive required or regulated by the Administrator under subsection (c), (h), (i), (k), or (m), or prescribed in an applicable implementation plan under section 110 that is approved by the Administrator under subparagraph (c)(4)(C)(i), if, after consultation with and concurrence by the Secretary of Energy, the Administrator determines that—

''(i) an extreme and unusual fuel or fuel additive supply circumstance exists in a State or region that prevents the distribution of an adequate supply of the fuel or fuel additive to consumers;

''(ii) the extreme and unusual fuel or fuel additive supply circumstance is the result of a natural disaster, an act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not a lack of prudent planning on the part of the suppliers of the fuel or fuel additive to the State or region; and

''(iii) it is in the public interest to grant the waiver.

''(E) REQUIREMENTS FOR WAIVER.—

''(i) DEFINITION OF MOTOR FUEL DISTRIBUTION SYSTEM.—In this subparagraph, the term 'motor fuel distribution system' has the meaning given the term by the Administrator, by regulation.

''(ii) REQUIREMENTS.—A waiver under subparagraph (D) shall be permitted only if—

''(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel or fuel additive supply circumstance;

''(II) the waiver is effective for a period of 15 calendar days or, if the Administrator determines that a shorter or longer waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel or fuel additive supply circumstances and to mitigate impact on air quality;

''(III) the waiver permits a transitional period, the duration of which shall be determined by the Administrator, after the termination of the temporary waiver to permit wholesalers and retailers to blend down wholesale and retail inventory;

''(IV) the waiver applies to all persons in the motor fuel distribution system; and

''(V) the Administrator has given public notice regarding consideration by the Administrator of, and, if applicable, the granting of, a waiver to all parties in the motor fuel distribution system, State and local regulators, public interest groups, and consumers in the State or region to be covered by the waiver.

''(F) AFFECT ON WAIVER AUTHORITY.—Nothing in subparagraph (D)—

''(i) limits or otherwise affects the application of any other waiver authority of the Administrator under this section or a regulation promulgated pursuant to this section; or

''(ii) subjects any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under subparagraph (D).''.

SA 5168. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—NEW RESOURCES FOR DOMESTIC CONSUMPTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''New Resources for Domestic Consumption Act of 2008''.

SEC. 202. DEFINITION OF 1002 AREA OF ALASKA.

In this title, the term ''1002 Area of Alaska'' means the area described in appendix I to part 37 of title 50, Code of Federal Regulations, as in effect on July 14, 2008, popularly known as the ''Coastal Plain of the Arctic National Wildlife Refuge''.

SEC. 203. PURPOSE.

The purpose of this title is to provide for the expeditious development of oil, natural gas, and other resources of the 1002 Area of Alaska by transferring to the State of Alaska all right, title, and interest of the United States in and to the 1002 Area of Alaska.

SEC. 204. TRANSFER OF 1002 AREA TO STATE OF ALASKA.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the State of Alaska all right, title, and interest of the United States in and to the 1002 Area of Alaska.

(b) CONDITION.—As a condition of any transfer under this section, the Secretary shall require the State of Alaska to pay to the United States 50 percent of all amounts received by the State of Alaska as a result of development of oil, natural gas, and other natural resources of the 1002 Area of Alaska.

SEC. 205. PROHIBITION ON EXPORT OF OIL.

No oil produced in the 1002 Area of Alaska after the date of any transfer under section 204 may be exported from the United States.

SA 5169. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPROCESSING OF COMMERCIAL NUCLEAR WASTE.

Not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall take such actions as are necessary to ensure, to the maximum extent practicable, that all commercial nuclear waste in existence on the date of enactment of this Act be designated for reprocessing only.

SA 5170. Mr. SMITH (for himself, Mr. CRAIG, Mr. STEVENS, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

''(2) to make additional investments in, and create additional employment opportunities through, projects that—

''(A)(i) improve the maintenance of existing infrastructure;

''(ii) implement stewardship objectives that enhance forest ecosystems; and

''(iii) restore and improve land health and water quality;

''(B) enjoy broad-based support; and

''(C) have objectives that may include—

''(i) road, trail, and infrastructure maintenance or obliteration;

''(ii) soil productivity improvement;

''(iii) improvements in forest ecosystem health;

''(iv) watershed restoration and maintenance;

''(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

''(vi) the control of noxious and exotic weeds; and

''(vii) the reestablishment of native species; and

''(3) to improve cooperative relationships among—

''(A) the people that use and care for Federal land; and

''(B) the agencies that manage the Federal land.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

''(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

''(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

''(A) contains Federal land (as defined in paragraph (7)); and

''(B) elects to receive a share of the State payment or the county payment under section 102(b).

''(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

''(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

''(7) FEDERAL LAND.—The term 'Federal land' means—

''(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

''(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the 50-percent base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

''(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

''(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

''(A) $526,079,656 for fiscal year 2008;

''(B) $520,000,000 for fiscal year 2009; and

''(C) for fiscal year 2010 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

''(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

''(A) the per capita personal income for each eligible county; by

''(B) the median per capita personal income of all eligible counties.

''(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

''(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

''(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

''(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

''(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

''(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading 'forest service' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

''SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

''(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

''(1) the adjusted share for each eligible county within the eligible State; by

''(2) the full funding amount for the fiscal year.

''(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

''(1) the 50-percent adjusted share for the eligible county; by

''(2) the full funding amount for the fiscal year.

''SEC. 102. PAYMENTS TO STATES AND COUNTIES.

''(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

''(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

''(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

''(B) the share of the State payment of the eligible county; and

''(2) a county an amount equal to the amount elected under subsection (b) by each county for—

''(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

''(B) the county payment for the eligible county.

''(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

''(1) ELECTION; SUBMISSION OF RESULTS.—

''(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008, and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

''(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

''(2) DURATION OF ELECTION.—

''(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable shall be effective for 2 fiscal years.

''(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

''(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

''(A) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land;

''(B) for fiscal year 2008, any funds appropriated to carry out this Act; and

''(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

''(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

''(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

''(A) the Act of May 23, 1908 (16 U.S.C. 500); and

''(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

''(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

''(1) ALLOCATIONS.—

''(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

''(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

''(i) Reserve any portion of the balance for projects in accordance with title II.

''(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

''(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

''(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

''(i) reserve any portion of the balance for—

''(I) carrying out projects under title II;

''(II) carrying out projects under title III; or

''(III) a combination of the purposes described in subclauses (I) and (II); or

''(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

''(2) DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

''(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

''(i) be available for expenditure by the Secretary concerned, without further appropriation; and

''(ii) remain available until expended in accordance with title II.

''(3) ELECTION.—

''(A) NOTIFICATION.—

''(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30 of each fiscal year.

''(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

''(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

''(II) return the balance to the Treasury of the United States.

''(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

''(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

''SEC. 103. TRANSITION PAYMENTS TO CERTAIN STATES.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

''(A) for fiscal year 2008—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

''(B) for fiscal year 2009, 90 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009;

''(C) for fiscal year 2010, 81 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010; and

''(D) for fiscal year 2011, 73 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2011; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2011.

''(2) COVERED STATE.—The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

''(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2011, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

''(c) DISTRIBUTION OF ADJUSTED AMOUNT IN OREGON AND WASHINGTON.—It is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in a covered State (other than California) for each of fiscal years 2008 through 2011 be in the same proportion that the payments were distributed to the eligible counties in that State in fiscal year 2006.

''(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

''(1) Payments to the State of California under subsection (b).

''(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

''(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

''TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

''SEC. 201. DEFINITIONS.

''In this title:

''(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

''(A) an advisory committee established by the Secretary concerned under section 205; or

''(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

''(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

''(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

''(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 19741 (16 U.S.C. 1604).

''SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

''(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

''(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

''SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

''(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

''(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008, and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

''(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

''(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

''(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

''(1) The purpose of the project and a description of how the project will meet the purposes of this title.

''(2) The anticipated duration of the project.

''(3) The anticipated cost of the project.

''(4) The proposed source of funding for the project, whether project funds or other funds.

''(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

''(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

''(6) A detailed monitoring plan, including funding needs and sources, that—

''(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

''(B) includes an assessment of the following:

''(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

''(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

''(7) An assessment that the project is to be in the public interest.

''(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

''SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

''(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

''(1) The project complies with all applicable Federal laws (including regulations).

''(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

''(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

''(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

''(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

''(b) ENVIRONMENTAL REVIEWS.—

''(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

''(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

''(3) EFFECT OF REFUSAL TO PAY.—

''(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure

of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

''(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

''(c) DECISIONS OF SECRETARY CONCERNED.—

''(1) REJECTION OF PROJECTS.—

''(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

''(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

''(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

''(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

''(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

''(e) IMPLEMENTATION OF APPROVED PROJECTS.—

''(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

''(2) BEST VALUE CONTRACTING.—

''(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

''(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

''(i) the technical demands and complexity of the work to be done;

''(ii)(I) the ecological objectives of the project; and

''(II) the sensitivity of the resources being treated;

''(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

''(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

''(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

''(i) the harvesting or collection of merchantable timber; and

''(ii) the sale of the timber.

''(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

''(i) For fiscal year 2008, 25 percent.

''(ii) For fiscal year 2009, 35 percent.

''(iii) For fiscal year 2010, 45 percent.

''(iv) For each of fiscal years 2011 and 2012, 50 percent.

''(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

''(D) ASSISTANCE.—

''(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

''(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

''(E) REVIEW AND REPORT.—

''(i) INITIAL REPORT.—Not later than September 30, 2009, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

''(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

''(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

''(1) to road maintenance, decommissioning, or obliteration; or

''(2) to restoration of streams and watersheds.

''SEC. 205. RESOURCE ADVISORY COMMITTEES.

''(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

''(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

''(2) PURPOSE.—The purpose of a resource advisory committee shall be—

''(A) to improve collaborative relationships; and

''(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

''(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

''(4) EXISTING ADVISORY COMMITTEES.—

''(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

''(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

''(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

''(b) DUTIES.—A resource advisory committee shall—

''(1) review projects proposed under this title by participating counties and other persons;

''(2) propose projects and funding to the Secretary concerned under section 203;

''(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

''(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

''(5)(A) monitor projects that have been approved under section 204; and

''(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

''(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

''(c) APPOINTMENT BY THE SECRETARY.—

''(1) APPOINTMENT AND TERM.—

''(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

''(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

''(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

''(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

''(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

''(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

''(d) COMPOSITION OF ADVISORY COMMITTEE.—

''(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

''(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

''(A) 5 persons that—

''(i) represent organized labor or non-timber forest product harvester groups;

''(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

''(iii) represent—

''(I) energy and mineral development interests; or

''(II) commercial or recreational fishing interests;

''(iv) represent the commercial timber industry; or

''(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

''(B) 5 persons that represent—

''(i) nationally recognized environmental organizations;

''(ii) regionally or locally recognized environmental organizations;

''(iii) dispersed recreational activities;

''(iv) archaeological and historical interests; or

''(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

''(C) 5 persons that—

''(i) hold State elected office (or a designee);

''(ii) hold county or local elected office;

''(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

''(iv) are school officials or teachers; or

''(v) represent the affected public at large.

''(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

''(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

''(e) APPROVAL PROCEDURES.—

''(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

''(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

''(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

''(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

''(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

''(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

''(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

''SEC. 206. USE OF PROJECT FUNDS.

''(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

''(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

''(A) The schedule for completing the project.

''(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

''(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

''(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

''(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

''(b) TRANSFER OF PROJECT FUNDS.—

''(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

''(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

''(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

''(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

''(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—

''(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

''(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

''SEC. 207. AVAILABILITY OF PROJECT FUNDS.

''(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30 of each fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

''(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

''(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

''(d) EFFECT OF COURT ORDERS.—

''(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

''(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

''SEC. 208. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

''(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

''TITLE III—COUNTY FUNDS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''SEC. 302. USE.

''(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

''(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home

construction, and home landscaping that can increase the protection of people and property from wildfires;

''(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

''(A) performed on Federal land after the date on which the use was approved under subsection (b);

''(B) paid for by the participating county; and

''(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

''(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

''(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

''(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

''SEC. 303. CERTIFICATION.

''(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

''(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

''SEC. 304. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

''(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

''TITLE IV—MISCELLANEOUS PROVISIONS

''SEC. 401. REGULATIONS.

''The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

''(b) EMERGENCY DESIGNATION.—Of the amounts authorized to be appropriated under subsection (a) for fiscal year 2008, $425,000,000 is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

''SEC. 403. TREATMENT OF FUNDS AND REVENUES.

''(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

''(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.''.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading ''forest service'' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

''§ 6906. Funding

''For each of fiscal years 2008 through 2011—

''(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

''(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

''6906. Funding.''.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the amendment made by paragraph (1)—

(i) shall be treated under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect before September 30, 2002), by the Chairpersons of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, as appropriate, for purposes of budget enforcement in the House of Representatives and the Senate, and under the Congressional Budget Act of 1974 (2 U.S.C. 601 et seq.) as changing direct spending or receipts, as appropriate (as if such language were included in an Act other than an appropriations Act); and

(ii) shall be treated in the baseline after fiscal year 2008 for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907) (as in effect before September 30, 2002), by the Chairpersons of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, as appropriate, for purposes of budget enforcement in the House of Representatives and the Senate, and under the Congressional Budget Act of 1974 (2 U.S.C. 601 et seq.) as if Payment in Lieu of Taxes (14-1114-0-1-806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217.

(B) EFFECTIVE DATE.—This paragraph shall—

(i) be effective beginning on the date of enactment of this Act; and

(ii) remain in effect for any fiscal year for which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

(d) MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2006, with respect to leases entered into on or before March 12, 2004.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

(e) APPLICATION OF RULES TREATING INVERTED CORPORATIONS AS DOMESTIC CORPORATIONS TO CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

(1) IN GENERAL.—Section 7874(b) (relating to inverted corporations treated as domestic corporations) is amended to read as follows:

''(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting '80 percent' for '60 percent'.

''(2) SPECIAL RULE FOR CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

''(A) IN GENERAL.—If—

''(i) paragraph (1) does not apply to a foreign corporation, but

''(ii) paragraph (1) would apply to such corporation if, in addition to the substitution under paragraph (1), subsection (a)(2) were applied by substituting 'March 20, 2002' for 'March 4, 2003' each place it appears,

then paragraph (1) shall apply to such corporation but only with respect to taxable years of such corporation beginning after December 31, 2006.

''(B) SPECIAL RULES.—Subject to such rules as the Secretary may prescribe, in the case of a corporation to which paragraph (1) applies by reason of this paragraph—

''(i) the corporation shall be treated, as of the close of its last taxable year beginning before January 1, 2008, as having transferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

''(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

''(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

''(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2006.

SA 5171. Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) submitted an amendment intended to

be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—DEEP SEA EXPLORATION

SEC. 201. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 202. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(7) QUALIFIED REVENUE.—The term 'qualified revenue' means the amount estimated by the Secretary of the Federal share of all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of the enactment of the Stop Excessive Energy Speculation Act of 2008 for new producing areas under this section.

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.

''(e) ENERGY TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Energy Trust Fund', consisting of such amounts as

may be transferred to the Trust Fund under paragraph (2).

''(2) TRANSFERS TO TRUST FUND.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall transfer to the Energy Trust Fund amounts equivalent to 20 percent of the qualified revenue received for each fiscal year under this section.

''(B) LIMITATION ON TRANSFERS TO ENERGY TRUST FUND.—The amounts transferred to the Energy Trust Fund for any fiscal year under this paragraph shall not exceed $1,000,000,000.

''(3) EXPENDITURES.—On request by the Secretary of Energy, the Secretary of the Treasury shall transfer from the Energy Trust Fund to the Secretary of Energy such amounts as the Secretary of Energy determines are necessary to carry out activities—

''(A) to accelerate the use of clean domestic renewable energy resources (including solar, wind, clean coal, and nuclear energy resources) and alternative fuels (including ethanol, and including cellulosic ethanol, biodiesel, and fuel cell technology);

''(B) to promote the use of energy-efficient products and practices and conservation; and

''(C) to increase research, development, and deployment of clean renewable energy and efficiency technologies.

''(4) TRANSFERS OF AMOUNTS.—

''(A) IN GENERAL.—The amounts required to be transferred to the Energy Trust Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Energy Trust Fund on the basis of estimates made by the Secretary of the Treasury.

''(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.''.

SEC. 203. CONFORMING AMENDMENTS.

Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SA 5172. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GULF OF MEXICO ENERGY SECURITY.

(a) DEFINITIONS.—Section 102(9)(A)(i) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) in subclause (I), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(III) any area in the 181 Area that was not available for leasing on July 1, 2008; and''.

(b) OFFSHORE OIL AND GAS LEASING.—Section 103(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking ''Except'' and inserting the following:

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) LEASING AFTER CERTAIN DATE.—The Secretary shall offer any part of the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) that was not available for leasing on July 1, 2008, as soon as practicable, but not later than 2 years, after that date and at any time thereafter, as the Secretary determines to be appropriate.''.

(c) MORATORIUM ON LEASING.—Section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended by striking paragraph (3) and inserting the following:

''(3) any area in the Central Planning Area that is—

''(A) outside the 181 Area;

''(B) east of the western edge of the Pensacola Official Protection Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

''(C) within 100 miles of the coastline of the State of Florida.''.

SA 5173. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—BETTER ENERGY STRATEGY FOR TOMORROW

SEC. __01. SHORT TITLE.

This title may be cited as the ''Better Energy Strategy for Tomorrow Act of 2008'' or the ''BEST Act of 2008''.

SEC. __02. DEFINITIONS.

In this title:

(1) AIR POLLUTANT.—The term ''air pollutant'' has the meaning given the term in section 302 of the Clean Air Act (42 U.S.C. 7602).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. __03. FEDERAL ENERGY POLICIES.

Not later than 90 days after the date of enactment of this Act and annually thereafter, the Secretary shall—

(1) conduct an analysis of all policies of the Federal Government (including mandates, subsidies, tariffs, and tax policy) that encourage, or have the potential to encourage, energy production in the United States; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that contains recommendations for the adjustment of the policies described in paragraph (1) to reduce—

(A) the dependence of the United States on foreign sources of energy;

(B) the quantity of air pollutants in the environment;

(C) greenhouse gas emissions; and

(D) the cost of energy.

SEC. __04. ENERGY SECURITY STRATEGY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and every 4 years thereafter, the President shall develop an energy security strategy that proposes comprehensive and long-range energy policies for the United States to reduce—

(1) the dependence of the United States on foreign sources of energy;

(2) the quantity of air pollutants in the environment;

(3) greenhouse gas emissions; and

(4) the cost of energy.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act and every 4 years year thereafter, the President shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the latest energy security strategy developed under subsection (a), including—

(1) an estimate of the domestic and foreign energy supplies needed to meet the projected energy demand of the United States consistent with the strategy developed under subsection (a); and

(2) a summary of research and development efforts funded by the Federal Government to achieve the strategy developed under subsection (a).

SEC. __05. ADMINISTRATION.

(a) COMMENTS.—In preparing each report required under sections __03(2) and __04(b) (referred to in this section as ''each report''), the Secretary and the President, respectively, shall seek the comments of State and local agencies and the private sector to ensure, to the maximum extent practicable, that the views and proposals of all segments of the economy are taken into account in preparing each report.

(b) DATA AND ANALYSIS.—The Secretary and the President shall include in each report such data and analyses as are necessary to support the objectives, resource needs, and policy recommendations of each report.

(c) REVIEW.—The Secretary and the President shall enter into an arrangement with the National Academy of Sciences under which the Academy shall—

(1) conduct a review of each report; and

(2) submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary a report that describes the results of each review.

SA 5174. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STUDY OF DIESEL VEHICLE ATTRIBUTES.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as compared to comparable vehicles fueled by gasoline or E-85 fuel and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

SA 5175. Mr. INHOFE (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

SA 5176. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 24, add the following:

SEC. 17. ESTABLISHMENT OF CHIEF ENERGY AND ENERGY SERVICES NEGOTIATOR.

(a) IN GENERAL.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

''(2)(A) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Chief Energy and Energy Services Negotiator.

''(B) The 3 Deputy United States Trade Representatives, the Chief Agricultural Negotiator, and the Chief Energy and Energy Services Negotiator shall be appointed by the President, by and with the advice and consent of the Senate.

''(C) As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Chief Energy and Energy Services Negotiator submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance.

''(D) Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Chief Energy and Energy Services Negotiator shall hold office at the pleasure of the President and shall have the rank of Ambassador''.

(b) DUTIES.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following:

''(6) The principal function of the Chief Energy and Energy Services Negotiator shall be to eliminate energy subsidies and policies of foreign governments that distort trade and adversely affect the United States.''.

SEC. 18. STUDIES AND REPORTS ON SUBSIDIZATION OF FUELS AND ENERGY USE BY FOREIGN COUNTRIES.

(a) ITC ANNUAL STUDY AND REPORT ON ECONOMIC IMPACT OF FOREIGN SUBSIDIZATION OF RETAIL FUEL AND ENERGY.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act and annually thereafter, the International Trade Commission shall commence a study on—

(A) the subsidization by foreign governments of retail fuel and energy use in foreign countries; and

(B) the impact of such subsidization on the economy of the United States.

(2) REPORT.—Not later than June 1, 2009, and June 1 of each year thereafter, the Secretary shall submit to Congress a report describing the findings of the Secretary with respect to the most recent study commenced by the Secretary under paragraph (1).

(b) USTR BI-ANNUAL STUDY AND REPORT ON ENERGY USE SUBSIDIES PROVIDED BY FOREIGN GOVERNMENTS.—

(1) STUDY.—Not later than 90 days after the date of the enactment of this Act and every 180 days thereafter, the United States Trade Representative shall conduct a study on the provision by foreign governments of energy use subsidies.

(2) REPORT.—Not later than January 1, 2009, and every 180 days thereafter, the United States Trade Representative shall submit to the Industry Trade Advisory Committee on Energy and Energy Services of the Department of Commerce and Congress a report on the findings of the United States Trade Representative with respect to the most recent study conducted by the United States Trade Representative under paragraph (1), including a description of the amounts of energy use subsidies provided by foreign governments.

(c) ENERGY INFORMATION AGENCY ANNUAL STUDY AND REPORT ON FOREIGN SUBSIDIZATION OF ENERGY AND FUEL USE.—

(1) ANNUAL STUDY.—Each year, the Secretary of Energy shall, acting through the Administrator of the Energy Information Administration, conduct a study on foreign governments that subsidize energy and fuel use and assess the impact of such subsidization on energy costs in the United States.

(2) ANNUAL REPORT.—Not later than June 1 of each year, the Secretary of Energy shall submit to the President and Congress a report on the findings of the Secretary with respect to the most recent study conducted under paragraph (1).

SEC. 19. DEPARTMENT OF STATE ANNUAL REPORT ON ENERGY SECURITY.

(a) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of State shall submit to the appropriate committees of Congress a report on the efforts undertaken by the Secretary in the previous calendar year to achieve the following goals:

(1) To eliminate energy subsidies and policies of foreign governments that distort trade and adversely affect the United States.

(2) To enhance United States and global energy security by—

(A) promoting open and transparent, integrated, and diversified energy markets;

(B) encouraging appropriate energy-sector investments to expand access to energy and increase economic growth and opportunity; and

(C) developing clean and efficient energy technologies.

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Foreign Relations of the Senate;

(2) the Committee on Energy and Natural Resources of the Senate;

(3) the Committee on Foreign Affairs of the House of Representatives; and

(4) the Committee on Energy and Commerce of the House of Representatives.

SA 5177. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—NATURAL GAS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Drive America on Natural Gas Act of 2008''.

SEC. 202. NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT ALLOWED FOR DUAL FUELED MOTOR VEHICLES.

(a) IN GENERAL.—Clause (i) of section 30B(e)(4)(A) of the Internal Revenue Code of 1986 (relating to definition of new qualified alternative fuel motor vehicle) is amended to read as follows:

''(i) which—

''(I) is only capable of operating on an alternative fuel, or

''(II) is capable of operating on an alternative fuel alone and gasoline or diesel fuel alone,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 203. NATURAL GAS VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) NATURAL GAS.—The term ''natural gas'' means compressed natural gas, liquefied natural gas, biomethane, and mixtures of hydrogen and methane or natural gas.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) PROGRAM.—The Secretary, in coordination with the Administrator, shall conduct a program of natural gas vehicle research, development, and demonstration.

(c) PURPOSE.—The program under this section shall focus on—

(1) the continued improvement and development of new, cleaner, more efficient light-duty, medium-duty, and heavy-duty natural gas vehicle engines;

(2) the integration of those engines into light-duty, medium-duty, and heavy-duty natural gas vehicles for onroad and offroad applications;

(3) expanding product availability by assisting manufacturers with the certification of the engines or vehicles described in paragraph (1) or (2) to Federal and California certification requirements and in-use emission standards;

(4) the demonstration and proper operation and use of the vehicles described in paragraph (2) under all operating conditions;

(5) the development and improvement of nationally recognized codes and standards for the continued safe operation of natural gas vehicles and components;

(6) improvement in the reliability and efficiency of natural gas fueling station infrastructure;

(7) the certification of natural gas fueling station infrastructure to nationally recognized and industry safety standards;

(8) the improvement in the reliability and efficiency of onboard natural gas fuel storage systems;

(9) the development of new natural gas fuel storage materials;

(10) the certification of onboard natural gas fuel storage systems to nationally recognized and industry safety standards; and

(11) the use of natural gas engines in hybrid vehicles.

(d) CERTIFICATION OF CONVERSION SYSTEMS.—The Secretary shall coordinate with the Administrator on issues related to streamlining the certification of natural gas conversion systems to the appropriate Federal certification requirements and in-use emission standards.

(e) COOPERATION AND COORDINATION WITH INDUSTRY.—In developing and carrying out the program under this section, the Secretary shall coordinate with the natural gas vehicle industry to ensure cooperation between the public and the private sector.

(f) CONDUCT OF PROGRAM.—The program under this section shall be conducted in accordance with sections 3001 and 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13541, 13542).

(g) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the implementation of this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SEC. 204. DEVELOPMENT OF LOW-EMISSION NATURAL GAS TRANSPORTATION-FUELED VEHICLES.

Part C of title II of the Clean Air Act (42 U.S.C. 7581 et seq.) is amended by adding at the end the following:

''SEC. 251. DEVELOPMENT OF LOW-EMISSION NATURAL GAS TRANSPORTATION-FUELED VEHICLES.

''(a) DEFINITIONS.—In this section:

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed or liquefied natural gas or liquefied petroleum gas.

''(2) ALTERNATIVE-FUELED VEHICLE.—The term 'alternative-fueled vehicle' means a vehicle that is manufactured or converted to operate using alternative fuel.

''(3) BI-FUELED VEHICLE.—The term 'bi-fueled vehicle' means a vehicle that is capable of operating on gasoline or an alternative fuel, but not both at the same time.

''(4) CONVERT.—The term 'convert', with respect to a vehicle, means to modify the engine and other applicable components of the vehicle to enable the vehicle to operate using an alternative fuel (including compressed natural gas).

''(5) OBD SYSTEM.—The term 'OBD system' means an on-board, computer-based diagnostic system built into certain vehicles to monitor the performance of certain primary engine components of the vehicle (including components responsible for controlling emissions).

''(6) PROGRAM.—The term 'program' means the alternative-fueled vehicle development demonstration program established under subsection (b).

''(7) SMALL VOLUME MANUFACTURER.—

''(A) IN GENERAL.—The term 'small volume manufacturer' means a manufacturer of vehicles described in section 86.001–1(e) of title 40, Code of Federal Regulations (or a successor regulation) that is approved and certified in accordance with part 86 of subchapter C of chapter I of title 40, Code of Federal Regulations (or successor regulations).

''(B) INCLUSION.—The term 'small volume manufacturer' includes a manufacturer of kits or equipment used to convert vehicles.

''(b) PROGRAM.—

''(1) ESTABLISHMENT.—For the period of fiscal years 2009 through 2013, the Administrator shall establish and carry out a demonstration program to assist States in facilitating the development of alternative-fueled vehicles.

''(2) APPLICATION.—A State may participate in the program by submitting to the Administrator an application at such time, in such form, and containing such information as the Administrator shall specify.

''(3) BENEFITS AVAILABLE TO PARTICIPATING SMALL VOLUME MANUFACTURERS.—Under the program, with respect to small volume manufacturers located in States participating in the program, the Administrator shall, by regulation—

''(A) waive all fees applicable to small volume manufacturers for the certification and conversion of alternative-fueled vehicles;

''(B) waive requirements for recertification of kits for the conversion of vehicles in any case in which, as determined by the Administrator—

''(i) the kit has been previously certified for the model of vehicle to be converted; and

''(ii) neither the kit nor the design and specifications of the model of vehicle to be converted have substantially changed;

''(C) modify such regulatory requirements relating to OBD systems as the Administrator determines to be appropriate to provide flexibility to small volume manufacturers in reprogramming OBD systems to be compatible with the use of alternative fuel;

''(D) permit small volume manufacturers to include more vehicles and engines in a single engine category to improve the cost-efficiency of emission testing of converted vehicles;

''(E) waive the liability of small volume manufacturers, in the case of a bi-fueled vehicle capable of operating on gasoline or compressed natural gas, for the compliance of the gasoline system of the bi-fueled vehicle with applicable emission requirements;

''(F) provide additional guidance to small volume manufacturers with respect to the conversion of older models of vehicles; and

''(G) revise and streamline certification requirements applicable to small volume manufacturers.

''(4) STATE RESPONSIBILITY.—As a condition of participating in the program, during the period of fiscal years 2009 through 2013, a State shall—

''(A) develop regulations for (as compared to Federal requirements in effect as of the date of enactment of this section) an equally effective but less burdensome system of certifying and verifying emissions of alternative-fueled vehicles and equipment used for conversions; and

''(B) not later than December 31, 2012, submit the proposed regulations of the State to the Administrator for review.

''(c) STATE PROGRAMS.—Upon receipt of proposed regulations of a State under subsection (b)(4), the Administrator shall—

''(1) review the regulations; and

''(2) if the Administrator determines that the implementation of the regulations would result in (as compared to Federal requirements in effect as of the date of enactment of this section) an equally effective but less burdensome system of certifying and verifying emissions of alternative-fueled vehicles and equipment used for conversions, authorize the State to implement the regulations with respect to small volume manufacturers in the State for the period of fiscal years 2014 through 2018, subject to—

''(A) the submission of annual reports to the Administrator; and

''(B) such periodic inspection and other oversight requirements as the Administrator determines to be appropriate.

''(d) DURATION OF PROGRAM.—The program and all authority under the program (other than the authority of the Administrator described in subsection (c)) shall terminate on December 31, 2013, unless the Administrator—

''(1) in consultation with the States, elects to continue the program; and

''(2) promulgates such regulations as are necessary to continue the program.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 205. NATURAL GAS CONVERSION EMISSION CERTIFICATIONS.

Part C of title II of the Clean Air Act (42 U.S.C. 7581 et seq.) (as amended by section 204) is amended by adding at the end the following:

''SEC. 252. NATURAL GAS CONVERSION EMISSION CERTIFICATIONS.

''(a) IN GENERAL.—The Administrator shall waive requirements for recertification of kits for the conversion of vehicles into vehicles that are powered by natural gas or liquefied petroleum gas in any case in which, as determined by the Administrator—

''(1) the kit has been previously certified for the model of vehicle to be converted; and

''(2) neither the kit nor the design and specifications of the model of vehicle to be converted have substantially changed.

''(b) OLDER VEHICLES.—The Administrator shall waive emission certification system requirements for a vehicle that is over 10 years old or has over 120,000 miles that is powered by natural gas.''.

SA 5178. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—MARGINAL WELL PRODUCTION PRESERVATION AND ENHANCEMENT

SEC. 21. TAX TREATMENT FOR PROLONGED MARGINAL PRODUCTION.

(a) INCREASE IN PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.—

(1) IN GENERAL.—Paragraph (6) of section 613A(c) of the Internal Revenue Code of 1986 (relating to oil and natural gas produced from marginal properties), as amended by this Act, is amended to read as follows:

''(6) OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.—

''(A) IN GENERAL.—Except as provided in subsection (d)—

''(i) the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to the taxpayer's marginal production of domestic crude oil and domestic natural gas, and

''(ii) 27.5 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

''(B) COORDINATION WITH OTHER PRODUCTION OF DOMESTIC OIL AND NATURAL GAS.—For purposes of this subsection—

''(i) no allowance for depletion shall be allowed by reason of paragraph (1) with respect to the taxpayer's marginal production of domestic crude oil and domestic natural gas, and

''(ii) such production shall not be taken into account—

''(I) in determining under paragraph (1) how much of the taxpayer's depletable oil quantity or depletable natural gas quantity has been used, or

''(II) for purposes of applying subparagraph (A), (B), or (C) of paragraph (7).

''(C) MARGINAL PRODUCTION.—The term 'marginal production' means domestic crude oil or domestic natural gas which is produced during any taxable year from a property which—

''(i) is a stripper well property for the calendar year in which the taxable year begins, or

''(ii) is a property substantially all of the production of which during such calendar year is heavy oil.

''(D) STRIPPER WELL PROPERTY.—For purposes of this paragraph, the term 'stripper well property' means, with respect to any calendar year, any property with respect to which the amount determined by dividing—

''(i) the average daily production of domestic crude oil and domestic natural gas from producing wells on such property for such calendar year, by

''(ii) the number of such wells,

is 15 barrel equivalents or less.

''(E) HEAVY OIL.—For purposes of this paragraph, the term 'heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

''(F) NONAPPLICATION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—The second sentence of subsection (a) of section 613 shall not apply to so much of the allowance for depletion as is determined under subparagraph (A).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 613A(c)(3) of the Internal Revenue Code of 1986 (defining depletable oil quantity) is amended to read as follows:

''(3) DEPLETABLE OIL QUANTITY.—For purposes of paragraph (1), the taxpayer's depletable oil quantity shall be 1,000 barrels.''.

(B) Subparagraphs (A) and (B) of section 613A(c)(7) of such Code are each amended by striking ''or (6), as the case may be''.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2008.

(b) 1-YEAR EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT.—Section 613A(c)(6)(H) of the Internal Revenue Code of 1986 (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2008'' and inserting ''2009''.

SEC. 22. OIL AND GAS WELLS AND PIPELINE FACILITIES TECHNICAL AMENDMENT.

Section 112(n)(4)(A) of the Clean Air Act (42 U.S.C. 7412(n)(4)(A)) is amended by striking ''this section'' and inserting ''this Act''.

SEC. 23. NATIONAL RESPONSE SYSTEM.

Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by striking paragraph (1) and inserting the following:

''(1) SYSTEM.—

''(A) DEFINITION OF.—In this paragraph, the term 'wastewater treatment facility' includes produced water from an oil production facility.

''(B) REGULATIONS.—Consistent with the National Contingency Plan required under subsection (d), as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall promulgate regulations consistent with maritime safety and marine and navigation laws—

''(i) establishing methods and procedures for removal of discharged oil and hazardous substances;

''(ii) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans;

''(iii) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities (other than wastewater treatment facilities), and to contain those discharges; and

''(iv) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of those cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

''(C) SMALL FACILITIES.—In carrying out clause (iii) of subparagraph (B), not later than 1 year after the date of enactment of that clause, the Administrator shall establish procedures, methods, and equipment and other requirements for, and consider the cost-effectiveness of those requirements on, small facilities (including agricultural and oil production facilities) to prevent discharges from facilities and offshore facilities, and to contain those discharges, by developing regulations based on storage volume and capacity that, with respect to those small facilities—

''(i) apply to any facility the total oil storage capacity of which is at least 1,320 gallons but less than 50,000 gallons, and at which no single tank exceeds a nominal capacity of 21,000 gallons; and

''(ii) establish minimal requirements and plans by eliminating engineer certification, flow lines, loading and unloading areas, integrity testing, and other requirements that, as determined by the Administrator, do not take into consideration and meet cost-effectiveness standards.''.

SEC. 24. RECOVERY PERIOD FOR DEPRECIATION OF PROPERTY USED TO INJECT QUALIFIED TERTIARY INJECTANTS.

(a) IN GENERAL.—Section 168(e)((3)(A) of the Internal Revenue Code of 1986 (defining 3-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified tertiary injectant property.''.

(b) QUALIFIED TERTIARY INJECTANT PROPERTY.—Section 168(e) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED TERTIARY INJECTANT PROPERTY.—The term 'qualified tertiary injectant property' means—

''(A) any property—

''(i) the principal use of which is to inject any tertiary injectant as a part of a tertiary recovery method (as defined in section 193(b)(3)), or

''(ii) which is a pipeline used to carry any tertiary injectant in connection with such tertiary recovery method, and

''(B) which has a class life of more than 4 years.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subparagraph (A)(iii) the following new item:

''(A)(iv) ..... 7''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 5179. Mr. GRAHAM (for himself, Mr. KYL, Mr. MCCAIN, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—NUCLEAR POWER GENERATION

Subtitle A—Credit for Qualifying Nuclear Power Manufacturing

SEC. ___01. CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING NUCLEAR POWER MANUFACTURING CREDIT.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying nuclear power manufacturing credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of property placed in service by the taxpayer during such taxable year which is certified under subsection (c) and—

''(A) which is either part of a qualifying nuclear power manufacturing project or is qualifying nuclear power manufacturing equipment,

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(D) which is placed in service on or before December 31, 2015.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to the rules of section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT AND QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT CERTIFICATION.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a program to consider and award certifications for property eligible for credits under this section as part of either a qualifying nuclear power manufacturing project or as qualifying nuclear power manufacturing equipment. The total amounts of credit that may be allocated under the program shall not exceed $100,000,000.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT.—The term 'qualifying nuclear power manufacturing project' means any project which is designed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(2) QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT.—The term 'qualifying nuclear power manufacturing equipment' means machine tools and other similar equipment, including computers and other peripheral equipment, acquired or constructed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(3) PROJECT.—The term 'project' includes any building constructed to house qualifying nuclear power manufacturing equipment.''.

(b) CONFORMING AMENDMENTS.—

(1) ADDITIONAL INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting '', and''; and

(C) by inserting after paragraph (5) the following new paragraph:

''(6) the qualifying nuclear power manufacturing credit.''.

(2) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of such Code, as amended by this Act, is amended—

(A) by striking ''and'' at the end of clause (iv);

(B) by striking the period at the end of clause (v) and inserting '', and''; and

(C) by inserting after clause (v) the following new clause:

''(vi) the basis of any property which is part of a qualifying nuclear power manufacturing project or qualifying nuclear power manufacturing equipment under section 48C.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code, as amended by this Act, is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Qualifying nuclear power manufacturing credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property—

(1) the construction, reconstruction, or erection of which begins after the date of enactment of this Act; or

(2) which is acquired by the taxpayer on or after such date and not pursuant to a binding contract which was in effect on the day prior to such date.

Subtitle B—Accelerated Depreciation

SEC. _11. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

Subtitle C—Next Generation Nuclear Plant Project Modifications

SEC. _21. NEXT GENERATION NUCLEAR PLANT PROJECT MODIFICATIONS.

(a) PROJECT ESTABLISHMENT.—Section 641 of the Energy Policy Act of 2005 (42 U.S.C. 16021) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading and all that follows through ''The Secretary'' and inserting the following:

''(a) ESTABLISHMENT AND OBJECTIVE.—

''(1) ESTABLISHMENT.—The Secretary''; and

(B) by adding at the end the following:

''(2) OBJECTIVE.—

''(A) DEFINITION OF HIGH-TEMPERATURE, GAS-COOLED NUCLEAR ENERGY TECHNOLOGY.—In this paragraph, the term 'high-temperature, gas-cooled nuclear energy technology' means any nongreenhouse gas-emitting nuclear energy technology that provides—

''(i) an alternative to the burning of fossil fuels for industrial applications; and

''(ii) process heat to generate, for example, electricity, steam, hydrogen, and oxygen for activities such as—

''(I) petroleum refining;

''(II) petrochemical processes;

''(III) converting coal to synfuels and other hydrocarbon feedstocks; and

''(IV) desalination.

''(B) DESCRIPTION OF OBJECTIVE.—The objective of the Project shall be to carry out demonstration projects for the development, licensing, and operation of high-temperature, gas-cooled nuclear energy technologies to support commercialization of those technologies.

''(C) REQUIREMENTS.—The functional, operational, and performance requirements for high-temperature, gas-cooled nuclear energy technologies shall be determined by the needs of marketplace industrial end-users (such as owners and operators of nuclear energy facilities, petrochemical entities, and petroleum entities), as projected for the 40-year period beginning on the date of enactment of this paragraph.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''licensing,'' after ''design,'';

(B) in paragraph (1), by striking ''942(d)'' and inserting ''952(d)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) demonstrates the capability of the nuclear energy system to provide high-temperature process heat to produce—

''(A) electricity, steam, and other heat transport fluids; and

''(B) hydrogen and oxygen, separately or in combination.''.

(b) PROJECT MANAGEMENT.—Section 642 of the Energy Policy Act of 2005 (42 U.S.C. 16022) is amended to read as follows:

''SEC. 642. PROJECT MANAGEMENT.

''(a) DEPARTMENTAL MANAGEMENT.—

''(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy.

''(2) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Project may be carried out in coordination with the Generation IV Nuclear Energy Systems Initiative.

''(B) REQUIREMENT.—Regardless of whether the Project is carried out in coordination with the Generation IV Nuclear Energy Systems Initiative under subparagraph (A), the Secretary shall establish a separate budget line-item for the Project.

''(3) INTERACTION WITH INDUSTRY.—Any activity to support the Project by an individual or entity in the private industry shall be carried out pursuant to a competitive cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Department and the industry group established under subsection (c).

''(b) LABORATORY MANAGEMENT.—

''(1) IN GENERAL.—The Idaho National Laboratory shall be the lead National Laboratory for the Project.

''(2) COLLABORATION.—The Idaho National Laboratory shall collaborate regarding research and development activities with other National Laboratories, institutions of higher education, research institutes, representatives of industry, international organizations, and Federal agencies to support the Project.

''(c) INDUSTRY GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish a group of appropriate industrial partners in the private sector to carry out cost-shared activities with the Department to support the Project.

''(2) COOPERATIVE AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall offer to enter into a cooperative agreement or other assistance agreement with the industry group established under paragraph (1) to manage and support the development, licensing, construction, and initial operation of the Project.

''(B) REQUIREMENT.—The agreement under subparagraph (A) shall contain a provision under which the industry group may enter into contracts with entities in the public sector for the provision of services and products to that sector that reflect typical commercial practices, including (without limitation) the conditions applicable to sales under section 2563 of title 10, United States Code.

''(C) PROJECT MANAGEMENT.—

''(i) IN GENERAL.—The industry group shall use commercial practices and project management processes and tools in carrying out activities to support the Project.

''(ii) INTERFACE REQUIREMENTS.—The requirements for interface between the project management requirements of the Department (including the requirements contained in the document of the Department numbered DOE O 413.3A and entitled 'Program and Project Management for the Acquisition of Capital Assets') and the commercial practices and project management processes and tools described in clause (i) shall be defined in the agreement under subparagraph (A).

''(3) COST SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

''(4) PREFERENCE.—Preference in determining the final structure of industrial partnerships under this part shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

''(d) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

''(e) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.''.

(c) PROJECT ORGANIZATION.—Section 643 of the Energy Policy Act of 2005 (42 U.S.C. 16023) is amended—

(1) in subsection (a)(2), by inserting ''transport and'' before ''conversion'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (A), (B), and (D) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', through a competitive process,'';

(ii) in subparagraph (C), by striking ''reactor'' and inserting ''energy system'';

(iii) in subparagraph (D), by striking ''hydrogen or electricity'' and inserting ''energy transportation, conversion, and''; and

(iv) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting the clauses appropriately;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(D) by striking ''The Project shall be'' and inserting the following:

''(1) IN GENERAL.—The Project shall be''; and

(E) by adding at the end the following:

''(2) OVERLAPPING PHASES.—The phases described in paragraph (1) may overlap for the Project or any portion of the Project, as necessary.''; and

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking ''powerplant'' and inserting ''power plant'';

(B) in paragraph (2), by adding at the end the following:

''(E) INDUSTRY GROUP.—The industry group established under section 642(c) may enter into any necessary contracts for services, support, or equipment in carrying out an agreement with the Department.''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''RESEARCH'';

(ii) in the matter preceding subparagraph (A), by striking ''Research'';

(iii) by striking ''NERAC'' each place it appears and inserting ''NEAC'';

(iv) in subparagraph (A)—

(I) by striking clause (i) and inserting the following:

''(i) review program plans for the Project prepared by the Office of Nuclear Energy and all progress under the Project on an ongoing basis;'';

(II) in clause (ii), by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(iii) ensure that industrial support for the first project phase under subsection (b)(1)(A) is continued before initiating the second project phase under subsection (b)(1)(B).'';

(v) in subparagraph (B), by striking ''or appoint'' and inserting ''by appointing''; and

(vi) in subparagraph (D)—

(I) by striking ''On a determination'' and inserting the following:

''(i) IN GENERAL.—On a determination'';

(II) in clause (i) (as designated by subclause (I))—

(aa) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(A)''; and

(bb) by striking ''subsection (b)(2)'' and inserting ''subsection (b)(1)(B)''; and

(III) by adding at the end the following:

''(ii) SCOPE.—The scope of the review conducted under clause (i) shall be in accordance with an applicable cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Secretary and the industry group established under section 642(c).''.

(d) NUCLEAR REGULATORY COMMISSION.—Section 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''Not later than'' and inserting the following:

''(1) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(2) REQUIREMENT.—To the maximum extent practicable, in carrying out subparagraphs (B) and (C) of paragraph (1), the Nuclear Regulatory Commission shall independently review and, as appropriate, use the results of analyses conducted for or by the license applicant.''; and

(2) by striking subsection (c) and inserting the following:

''(c) ONGOING INTERACTION.—The Nuclear Regulatory Commission shall establish a separate program office for advanced reactors—

''(1) to develop and implement regulatory requirements consistent with the safety bases of the type of nuclear reactor developed by the Project, with the specific objective that the requirements shall be applied to follow-on commercialized high-temperature, gas-cooled nuclear reactors;

''(2) to avoid conflicts in the availability of resources with licensing activities for light water reactors;

''(3) to focus and develop resources of the Nuclear Regulatory Commission for the review of advanced reactors;

''(4) to support the effective and timely review of preapplication activities and review of applications to support applicant needs; and

''(5) to provide for the timely development of regulatory requirements, including through the preapplication process, and review of applications for advanced technologies, such as high-temperature, gas-cooled nuclear technology systems.''.

(e) PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.—Section 645 of the Energy Policy Act of 2005 (42 U.S.C. 16025) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) SUMMARY OF AGREEMENT.—Not later than December 31, 2009, the Secretary shall submit to Congress a report that contains a summary of each cooperative agreement or other assistance agreement (such as a technology investment agreement) entered into between the Secretary and the industry group under section 642(a)(3), including a description of the means by which the agreement will provide for successful completion of the development, design, licensing, construction, and initial operation and demonstration period of the prototype facility of the Project.

''(b) OVERALL PROJECT PLAN.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall submit to Congress an overall plan for the Project, to be prepared jointly by the Secretary and the industry group established under section 642(c), pursuant to a cooperative agreement or other assistance agreement (such as a technology investment agreement).

''(2) INCLUSIONS.—The plan under paragraph (1) shall include—

''(A) a summary of the schedule for the design, licensing, construction, and initial operation and demonstration period for the nuclear energy system prototype facility and hydrogen production prototype facility of the Project;

''(B) the process by which a specific design for the prototype nuclear energy system facility and hydrogen production facility will be selected;

''(C) the specific licensing strategy for the Project, including—

''(i) resource requirements of the Nuclear Regulatory Commission; and

''(ii) the schedule for the submission of a preapplication, the submission of an application, and application review for the prototype nuclear energy system facility of the Project;

''(D) a summary of the schedule for each major event relating to the Project; and

''(E) a time-based cost and cost-sharing profile to support planning for appropriations.''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''research and construction activities'' and inserting ''research and development, design, licensing, construction, and initial operation and demonstration activities''.

SA 5180. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 4a(h)(4)(C)(i) of the Commodity Exchange Act (as added by section 6), strike subclause (II) and insert the following:

''(II) APPLICATION.—The Commission shall apply the limits imposed under subclause (I) to—

''(aa) any person who executes accounts, agreements, or transactions involving an energy commodity for the own account of the person and to any person for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a registered entity or in covered over-the-counter trading; and

''(bb) any citizen of the United States who executes accounts, agreements, or transactions involving an energy commodity for the own account of the citizen and to any citizen of the United States for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a foreign board of trade or trading facility based in a country other than the United States.

SA 5181. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 17. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS AND FEDERAL PRODUCTION AREAS.

(a) IN GENERAL.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) FEDERAL PRODUCTION AREA.—The term 'Federal production area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located more than 60 miles from the coastline of the State and more than 125 miles off the Gulf Coast of Florida.

''(3) MORATORIUM AREA.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(4) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located within 60 miles of the coastline of the State and within 125 miles of the Gulf Coast of Florida.

''(5) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(6) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond

State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(7) QUALIFIED FEDERAL PROTECTION AREA REVENUES.—The term 'qualified Federal protection area revenues' means qualified outer Continental Shelf revenues from leases for Federal protection areas.

''(8) QUALIFIED NEW PRODUCING AREA REVENUES.—The term 'qualified new producing area revenues' means qualified Outer Continental Shelf revenues from leases for new producing areas.

''(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(3) DISPOSITION OF QUALIFIED NEW PRODUCING AREA REVENUES.—

''(A) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this paragraph, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(i) 50 percent of qualified new producing area revenues in the Energy Independence Fund established under section 19 of the Stop Excessive Energy Speculation Act of 2008; and

''(ii) 50 percent of qualified new producing area revenues in a special account in the Treasury from which the Secretary shall disburse—

''(I) 75 percent to new producing States in accordance with subparagraph (B); and

''(II) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(B) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(i) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under subparagraph (A)(ii)(I) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified new producing area revenues generated in the new producing area offshore each State.

''(ii) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(I) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under clause (i), to the coastal political subdivisions of the new producing State.

''(II) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(C) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under subparagraph (B) shall be at least 5 percent of the amounts available under for the fiscal year under subparagraph (A)(ii)(I).

''(D) TIMING.—The amounts required to be deposited under clause (ii) of subparagraph (B) for the applicable fiscal year shall be made available in accordance with that clause during the fiscal year immediately following the applicable fiscal year.

''(E) AUTHORIZED USES.—

''(i) IN GENERAL.—Subject to clause (ii), each new producing State and coastal political subdivision shall use all amounts received under subparagraph (B) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(I) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(II) Mitigation of damage to fish, wildlife, or natural resources.

''(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(IV) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(V) Planning assistance and the administrative costs of complying with this section.

''(ii) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under subparagraph (B) may be used for the purposes described in clause (i)(V).

''(F) ADMINISTRATION.—Amounts made available under subparagraph (A)(ii) shall—

''(i) be made available, without further appropriation, in accordance with this paragraph;

''(ii) remain available until expended; and

''(iii) be in addition to any amounts appropriated under—

''(I) other provisions of this Act;

''(II) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(III) any other provision of law.

''(4) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of paragraph (3) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(A) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(B) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.

''(c) LEASING IN FEDERAL PRODUCTION AREAS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall make the Federal production areas available for oil and gas leasing.

''(2) PRIORITY.—The Secretary may prioritize the lease sales under paragraph (1) based on available data of oil and gas reserves in the Federal production areas.

''(3) DISPOSITION OF QUALIFIED FEDERAL PRODUCING AREA REVENUES.—For each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 85 percent of qualified Federal producing area revenues in the Energy Independence Fund established by section 19; and

''(B) 15 percent of qualified Federal producing area revenues in a special account in the Treasury from which the Secretary shall disburse to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5)''.

(b) CONFORMING AMENDMENT.—Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

SEC. 18. OUTER CONTINENTAL SHELF INVENTORY.

(a) IN GENERAL .—Not later than 3 years after the date of enactment of this Act, the Director of the Minerals Management Service shall conduct a comprehensive inventory of oil and gas reserves of the outer Continental Shelf.

(b) ANNUAL REPORT.—Beginning on the date that is 1 year after the date of enactment of this Act and annually thereafter until the inventory required under subsection (a) is completed, the Director of the Minerals Management Service shall submit to the appropriate committees of Congress a report describing the progress of the inventory.

SEC. 19. ENERGY INDEPENDENCE TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Energy Independence Trust Fund'' (referred to in this section as the ''Fund''), consisting of—

(1) such amounts as are deposited in the Fund under subsections (b)(3)(A)(i) and (c)(3)(A) of the Outer Continental Shelf Lands Act (as added by section 17(a)); and

(2) any interest earned from investment of amounts in the Fund.

(b) AUTHORIZED USES.—Subject to appropriations, the amounts in the Fund shall be available to offset the cost of alternative fuel and conservation programs carried out by the Department of Agriculture, Department of Energy, and Department of Transportation that—

(1) enhance and accelerate the use of domestic renewable energy resources and alternative fuels, with an emphasis on cellulosic ethanol;

(2) increase the development and deployment of biofuels infrastructure, including—

(A) alternative fuel refueling pumps, which are capable of dispensing blends of gasoline from 10 percent ethanol to 85 percent ethanol; and

(B) a biofuel dedicated pipeline;

(3) promote the utilization of energy-efficient products and practices and encourage and reward sound energy conservation practices;

(4) expand research, development, and deployment of renewable energy and efficiency technologies;

(5) expand research development, and deployment of hydrogen fuel cell technology; or

(6) expand research, development, and deployment of electric plug-in vehicle and advanced battery technology.

SA 5182. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 1(a) of the Commodity Exchange Act (as amended by section 2(a)), strike paragraph (13) and insert the following:

''(13) ENERGY COMMODITY.—

''(A) IN GENERAL.—The term 'energy commodity' means each energy commodity traded on—

''(i) the Chicago Mercantile Exchange;

''(ii) the Chicago Board of Trade;

''(iii) the New York Mercantile Exchange; and

''(iv) any other United States Exchange.

''(B) INCLUSIONS.—The term 'energy commodity' includes—

''(i) a petroleum product, including—

''(I) light sweet crude oil;

''(II) heating oil; and

''(III) Reformulated Blendstock for Oxygenate Blending (RBOB) gasoline;

''(ii) natural gas;

''(iii) ethanol;

''(iv) electricity;

''(v) uranium;

''(vi) coal; and

''(vii) carbon.''.

SA 5183. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, add the following:

SEC. 17. EMERGENCY TRANSFER FROM AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—The Department of Transportation Appropriations Act, 2008 (title I of division K of Public Law 110–161) is amended, under the heading ''PAYMENTS TO AIR CARRIERS'', by striking ''$60,000,000'' and inserting ''$120,000,000''.

(b) EMERGENCY REQUIREMENT.—The additional amount made available by the amendment under subsection (a) is designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

SA 5184. Mr. REED (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—NATIONAL OILHEAT RESEARCH ALLIANCE

SEC. __01. NATIONAL OILHEAT RESEARCH ALLIANCE ACT OF 2000.

(a) FINDINGS.—Section 702 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''oilheat'' each place it appears and inserting ''oilheat fuel''.

(b) DEFINITIONS.—Section 703 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears (other than paragraph (10)) and inserting ''oilheat fuel'';

(2) by striking paragraph (7) and inserting the following:

''(7) OILHEAT FUEL.—The term 'oilheat fuel' means distillate liquid that is used as a fuel for nonindustrial commercial or residential space or hot water heating.'';

(3) in paragraph (8), by striking ''OILHEAT'' and inserting ''OILHEAT FUEL'';

(4) in paragraph (14)—

(A) by striking ''No. 1 distillate or No. 2 dyed distillate'' each place it appears and inserting ''distillate liquid''; and

(B) in subparagraph (B), by striking ''sells the distillate'' and inserting ''sells the distillate liquid'';

(5) by redesignating paragraphs (3) through (13) and (14) as paragraphs (4) through (14) and (16), respectively, and moving paragraph (16) (as so redesignated) to appear after paragraph (15); and

(6) by inserting after paragraph (2) the following:

''(3) DISTILLATE LIQUID.—The term 'distillate liquid' means—

''(A) No. 1 distillate;

''(B) No. 2 dyed distillate; or

''(C) a liquid blended with No. 1 distillate or No. 2 dyed distillate.''.

(c) REFERENDA.—Section 704 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears and inserting ''oilheat fuel'';

(2) by striking ''No. 1 distillate and No. 2 dyed distillate'' each place it appears in subsections (a) and (c) and inserting ''distillate liquid'';

(3) in subsection (a)—

(A) in paragraph (5)(B), by striking ''Except as provided in subsection (b), the'' and inserting ''The''; and

(B) in paragraph (6), by striking '', No. 1 distillate, or No. 2 dyed distillate'' and inserting ''or distillate liquid''; and

(4) in subsection (b), by striking ''under'' and inserting ''consistent with''.

(d) MEMBERSHIP.—Section 705 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears and inserting ''oilheat fuel'';

(2) in subsection (b)(2), by striking ''No. 1 distillate and No. 2 dyed distillate'' and inserting ''distillate liquid''; and

(3) by striking subsection (c) and inserting the following:

''(c) NUMBER OF MEMBERS.—

''(1) IN GENERAL.—The membership of the Alliance shall be as follows:

''(A) 1 member representing each State participating in the Alliance.

''(B) 5 representatives of retail marketers, of whom 1 shall be selected by each of the qualified State associations of the 5 States with the highest volume of annual oilheat fuel sales.

''(C) 5 additional representatives of retail marketers.

''(D) 21 representatives of wholesale distributors.

''(E) 6 public members, who shall be representatives of significant users of oilheat fuel, the oilheat fuel research community, State energy officials, or other groups with expertise in oilheat fuel.

''(2) FULL-TIME OWNERS OR EMPLOYEES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), other than the public members of the Alliance, Alliance members shall be full-time managerial owners or employees of members of the oilheat fuel industry.

''(B) EMPLOYEES.—Members described in subparagraphs (B), (C), and (D) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.''.

(e) FUNCTIONS.—Section 706 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''oilheat'' each place it appears and inserting ''oilheat fuel''.

(f) ASSESSMENTS.—Section 707 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears and inserting ''oilheat fuel'';

(2) by striking subsection (a) and inserting the following:

''(a) RATE.—

''(1) IN GENERAL.—The assessment rate for calendar years 2008 and 2009 shall be equal to 2/10 of 1 cent per gallon of distillate liquid.

''(2) SUBSEQUENT ASSESSMENTS.—Subject to paragraphs (3) and (4), beginning with calendar year 2010, the annual assessment rate shall be sufficient to cover the costs of the plans and programs developed by the Alliance.

''(3) MAXIMUM RATE.—The annual assessment rate shall not exceed ½ of 1 cent per gallon of distillate liquid.

''(4) LIMITATIONS ON INCREASE.—

''(A) IN GENERAL.—The annual assessment shall not be increased by more than ½ of 1 cent per gallon in any 1 year.

''(B) APPROVAL.—No increase in the assessment may occur unless the increase is approved by 2/3 of the members voting at a regularly scheduled meeting of the Alliance.

''(C) NOTICE.—The Alliance shall provide notice of a change in assessment at least 90 days before the date on which the change is to take effect.'';

(3) in subsection (b)—

(A) by striking ''No. 1 distillate or No. 2 dyed distillate'' each place it appears and inserting ''distillate liquid''; and

(B) in paragraphs (2)(B) and (5)(B), by striking ''fuel'' each place it appears and inserting ''distillate liquid''; and

(4) in subsection (c), by striking ''No. 1 distillate and No. 2 dyed distillate'' and inserting ''Distillate liquid''.

(g) MARKET SURVEY AND CONSUMER PROTECTION.—Section 708 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''oilheat'' each place it appears and inserting ''oilheat fuel''.

(h) VIOLATIONS.—Section 712(a) of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) in paragraph (2), by striking ''oilheat'' and inserting ''oilheat fuel''; and

(2) by striking paragraph (3) and inserting the following:

''(3) a direct reference to a competing product.''.

(i) REPEAL OF SUNSET.—Section 713 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is repealed.

SA 5185. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—ENERGY SECURITY

SEC. __01. SHORT TITLE.

This title may be cited as the ''Energy Security Act of 2008''.

SEC. __02. PURPOSE AND GOALS.

The purpose of this title is to provide support for projects and activities to facilitate the energy security of the United States so as to ensure that all but 10 percent of the energy needs of the United States are supplied by domestic energy sources by calendar year 2017.

SEC. __03. NATIONAL COMMISSION ON ENERGY SECURITY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a commission, to be known as the ''National Commission on Energy Security'' (referred to in this section as the ''Commission'').

(2) MEMBERSHIP.—The Commission shall be composed of 15 members, of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the majority leader of the Senate;

(C) 3 shall be appointed by the minority leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 3 shall be appointed by the minority leader of the House of Representatives.

(3) CO-CHAIRPERSONS.—

(A) IN GENERAL.—The President shall designate 2 co-chairpersons from among the members of the Commission appointed.

(B) POLITICAL AFFILIATION.—The co-chairpersons designated under subparagraph (A) shall not both be affiliated with the same political party.

(4) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act.

(5) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—Any vacancy in the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(b) PURPOSE.—The Commission shall conduct a comprehensive review of the energy policy of the United States by—

(1) reviewing relevant analyses of the current and long-term energy policy of, and conditions in, the United States;

(2) identifying problems that may threaten the achievement by the United States of long-term energy policy goals, including energy security;

(3) analyzing potential solutions to problems that threaten the long-term ability of the United States to achieve those energy policy goals; and

(4) providing recommendations that will ensure, to the maximum extent practicable, that the energy policy goals of the United States are achieved.

(c) REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than June 30 of each of calendar years 2009, 2011, 2013, and 2015, the Commission shall submit to Congress and the President a report on the progress of United States in meeting the long-term energy policy goal of energy security, including a detailed statement of the findings, conclusions, and recommendations of the Commission.

(2) LEGISLATIVE LANGUAGE.—If a recommendation submitted under paragraph (1) involves legislative action, the report shall include proposed legislative language to carry out the action.

(d) COMMISSION PERSONNEL MATTERS.—

(1) STAFF AND DIRECTOR.—The Commission shall have a staff headed by an Executive Director.

(2) STAFF APPOINTMENT.—The Executive Director may appoint such personnel as the Executive Director and the Commission determine to be appropriate.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) FEDERAL AGENCIES.—

(A) DETAIL OF GOVERNMENT EMPLOYEES.—

(i) IN GENERAL.—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of the Federal agency to the Commission to assist in carrying out the duties of the Commission.

(ii) NATURE OF DETAIL.—Any detail of a Federal employee under clause (i) shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(B) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out the duties of the Commission.

(e) RESOURCES.—

(1) IN GENERAL.—The Commission shall have reasonable access to materials, resources, statistical data, and such other information from Executive agencies as the Commission determines to be necessary to carry out the duties of the Commission.

(2) FORM OF REQUESTS.—The co-chairpersons of the Commission shall make requests for access described in paragraph (1) in writing, as necessary.

SA 5186. Ms. CANTWELL (for herself, Mr. LIEBERMAN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 6, at page 10 line 8, strike all through page 20 line 6 and insert the following:

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 5) is amended by adding at the end the following:

''(h) ELIMINATION OF EXCESSIVE SPECULATION AS A CAUSE OF HIGH OIL, GAS, AND ENERGY PRICES.—

''(1) ''(1).—DEFINITION OF BONA-FIDE HEDGE TRADING.—

(A) IN GENERAL.—The term 'Bona-Fide Hedge Trading' means a transaction that—

(aa) represents a substitute for a transaction to be made or a position to be taken at a later time in a physical marketing channel;

(bb) is economically appropriate for the reduction of risks in the conduct and management of a commercial enterprise that uses the underlying commodity in the production or operation of its business; and

(cc) arises from the potential change in the value of—

(AA) assets that a person owns, produces, manufactures, possesses, or merchandises (or anticipates owning, producing, manufacturing, possessing, or merchandising);

(BB) liabilities that a person incurs or anticipates incurring; or

(CC) services that a person provides or purchases (or anticipates providing or purchasing).

(B) EXCLUSION.—The term 'Bona-fide Hedge Trading' does not include a transaction entered into on a designated contract market for the purpose of offsetting a financial risk arising from an over-the-counter commodity derivative.''

''(2) IDENTIFICATION OF BONA-FIDE HEDGE TRADING.—In carrying out this Act, the Commission shall distinguish between—

''(A) bona-fide hedge trading; and

''(B) all other trading in energy commodities.

(3) DEFINITION OF COVERED OVER-THE-COUNTER COMMODITY DERIVATIVE.—The term 'over-the-counter commodity derivative' means any agreement, contract, or transaction that—

(A) (aa) traded or executed in the United States;

(bb) is held by a person located in the United States; or

(B) is not traded on a designated contract market or derivatives transaction execution facility; and

(C) (aa) is a put, call, cap, floor, collar, or similar option of any kind for the purchase or sale of, or substantially based on the value of, or more qualifying commodities or an economic or financial index or measure of economic or financial risk primarily associated with 1 or more qualifying commodities;

(bb) provides on an executory basis for the applicable transaction, on a fixed or contingent basis, of 1 or more payments substantially based on the value of 1 or more qualifying commodities or an economic or financial index or measure of economic or financial risk primarily associated with 1 or more qualifying commodities, and that transfers between the parties to the transaction, in whole or in part, the economic or financial risk associated with a future change in any such value without also conveying a current or future direct or indirect ownership interest in an asset or liability that incorporates the financial risk that is transferred; or

(cc) is any combination or permutation of, or option on, any agreement, contract, or transaction described in item (aa) or (bb).

''(4) ''CONTROL ENTITY.—For purposes of this Act, a control entity shall mean a person or entity that holds or controls a position in proportion to the person or entity's direct or indirect ownership or equity interest in the position.

(5) In section 4a(h)(4)(C)(i) of the Commodity Exchange Act (as added by section 6), strike subclause (II) and insert the following:

''(II) APPLICATION.—The Commission shall apply the limits imposed under subclause (I) to—

''(aa) any person who executes accounts, agreements, or transactions involving an energy commodity for the own account of the person and to any person for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a registered entity or in covered over-the-counter trading; and

''(bb) any citizen of the United States who executes accounts, agreements, or transactions involving an energy commodity for the own account of the citizen and to any citizen of the United States for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a foreign board of trade or trading facility based in a country other than the United States.

''(4) ELIMINATION OF EXCESSIVE SPECULATION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Commission shall review all regulations, rules, exemptions, exclusions, guidance, no action letters, orders, and other actions taken by or on behalf of the Commission (including any action or inaction taken pursuant to delegated authority by an exchange, self-regulatory organization, or any other entity) regarding all energy futures market participants or market activity (referred to in this subsection individually as a 'prior action') to ensure that—

''(i) bona fide hedge trading is protected and promoted; and

''(ii) excessive speculation is eliminated.

''(B) PRIOR ACTION.—

''(i) IN GENERAL.—The Commission shall modify or revoke the application after the date of enactment of this subsection of any prior action taken by the Commission (including any prior action taken pursuant to delegated authority by any other entity) with respect to any trade on any market, exchange, foreign board of trade, swap or swap transaction, index or index market participant or trade, hedge fund, pension fund, and any other transaction, trade, trader, or petroleum or energy futures market activity unless the Commission affirmatively determines that such prior action will protect and promote bona fide hedge trading and does not permit or encourage excessive speculation.

''(ii) REVOCATION.—In carrying out this subparagraph, the Commission shall modify or revoke the results of each prior action that, in whole or in part, has the direct or indirect affect of limiting, reducing, or eliminating the filing of any report or data regarding any direct or indirect trade or trader, including the filing of large trader reports.

''(C) AGGREGATE SPECULATIVE POSITION LIMITS APPLICABLE TO TRADING IN ENERGY COMMODITIES AND DERIVATIVES THAT IS NOT BONAFIDE HEDGE TRADING.—

''(i) AGGREGATE SPECULATIVE POSITION LIMITS.—

''(I) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall impose, by rule, regulation, or order, aggregate speculative position limits on trading that is not bona fide hedge trading at the control entity level,

''(a) on designated contract markets;

''(b) on derivatives transaction execution facilities; and

''(c) in covered over-the-counter commodity derivatives.

''(II) In establishing aggregate speculative position limits, the Commission shall set the limits at the minimum level practicable—

(a) to ensure sufficient market liquidity for the conduct of bonafide hedging activities;

(b) to ensure that price discovery is not disrupted;

(c) to protect and promote bonafide hedge trading;

(d) to minimize non-bonafide hedge trading; and (e) to eliminate excess speculation.''

''(II) The aggregate speculative position limits shall apply to positions held that expire during—

(a) the spot month;

(b) each separate futures trading month (other than the spot month); or

(c) the sum of each trading month (including the spot month).''

''(ii) ADVISORY GROUP.—Physical Hedgers Energy Advisory Committee

(a) ADVISORY COMMITTEE.—Not later than 30 days after enactment, the CFTC shall establish a ''physical hedgers energy advisory committee'' for users of futures and swaps transactions for price discovery or hedging price risk of physical energy commodities (hereinafter ''physical hedgers''), which shall include:

(aa) commercial producers or sellers,

(bb) purchasers or users, or

(cc) middlemen involved with the purchase or sale of such energy commodities

(b) COMPOSITION.—In making appointments, not fewer than 75% of the membership of this committee shall be composed of participants (or their associations) for whom the preponderance of their participation in futures or over the counter markets is confined to hedging price risk for an energy commodity in their capacity as a commercial producer, seller, purchaser, user or middleman involved with such commodities. Not fewer than two representatives shall be appointed from each category:

(aa) Airlines

(bb) Trucking and Railroads

(cc) Petroleum Marketers and Heating Oil Distributors

(dd) Industrial Energy Consumers

(ee) Public and private gas and electric utilities

(ff) Oil and distillate refiners

(gg) Crude oil producers and shippers/terminal operators

(hh) Natural gas producers and pipeline operators

(ii) Other energy producers or sellers who use futures markets

Up to 25% of such committee shall include consumer advocacy organizations, futures exchanges and trading facilities, state and local governments, financial services industry participants.

(c) MEETINGS.—This committee shall meet not less than 4 times per year, but shall meet more often upon the call of the Chair or by the request of the Commission.

(d) PURPOSES.—The Physical Hedgers Energy Advisory Committee shall provide advice to the Commission on rules, regulations and policies related to energy commodity markets, recommend appropriate levels of liquidity necessary for price discovery and physical hedging, review and make recommendations on the size of speculative positions limits, review and make recommendations on transactions that should be deemed commercial or non-commercial, evaluate whether additional policies are needed to prevent excessive speculation, and recommend improvements to rules, regulations and policies, and for other purposes.

(e) CHAIR AND TENURE.—The Chair shall be selected by the full Commission. Members shall serve for 3 year terms. The Committee shall have not more than 24 members.

(f) FACA.—The Committee shall be subject to the Federal Advisory Committee Act (FACA).

(g) INTERIM RECOMMENDATIONS TO CFTC.—Not later than 60 days after enactment, the ''physical hedgers energy advisory committee'' shall submit to the CFTC interim recommendations on the establishment of an appropriate level for aggregate speculative position limits for each energy commodity. Such recommendation shall be transmitted to Congress.

''(iii) REVIEW OF RECOMMENDATIONS.—Not later than 270 days after the date of enactment of this subsection, the Commission shall—

''(I) analyze and review the recommendations submitted by the advisory group under clause (ii)(II); and

''(II) submit to the appropriate committees of Congress a report describing each recommendation (including each modification to the statutory authority of the Commission that the Commission determines to be necessary to effectuate each recommendation).

''(iv) RULEMAKING.—

''(I) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Commission shall promulgate a final rule that establishes speculative position limits—

''(aa) for any person engaged in trading of an energy commodity that is not bona-fide hedge trading; and

''(bb) that are consistent with this Act.

''(II) EFFECTIVE DATE.—The final rule described in subclause (I) shall take effect on the date that is 30 days after the date on which the Commission promulgates the final rule.

''(V) DEVELOPMENT OF METHODOLOGY.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Commission shall propose a methodology to determine and set aggregate speculative position limits for each person engaging trading that is not bona-fide hedge trading of energy commodities—

''(aa) on designated contract markets;

''(bb) on derivatives transaction execution facilities; and

''(cc) in covered over-the-counter commodity derivatives.

''(dd) The aggregate speculative position limits established under this subsection shall apply to positions held that expire during—

(AA) the spot month;

(BB) each separate futures trading month (other than the spot month); or

(CC) the sum of each trading month (including the spot month).''

''(II) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Commission shall submit to the appropriate committees of Congress a report that contains—

''(aa) any recommendations regarding any additional statutory authority that the Commission determines to be necessary for the imposition of the speculative position limits described in subclause (I); and

''(bb) a description of the resources that the Commission considers to be necessary to implement the speculative position limits.

''(D) MAXIMUM LEVEL OF SPECULATIVE POSITION LIMITS.—

''(i) IN GENERAL. In establishing speculative position limits under this section (including subparagraph (C)(iv)), the Commission shall set the limits at the minimum level practicable—

''(I) to ensure sufficient market liquidity for the conduct of bona-fide hedging activities;

''(II) to ensure that price discovery is not disrupted;

''(III) to protect and promote bona-fide hedge trading;

''(IV) to minimize trading of an energy commodity that is not bona-fide hedge trading; and

''(V) to eliminate excess speculation.

SA 5187. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE II—NEW CLEAN FUELS

SEC. 21. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the ''New Clean Energy Tax Extenders Act''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE II—NEW CLEAN FUELS

Sec. 21. Short title.

Subtitle A—Extension of Clean Energy Production Incentives

Sec. 22. Extension and modification of renewable energy production tax credit.

Sec. 23. Extension and modification of solar energy and fuel cell investment tax credit.

Sec. 24. Extension and modification of residential energy efficient property credit.
Sec. 25. Extension and modification of credit for clean renewable energy bonds.
Sec. 26. Extension of special rule to implement FERC restructuring policy.
Subtitle B—Extension of Incentives to Improve Energy Efficiency
Sec. 27. Extension and modification of credit for energy efficiency improvements to existing homes.
Sec. 28. Extension and modification of tax credit for energy efficient new homes.
Sec. 29. Extension and modification of energy efficient commercial buildings deduction.
Sec. 30. Modification and extension of energy efficient appliance credit for appliances produced after 2007.
Subtitle C—Revenue Provisions
Sec. 31. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, gas, or primary products thereof.
Sec. 32. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.

Subtitle A—Extension of Clean Energy Production Incentives

SEC. 22. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2013'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2013.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 23. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''January 1, 2017''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''January 1, 2017''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 24. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR

AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 25. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the New Clean Energy Tax Extenders Act and ending before January 1, 2013, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 26. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2013''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 5 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

Subtitle B—Extension of Incentives to Improve Energy Efficiency

SEC. 27. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2012''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 28. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. 29. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 30. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009,

or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

Subtitle C—Revenue Provisions

SEC. 31. 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) of the Internal Revenue Code of 1986 (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) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

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

SEC. 32. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

''(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

''(1) the amount of the combined foreign oil and gas income for the taxable year,

''(2) multiplied by—

''(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

''(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

''(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

''(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

''(A) foreign oil and gas extraction income, and

''(B) foreign oil related income.

''(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

''(A) oil and gas extraction taxes, and

''(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.''.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

''(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

''(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

''(i) first by the amount determined under subparagraph (B), and

''(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

''(B) REDUCTION FOR PRE-2008 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Advancement and Investment Act of 2007) 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, 2007, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2007.

''(D) FOREIGN OIL AND GAS LOSS DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

''(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

''(II) the sum of the deductions properly apportioned or allocated thereto.

''(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

''(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

''(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

''(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

''(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Advancement and Investment Act of 2007.''.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking ''oil and gas extraction taxes'' each place it appears and inserting ''foreign oil and gas taxes'', and

(2) by adding at the end the following new paragraph:

''(4) TRANSITION RULES FOR PRE-2008 AND 2008 DISALLOWED CREDITS.—

''(A) PRE-2008 CREDITS.—In the case of any unused credit year beginning before January 1, 2008, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2007, by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in applying subsection (a) for each relevant year.

''(B) 2008 CREDITS.—In the case of any unused credit year beginning in 2008, the amendments made to this subsection by the Energy Advancement and Investment Act of 2007 shall be treated as being in effect for any preceding year beginning before January 1, 2008, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.''.

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking ''oil and gas extraction taxes'' and inserting ''foreign oil and gas taxes''.

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

SA 5188. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. OPEC ACCOUNTABILITY.

(a) SHORT TITLE.—This section may be cited as the ''OPEC Accountability Act''.

(b) FINDINGS.—Congress makes the following findings:

(1) Gasoline prices have more than quadrupled since January 2002, with crude oil recently trading at more than $119 per barrel for the first time ever.

(2) Rising gasoline prices have placed an inordinate burden on American families.

(3) High gasoline prices have hindered and will continue to hinder economic recovery.

(4) The Organization of Petroleum Exporting Countries (OPEC) has formed a cartel and engaged in anticompetitive practices to manipulate the price of oil, keeping it artificially high.

(5) Eight member nations of OPEC—Ecuador, Indonesia, Kuwait, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela—are also members of the World Trade Organization. Algeria, Iran, Iraq, and Libya are also Observer Governments of the World Trade Organization.

(6) The agreement among OPEC member nations to limit oil exports is an illegal prohibition or restriction on the exportation or sale for export of a product under article XI of the GATT 1994.

(7) The export quotas and resulting high prices harm American families, undermine the American economy, impede American and foreign commerce, and are contrary to the national interests of the United States.

(c) ACTIONS TO CURB CERTAIN CARTEL ANTICOMPETITIVE PRACTICES.—

(1) DEFINITIONS.—In this section:

(A) GATT 1994.—The term ''GATT 1994'' has the meaning given such term in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)).

(B) UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES.—The term ''Understanding on Rules and Procedures Governing the Settlement of Disputes'' means the agreement described in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(C) WORLD TRADE ORGANIZATION.—

(i) IN GENERAL.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(ii) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

(2) ACTION BY PRESIDENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President shall, not later than 15 days after the date of enactment of this Act, initiate consultations with the countries described in subparagraph (B) to seek the elimination by those countries of any action that—

(i) limits the production or distribution of oil, natural gas, or any other petroleum product;

(ii) sets or maintains the price of oil, natural gas, or any petroleum product; or

(iii) otherwise is an action in restraint of trade with respect to oil, natural gas, or any petroleum product, when such action constitutes an act, policy, or practice that is unjustifiable and burdens and restricts United States commerce.

(B) COUNTRIES DESCRIBED.—The countries described in this paragraph are the following:

(i) Indonesia.
(ii) Kuwait.
(iii) Nigeria.
(iv) Qatar.
(v) The United Arab Emirates.
(vi) Venezuela.
(vii) Ecuador.
(viii) Saudi Arabia.

(3) INITIATION OF WTO DISPUTE PROCEEDINGS.—If the consultations described in paragraph (2) are not successful with respect to any country described in paragraph (2)(B), the United States Trade Representative shall, not later than 60 days after the date of enactment of this Act, institute proceedings pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes with respect to that country and shall take appropriate action with respect to that country under the trade remedy laws of the United States.

SA 5189. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008

(Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5190. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5191. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5192. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5162 submitted by Mr. WARNER (for himself and Mr. WEBB) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5193. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5194. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5195. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5196. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent

excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5197. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5198. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5199. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5200. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5201. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5202. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5203. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5204. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5205. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income'

means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5206. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5207. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5208. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5209. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5210. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5211. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5212. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5213. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5214. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5215. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5216. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5217. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5162 submitted by Mr. WARNER (for himself and Mr. WEBB) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5218. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by

Mr. BURR and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5219. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5220. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5221. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other

purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5222. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5223. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5224. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5225. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5226. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5227. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect

to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5228. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5229. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5230. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5231. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other

purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5232. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5233. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5234. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5235. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5236. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5237. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5238. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5239. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5240. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5241. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5242. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5243. Mr. MENENDEZ submitted an amendment intended to be proposed

to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5244. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5245. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (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).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5246. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 5135 submitted by Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida, and Ms. KLOBUCHAR) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 92, after line 23, insert the following:

TITLE V—TAX PROVISIONS

SEC. 501. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Production Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 511. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(2) 3-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES.—Each of the following provisions of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2012'':

(A) Clauses (i) and (ii) of paragraph (2)(A).

(B) Clauses (i)(I) and (ii) of paragraph (3)(A).

(C) Paragraph (4).

(D) Paragraph (5).
(E) Paragraph (6).
(F) Paragraph (7).
(G) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF CREDIT PHASEOUT.—
(1) REPEAL OF PHASEOUT.—Subsection (b) of section 45 is amended—
(A) by striking paragraph (1), and
(B) by striking ''the 8 cent amount in paragraph (1),'' in paragraph (2) thereof.
(2) LIMITATION BASED ON INVESTMENT IN FACILITY.—Subsection (b) of section 45 is amended by inserting before paragraph (2) the following new paragraph:
''(1) LIMITATION BASED ON INVESTMENT IN FACILITY.—
''(A) IN GENERAL.—In the case of any qualified facility originally placed in service after December 31, 2009, the amount of the credit determined under subsection (a) for any taxable year with respect to electricity produced at such facility shall not exceed the product of—
''(i) the applicable percentage with respect to such facility, multiplied by
''(ii) the eligible basis of such facility.
''(B) CARRYFORWARD OF UNUSED LIMITATION AND EXCESS CREDIT.—
''(i) UNUSED LIMITATION.—If the limitation imposed under subparagraph (A) with respect to any facility for any taxable year exceeds the prelimitation credit for such facility for such taxable year, the limitation imposed under subparagraph (A) with respect to such facility for the succeeding taxable year shall be increased by the amount of such excess.
''(ii) EXCESS CREDIT.—If the prelimitation credit with respect to any facility for any taxable year exceeds the limitation imposed under subparagraph (A) with respect to such facility for such taxable year, the credit determined under subsection (a) with respect to such facility for the succeeding taxable year (determined before the application of subparagraph (A) for such succeeding taxable year) shall be increased by the amount of such excess. With respect to any facility, no amount may be carried forward under this clause to any taxable year beginning after the 10-year period described in subsection (a)(2)(A)(ii) with respect to such facility.
''(iii) PRELIMITATION CREDIT.—The term 'prelimitation credit' with respect to any facility for a taxable year means the credit determined under subsection (a) with respect to such facility for such taxable year, determined without regard to subparagraph (A) and after taking into account any increase for such taxable year under clause (ii).
''(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph—
''(i) IN GENERAL.—The term 'applicable percentage' means, with respect to any facility, the appropriate percentage prescribed by the Secretary for the month in which such facility is originally placed in service.
''(ii) METHOD OF PRESCRIBING APPLICABLE PERCENTAGES.—The applicable percentages prescribed by the Secretary for any month under clause (i) shall be percentages which yield over a 10-year period amounts of limitation under subparagraph (A) which have a present value equal to 35 percent of the eligible basis of the facility.
''(iii) METHOD OF DISCOUNTING.—The present value under clause (ii) shall be determined—
''(I) as of the last day of the 1st year of the 10-year period referred to in clause (ii),
''(II) by using a discount rate equal to the greater of 110 percent of the Federal long-term rate as in effect under section 1274(d) for the month preceding the month for which the applicable percentage is being prescribed, or 4.5 percent, and
''(III) by taking into account the limitation under subparagraph (A) for any year on the last day of such year.
''(D) ELIGIBLE BASIS.—For purposes of this paragraph—
''(i) IN GENERAL.—The term 'eligible basis' means, with respect to any facility, the sum of—
''(I) the basis of such facility determined as of the time that such facility is originally placed in service, and
''(II) the portion of the basis of any shared qualified property which is properly allocable to such facility under clause (ii).
''(ii) RULES FOR ALLOCATION.—For purposes of subclause (II) of clause (i), the basis of shared qualified property shall be allocated among all qualified facilities which are projected to be placed in service and which require utilization of such property in proportion to projected generation from such facilities.
''(iii) SHARED QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'shared qualified property' means, with respect to any facility, any property described in section 168(e)(3)(B)(vi)—
''(I) which a qualified facility will require for utilization of such facility, and
''(II) which is not a qualified facility.
''(iv) SPECIAL RULE RELATING TO GEOTHERMAL FACILITIES.—In the case of any qualified facility using geothermal energy to produce electricity, the basis of such facility for purposes of this paragraph shall be determined as though intangible drilling and development costs described in section 263(c) were capitalized rather than expensed.
''(E) SPECIAL RULE FOR FIRST AND LAST YEAR OF CREDIT PERIOD.—In the case of any taxable year any portion of which is not within the 10-year period described in subsection (a)(2)(A)(ii) with respect to any facility, the amount of the limitation under subparagraph (A) with respect to such facility shall be reduced by an amount which bears the same ratio to the amount of such limitation (determined without regard to this subparagraph) as such portion of the taxable year which is not within such period bears to the entire taxable year.
''(F) ELECTION TO TREAT ALL FACILITIES PLACED IN SERVICE IN A YEAR AS 1 FACILITY.—At the election of the taxpayer, all qualified facilities which are part of the same project and which are placed in service during the same calendar year shall be treated for purposes of this section as 1 facility which is placed in service at the mid-point of such year or the first day of the following calendar year.''.
(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—
(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and
(2) by striking ''COMBUSTION''.
(d) EXPANSION OF BIOMASS FACILITIES.—
(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:
''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.
(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:
''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.
(e) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of section 45(e) is amended by adding at the end the following new sentence: ''The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.''.
(f) MODIFICATION OF RULES FOR HYDROPOWER PRODUCTION.—Subparagraph (C) of section 45(c)(8) is amended to read as follows:
''(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—
''(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,
''(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and
''(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.
The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.''.
(g) EFFECTIVE DATE.—
(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.
(2) REPEAL OF CREDIT PHASEOUT.—The amendments made by subsection (b)(1) shall apply to taxable years ending after December 31, 2008.
(3) LIMITATION BASED ON INVESTMENT IN FACILITY.—The amendment made by subsection (b)(2) shall apply to property originally placed in service after December 31, 2009.
(4) TRASH FACILITY CLARIFICATION; SALES TO RELATED REGULATED PUBLIC UTILITIES.—The amendments made by subsections (c) and (e) shall apply to electricity produced and sold after the date of the enactment of this Act.
(5) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 512. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Paragraph (1) of section 45(c) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:
''(I) marine and hydrokinetic renewable energy.''.
(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.''.

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101, is amended by striking ''January 1, 2012'' and inserting ''the date of the enactment of paragraph (11)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 513. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2015''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48, and''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (iii), by inserting ''or'' at the end of clause (iv), and by adding at the end the following new clause:

''(v) combined heat and power system property,''.

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 is amended by adding at the end the following new subsection:

''(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(v)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(C) the energy efficiency percentage of which exceeds 60 percent, and

''(D) which is placed in service before January 1, 2015.

''(2) LIMITATION.—

''(A) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

''(B) APPLICABLE CAPACITY.—For purposes of subparagraph (A), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(C) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(3) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(B) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(4) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

''(A) paragraph (1)(C) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 514. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,333''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified

small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a), as amended by subsection (c), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.''.

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

''(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

''(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.''.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 515. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 516. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,

''(B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

''(C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost

of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond, or

''(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54C. Qualified clean renewable energy bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—CARBON MITIGATION PROVISIONS

SEC. 521. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) is amended by striking ''$1,300,000,000'' and inserting ''$2,550,000,000''.

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

''(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

''(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

''(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

''(iii) $1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).''.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

''(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

''(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.''.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking ''and'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.''.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking ''and'' at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.''.

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A is amended by adding at the end the following new subsection:

''(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).''.

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

''(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and''.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking ''INTEGRATED GASIFICATION COMBINED CYCLE'' in the heading and inserting ''CERTAIN''.

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 522. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48B(a) is amended by inserting ''(30 percent in the case of credits allocated under subsection (d)(1)(B))'' after ''20 percent''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) is amended by striking ''shall not exceed $350,000,000'' and all that follows and inserting ''shall not exceed—

''(A) $350,000,000, plus

''(B) $250,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide emissions.''.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

''(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).''.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

''(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

''(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

''(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

SEC. 523. TEMPORARY INCREASE IN COAL EXCISE TAX.

Paragraph (2) of section 4121(e) is amended—

(1) by striking ''January 1, 2014'' in subparagraph (A) and inserting ''December 31, 2018'', and

(2) by striking ''January 1 after 1981'' in subparagraph (B) and inserting ''December 31 after 2007''.

SEC. 524. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ''settlement with the Federal Government'' shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

(d) DEFINITIONS.—For purposes of this section—

(1) COAL PRODUCER.—The term ''coal producer'' means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term ''exporter'' means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term ''a party related to such coal producer'' means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

SEC. 525. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2008 and 2009.

Subtitle B—Transportation and Domestic Fuel Security Provisions

SEC. 531. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) is amended to read as follows:

''(3) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—Subsection (l) of section 168 is amended—

(1) by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biofuel'',

(2) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of such subsection and inserting ''CELLULOSIC BIOFUEL'', and

(3) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of paragraph (2) thereof and inserting ''CELLULOSIC BIOFUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property

placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 532. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN RATE OF CREDIT.—

(1) INCOME TAX CREDIT.—Paragraphs (1)(A) and (2)(A) of section 40A(b) are each amended by striking ''50 cents'' and inserting ''$1.00''.

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:

''(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.''.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(B) Paragraph (2) of section 40A(f) is amended to read as follows:

''(2) EXCEPTION.—Subsection (b)(4) shall not apply with respect to renewable diesel.''.

(C) Paragraphs (2) and (3) of section 40A(e) are each amended by striking ''subsection (b)(5)(C)'' and inserting ''subsection (b)(4)(C)''.

(D) Clause (ii) of section 40A(d)(3)(C) is amended by striking ''subsection (b)(5)(B)'' and inserting ''subsection (b)(4)(B)''.

(c) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''diesel fuel'' and inserting ''liquid fuel'',

(2) by striking ''using a thermal depolymerization process'', and

(3) by striking ''or D396'' in subparagraph (B) and inserting '', D396, or other equivalent standard approved by the Secretary''.

(d) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following new sentence: ''Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking ''(as defined in section 45K(c)(3))''.

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following: ''The term 'renewable diesel' also means fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendments made by subsection (d) shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

SEC. 533. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Paragraph (6) of section 40(d) is amended to read as follows:

''(6) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(c) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

''(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to claims for credit or payment made on or after May 15, 2008.

SEC. 534. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar

quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (32) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(33) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by section 104, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 535. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

''(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

''(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

''(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

''(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after the date of the enactment of this Act.

SEC. 536. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as section 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $115,000,000 ($425,000,000 in the case of the last 2 years in the credit period), plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2009.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical therein and inserting ''(in the case of nonresidential real property and residential rental property, the date of the enactment of the Energy Independence and Tax Relief Act of 2008 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''section 1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

''Sec. 1400L. New York Liberty Zone tax credits.''

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

SEC. 537. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) is amended by adding at the end the following:

''(D) Any qualified bicycle commuting reimbursement.''.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.''.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) is amended by adding at the end the following:

''(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

''(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

''(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

''(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

''(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

''(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).''.

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting ''(other than a qualified bicycle commuting reimbursement)'' after ''qualified transportation fringe''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 538. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Energy Conservation and Efficiency Provisions

SEC. 541. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 106, is amended by adding at the end the following new section:

''SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

''(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,000,000,000.

''(e) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs,

''(iii) rural development involving the production of electricity from renewable energy resources, or

''(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(g) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by section 106, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond,

''(B) a new clean renewable energy bond, or

''(C) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by section 106, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

''(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54D. Qualified energy conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 542. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsection (b), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

''(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.''.

(d) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2007.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 543. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 544. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less

energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'',

(C) by moving the text of such subsection in line with the subsection heading, and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by moving such paragraphs 2 ems to the left.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 545. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) IN GENERAL.—Section 168(e)(3)(D) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by inserting after clause (ii) the following new clauses:

''(iii) any qualified smart electric meter, and

''(iv) any qualified smart electric grid system.''.

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.

''(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

''(A) IN GENERAL.—The term 'qualified smart electric grid system' means any smart grid property used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term 'smart grid property' means electronics and related equipment that is capable of—

''(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

''(ii) providing real-time, two-way communications to monitor or manage such grid, and

''(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 546. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(b) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraph (9) of section 142(l) is amended by striking ''October 1, 2009'' and inserting ''October 1, 2012''.

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking ''issuance,'' and inserting ''issuance of the last issue with respect to such project,''.

Subtitle D—Limitation of Oil Incentives

SEC. 551. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) 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).''.

(2) 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.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income'

means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 552. CLARIFICATION OF DETERMINATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) IN GENERAL.—Paragraph (1) of section 907(c) is amended by redesignating subparagraph (B) as subparagraph (C), by striking ''or'' at the end of subparagraph (A), and by inserting after subparagraph (A) the following new subparagraph:

''(B) so much of any transportation of such minerals as occurs before the fair market value event, or''.

(b) FAIR MARKET VALUE EVENT.—Subsection (c) of section 907 is amended by adding at the end the following new paragraph:

''(6) FAIR MARKET VALUE EVENT.—For purposes of this section, the term 'fair market value event' means, with respect to any mineral, the first point in time at which such mineral—

''(A) has a fair market value which can be determined on the basis of a transfer, which is an arm's length transaction, of such mineral from the taxpayer to a person who is not related (within the meaning of section 482) to such taxpayer, or

''(B) is at a location at which the fair market value is readily ascertainable by reason of transactions among unrelated third parties with respect to the same mineral (taking into account source, location, quality, and chemical composition).''.

(c) SPECIAL RULE FOR CERTAIN PETROLEUM TAXES.—Subsection (c) of section 907, as amended by subsection (b), is amended to by adding at the end the following new paragraph:

''(7) OIL AND GAS TAXES.—In the case of any tax imposed by a foreign country which is limited in its application to taxpayers engaged in oil or gas activities—

''(A) the term 'oil and gas extraction taxes' shall include such tax,

''(B) the term 'foreign oil and gas extraction income' shall include any taxable income which is taken into account in determining such tax (or is directly attributable to the activity to which such tax relates), and

''(C) the term 'foreign oil related income' shall not include any taxable income which is treated as foreign oil and gas extraction income under subparagraph (B).''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 907(c)(1), as redesignated by this section, is amended by inserting ''or used by the taxpayer in the activity described in subparagraph (B)'' before the period at the end.

(2) Subparagraph (B) of section 907(c)(2) is amended to read as follows:

''(B) so much of the transportation of such minerals or primary products as is not taken into account under paragraph (1)(B),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 9:30 a.m.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, July 24, 2008, in room 406 of the Dirksen Senate Office Building at 9:30 a.m.

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

COMMITTEE ON FINANCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 2 p.m., in room 215 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 10 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, July 24, at 9:30 a.m. in room 562 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate to conduct a hearing entitled, ''Crimes Associated with Polygamy: The Need for a Coordinated State and Federal Response'' on Thursday, July 24, 2008, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 2:30 p.m. to conduct a hearing entitled, ''Improving Federal Program Management Using Performance Information.''

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

PRIVILEGES OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Zachary Manning, Byron Hurlbut, and Madeleine Ward, who are interns with my office and with the Energy and Natural Resources Committee, be granted floor privileges today.

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

APPROVING RENEWAL OF IMPORT RESTRICTIONS IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 896, H.J. Res. 93, the Burma Sanctions Act.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 93), approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

There being no objection, the Senate proceeded to consider the joint resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the statutory time be yielded back, the joint resolution be read three times, passed, and the motions to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without any intervening action or debate.

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

The joint resolution (H.J. Res 93) was ordered to a third reading, was read the third time, and passed.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader pursuant to Public Law 107–252, Title II, Section 214, appoints the following individual to serve as a member of the Election Assistance Board of Advisors: Dr. Barbara Simons, of California.

UNANIMOUS-CONSENT AGREEMENT—S. 3268 AND H.R. 3221

Mrs. MURRAY. Mr. President, I ask unanimous consent that following the cloture vote on S. 3268, and if cloture has not been invoked, and the Senate has subsequently invoked cloture on the motion to concur in the House amendment to the Senate amendment to the House amendments to the Senate amendment to H.R. 3221, then postcloture debate time on Friday, July 25, be divided in 30-minute blocks, beginning at 10 a.m., and until 1 p.m., and as specified in a subsequent order; with postcloture time running during any recess or adjournment of the Senate; that when the Senate convenes on Saturday, July 26 at 9 a.m., after the opening of the Senate, the time until 11 a.m. be equally divided and controlled by the leaders or their designees, with the time from 10:40 a.m. to 10:50 a.m. controlled by the Republican leader, and the time from 10:50 a.m. to 11 a.m. controlled by the majority leader; that at 11 a.m., all postcloture time be yielded back, the Senate proceed to vote on the motion to concur in the House amendment to the Senate amendment to the House amendments to the Senate amendment to H.R. 3221; that if the motion is successful, the motion to reconsider be laid upon the table and the motion to concur with an amendment be withdrawn; further, that if cloture is invoked on S. 3268, then the provisions of this agreement be null and void.

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

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MEASURE READ THE FIRST TIME—S. 3335

Mrs. MURRAY. Mr. President, I understand that S. 3335, which was introduced earlier today by Senator BAUCUS, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3335) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Mrs. MURRAY. Mr. President, I ask for a second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

ORDERS FOR FRIDAY, JULY 25, 2008

Mrs. MURRAY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:15 a.m. tomorrow, Friday July 25; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3268, and immediately proceed to a vote on the motion to invoke cloture on S. 3268, the energy speculation legislation. I further ask that the time from 10 a.m. until 1 p.m. be equally divided and controlled by the leaders in alternating 30-minute blocks of time, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes. Finally, I ask unanimous consent that Senators have until 10 a.m. Friday to file second-degree amendments.

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

PROGRAM

Mrs. MURRAY. Mr. President, tomorrow, after 9:15 a.m., the Senate will proceed to a cloture vote on the energy speculation bill. If cloture is not invoked, the Senate will immediately proceed to a vote on a motion to invoke cloture on the motion to concur with respect to H.R. 3221, the housing reform legislation. Therefore, Senators should expect two rollcall votes beginning at around 9:15 a.m. tomorrow.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mrs. MURRAY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:15 p.m., adjourned until Friday, July 25, 2008, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

PAUL S. DIAMOND, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE FRANKLIN S. VAN ANTWERPEN, RETIRED.

MITCHELL S. GOLDBERG, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE JOHN R. PADOVA, RETIRED.

C. DARNELL JONES II, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE BRUCE W. KAUFFMAN, RETIRED.

CAROLYN P. SHORT, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE PAUL S. DIAMOND, UPON ELEVATION.

JOEL H. SLOMSKY, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE JAMES T. GILES, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. DAVID J. SCOTT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. LAWRENCE A. STUTZRIEM

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR AT THE UNITED STATES AIR FORCE ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 9333 (B) AND 9336 (A):

To be colonel

JEFFREY T. BUTLER

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

LEMUEL H. CLEMENT

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MARCO E. HARRIS

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ROBERT J. HOWELL, JR.
DARYL D. JASCHEN
STANELY R. JONES, JR.

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

FRANCIS B. MAGURN II

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

JOSEPH W. BROWN

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

VICTOR URSUA

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

YVONNE M. BEALE

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

GERALD P. JOHNSON

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

MAUEL LABORDE

To be major

ANTHONY WOJCIK

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

GEORGE J. JICHA
JOHN R. SABIN
WILLIAM H. SMITHSON

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

CHRISTOPHER M. HARTLEY
SARA M. ROOT
LAJOHNNE A. WHITE

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

SAMUEL M. RUBEN

To be lieutenant colonel

LORRAINE O. HARRISDAVIS
DANIEL A. KRAMER

To be major

GEORGE D. HORN

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

ERIC D. SEELAND

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be commander

WILLIAM L. HENDRICKSON

To be lieutenant commander

FOUAD A. ELZAATARI
ORLANDO GALLARDO, JR.

WITHDRAWALS

Executive message transmitted by the President to the Senate on July 24, 2008 withdrawing from further Senate consideration the following nominations:

GENE E. K. PRATTER, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE FRANKLIN S. VAN ANTWERPEN, RETIRED, WHICH WAS SENT TO THE SENATE ON NOVEMBER 15, 2007.

CAROLYN P. SHORT, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE GENE E. K. PRATTER, UPON ELEVATION, WHICH WAS SENT TO THE SENATE ON NOVEMBER 15, 2007.