standard as a consumer product safety rule, to encourage States to require the installation of such detectors in homes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VOINOVICH (for himself, Mr. DOMENICI, Ms. MURKOWSKI, Mrs. DOLE, and Mr. ALEXANDER):

S. 3661. A bill to amend the Atomic Energy Act of 1954 to establish a United States Nuclear Fuel Management Corporation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 3662. An original bill to establish the Controlled Unclassified Information Office, to require policies and procedures for the designation , marking, safeguarding, and dissemination of controlled unclassified information, and for other purposes; from the Committee on Homeland Security and Governmental Affairs; placed on the calendar.

By Mr. ROCKEFELLER:

S. 3663. A bill to require the Federal Communications Commission to provide for a short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 3664. A bill to provide for the extension of a certain hydroelectric project located in the State of West Virginia; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself and Mr. PRYOR):

S. 3665. A bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges; to the Committee on Homeland Security and Governmental Affairs.

By Ms. KLOBUCHAR (for herself and Mr. HATCH):

S. 3666. A bill to require certain metal recyclers to keep records of their transactions in order to deter individuals and enterprises engaged in theft and interstate fencing of stolen copper, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself and Mr. VITTER):

S. 3667. A bill to clarify the application of section 14501(d) of title 49, United States Code, to prevent the imposition of unreasonable transportation terminal fees; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 3668. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective services agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

By Mr. VOINOVICH:

S. 3669. A bill to reduce gas prices by promoting domestic energy production, alternative energy, and conservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 3670. A bill to regulate certain State and local taxation of electronic commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN:

S. 3671. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to develop and impose aggregate position limits on certain large over-the-counter transactions and classes of large over-the-counter transactions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 3672. A bill to amend title 23, United States Code, to improve economic opportunity and development in rural States through highway investment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3673. A bill to amend title 23, United States Code, to improve highway transportation in the Untied States, including rural and metropolitan areas; to the Committee on Environment and Public Works.

By Mrs. CLINTON:

S. 3674. A bill to amend the Public Health Service Act to establish a Wellness Trust; to the Committee on Health, Education, Labor, and Pensions .

By Mr. KERRY:

S. 3675. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain excessive employee remuneration, and for other purposes; to the Committee on Finance.

By Mr. SANDERS:

S. 3676. A bill to support the recruitment and retention of volunteer firefighters and emergency medical services personnel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 3677. A bill to establish a Special Joint Task Force on Financial Crimes; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 3678. A bill to promote freedom, human rights, and the rule of law in Vietnam; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 701. A resolution honoring the life of Michael P. Smith; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. Con. Res. 105. A concurrent resolution directing the Clerk of the House of Representatives to correct the enrollment of H.R. 6063; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 3663. A bill to require the Federal Communications Commission to provide for a short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Short-term Analog Flash and Emergency Readiness Act. This simple piece of legislation will help make sure those consumers who fail to make the transition to Digital Television, DTV, by February 17, 2009 are not left without access to emergency information. This bill will also allow those consumers to understand what steps they need to take in order to restore their television signals.

I voted against the Deficit Reduction Act of 2005, which directs that on February 18, 2009, over-the-air full-power television broadcasts, which are currently provided by television stations in both analog and digital formats, will become digital only. I voted against this bill in both the Commerce Committee and during its consideration by the full Senate because it failed to address the core policy questions of the implementation of the transition to DTV. Specifically, it did not adequately address the minimization of consumer disruption and the establishment a national interoperable communications network with the analog spectrum that broadcasters were vacating. I was one of only three ''No'' votes in Committee.

When the Commerce Committee passed its portion of the Deficit Reduction Act of 2005, the then-Republican majority on the Committee did not want to spend significant resources on the DTV transition to minimize consumer disruption. Nor, did they want to spend any resources on building a national interoperable public safety communications network. The only thing that mattered to Republicans in 2005 was generating sufficient money to meet our budget reconciliation instructions. Because the Committee failed to set forth coherent policy objectives in 2005, consumers and our Nation's first responders will bear the brunt of that failure.

I believe that many have forgotten why we moved forward with the DTV transition. It was to free up much needed spectrum to create a national interoperable public safety communications network. I know the people of West Virginia strongly support their first responders and would have gladly accepted that transition to make sure that in times of crisis our local police, fire, and emergency response teams could communicate. Instead, the DTV transition has been sold as nothing more than having a better television picture. That is unfortunate because we are making this transition to address a critical public safety need—one identified by the 9/11 Commission.

Unfortunately, the Federal Communications Commission still has not devised a plan to establish this national public safety communications network. The spectrum has been auctioned and the big wireless companies have secured their futures. But our nation's first responders, which should have been this Administration's first priority, are not much closer to achieving interoperable communications.

As my good friend FCC Commissioner Michael Copps has stated, ''the question of public safety is . . . the first obligation of the public servant.'' In a

more perfect world, our nation's first responders would already have access to an interoperable and fully-funded broadband network that makes use of dedicated public safety spectrum. We are still a long way from developing this network for public safety, and that is something of which we all should be ashamed. If we fail to establish this network quickly and in a manner that works for the public safety community, I am afraid we may have lost the opportunity forever.

This Administration has failed consumers as well. In 2005, Congress left almost all of the implementation of the transition to the private sector—broadcasters, cable and satellite companies, and consumer electronics retailers. Although well-heeled industries state that they have devoted hundreds of millions of dollars to making Americans aware of the DTV transition, I am not sure that it is going to minimize the disruption.

The recent DTV transition test market of Wilmington, North Carolina demonstrated that, even with extraordinary levels of outreach, some did not know about the DTV transition. I would note that Wilmington received far more attention than any market in West Virginia is likely to receive, or any other part of the country for that matter.

Even if a consumer was aware of the DTV transition, several thousand people called into the FCC for assistance—they could not set up their box, they could not receive certain digital signals, or their antennae needed adjustment, to name just a few of the problems. Consumers, especially the elderly and those with limited English proficiency, are going to need help in managing the transition.

Among its many shortcomings, the DTV Act did not require the Federal agencies charged with administering the transition to develop a program to assist consumers with attaching the converter boxes to their sets. By contrast, in the United Kingdom, there is an assistance program, known as ''Help Scheme,'' that will assist a many as 7 million households with selecting, installing, and using DTV equipment.

Unfortunately, in the remaining time before the transition, we are not going to be able to replicate the United Kingdom's consumer assistance plan. But, we may be able to take small steps that can help consumers.

My legislation is one such step. It simply allows the FCC to permit analog television signals to be broadcast for thirty days after the transition so that, at a minimum, one station in a market can send a signal explaining what has happened to a consumer's television signal and how to restore that signal. Far more importantly, it will allow the broadcast of emergency information so that people are aware of impending storms, floods, or other emergencies.

This was done in the Wilmington television market and people found it to be beneficial. A hurricane almost hit Wilmington around the time of its DTV transition. Because it was a test market, the government would have had the luxury of postponing the transition if a hurricane struck the region. On February 18, 2009, Americans left in the dark will not have that luxury. They would not know if a Nor'easter is on its way, or catastrophic flooding is occurring, or if a terrorist has once again truck our Nation.

We cannot let that happen. We must pass this legislation before we adjourn for the year.

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By Mr. AKAKA (for himself and Mr. PRYOR):

S. 3665. A bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I rise to introduce a bill to enhance the annual leave for Administrative Law Judges, Contract Board of Appeals Judges, and Immigration Law Judges in the Federal Government. I want to thank Senator PRYOR for his support of this bill.

Prior to 2004 Federal employees with less than three years of Federal service accrued annual leave at a rate of 4 hours per biweekly pay period. Employees with 3 to 15 years of service accrued leave at a rate of 6 hours per pay period, and those with over 15 years of service accrued leave at a rate of 8 hours.

As part of the Federal Workforce Flexibility Act of 2004, Congress changed the leave accrual rate for new mid-career employees, allowing agency heads to deem a period of qualified non-federal career experience for an individual an equal period of service performed by Federal employee. In addition, the act stated that all senior executives and other senior level employees shall accrue annual leave at the maximum rate of 8 hours for each biweekly pay period.

In the past, ALJs, CBAJs, IJs and members of the Senior Executive Service have been treated similarly. However, the Office of Personnel Management is now taking the position that these judges should not receive the same leave benefits as members of the SES since they are not under a pay for performance system. In addition to my general concerns over pay for performance, I believe it is inappropriate for ALJs, CBAJs, and IJs to be in such a system as it could threaten their independence. In fact, ALJs and CBAJs are not allowed to receive bonus awards for this very reason.

Given the shortage of ALJs to adjudicate social security benefits and the need to recruit more immigrations judges, I believe that Congress should act to provide these judges with enhanced leave benefits.

I am pleased that this bill has the support of the Association of Administrative Law Judges, the International Federation of Professional and Technical Engineers, the National Association of Immigration Judges, and the Senior Executives Association.

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. 3665

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

**SECTION 1. ACCRUAL RATE OF ANNUAL LEAVE FOR ADMINISTRATIVE LAW JUDGES, CONTRACT APPEALS BOARD MEMBERS, AND IMMIGRATION JUDGES.**

(a) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who—

''(1) holds a position which is subject to—

''(A) section 5372, 5372a, 5376, or 5383; or

''(B) a pay system equivalent to a pay system to which any provision under paragraph (1) applies, as determined by the Office of Personnel Management; or

''(2) is an immigration judge as defined under section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the first day of the first applicable pay period beginning on or after 30 days after the date of enactment of this Act.

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By Ms. KLOBUCHAR (for herself and Mr. HATCH):

S. 3666. A bill to require certain metal recyclers to keep records of their transactions in order to deter individuals and enterprises engaged in theft and interstate fencing of stolen copper, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HATCH. Mr. President, I rise today to introduce with my friend from Minnesota, Senator AMY KLOBUCHAR, the Copper Theft Prevention Act of 2008. I am pleased to be working with Senator KLOBUCHAR on this initiative to curb copper theft, which is on the rise in our country and around the world.

We are living in tough economic times where the value of precious metals is at an all time high. Due to worldwide economic growth, particularly in fast-growing China, copper is worth between $3 to $4 a pound. Copper is used in the manufacturing of consumer goods, and the construction, electric utility, and telecommunications industries. Because of the metal's high ductility, malleability, and electrical conductivity, copper has become the benchmark for all types of wiring.

Stolen copper can easily be turned into cash and a very small percentage of people who steal copper are actually caught. It's no wonder why thieves are stealing copper in every form—costing Americans hundreds of thousands of dollars in theft, damage, and threats to safety.

To steal a large amount of copper quickly and safely, thieves target spools on the back of trucks and storage yards. This was evidenced several months ago in Ogden, Utah, when a thief stole a 1,700-pound load of copper from a metal yard apparently using the metal company's Caterpillar excavator to load it into his truck. I am aware of another occurrence in Utah County where a man was arrested for repeatedly stealing copper wiring nearly every week from a construction company. The thief would load his truck with the wire, then sell it anywhere between $800 and $1,200. The actual value of the wire is more than $18,000.

Some of the most dangerous places to steal copper wire are from substations and from utility poles. According to an April 2007 report published by the U.S. Department of Energy entitled, ''An Assessment of Copper Wire Thefts from Electric Utilities,'' thefts at substations and utility poles are

> related to the large number of methamphetamine users who are stealing copper wire. Medical studies have shown that this drug reduces the ability of the brain to assess risk before taking action; hence users of this drug are not concerned about the risks involved in stealing wire from high voltage substations, utility wires, and transformers. The people who risk their life to steal copper wire from a substation typically only receive a few hundred dollars from the sale of the stolen wire, sufficient for the next drug fix. Thefts from storage sites and trucks are most likely done by professional criminal and not the drug abusers. Storage sites and trucks are also more difficult to break into than an unguarded substation or utility pole.

We must cut off the incentives that fuel such blatant criminal activity, and I believe the proposed legislation goes a long way in accomplishing this goal. Under the proposed bill, scrap metal dealers would be: required to keep records of copper transactions, including the name and address of the seller, the date of the transaction, the quantity and description of the copper being purchased, an identifying number from a driver's license or other government-issued identification and, where possible, the make, model and tag number of the vehicle used to deliver the copper to the scrap dealer.

Required to maintain these records for a minimum of 1 year from the date of the transaction and make them available to law enforcement agencies for use in tracking down and prosecuting copper theft crimes.

Required to perform transactions of more than $250 by check, rather than cash.

Subject to civil penalties of up to $10,000 for failing to document a transaction or engaging in cash transactions of more than $250.

Let me be clear—the bill does not preempt States from enacting their own laws. Indeed, the proposed legislation provides a baseline from which all States must operate.

On this point, Utah law currently requires anyone selling certain metals to provide identification before the sale is final. Some in Utah would like to tighten the law to include additional regulation and legislators would not be precluded from doing so. Indeed, States can enact more robust legislation as necessary.

I am committed to moving this legislation forward and hope that my colleagues will join our effort to refine and enact this important bill as it moves through the legislative process.

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By Mr. BIDEN:

S. 3668. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective services agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the Crime Victims with Disabilities Act of 2008.

Adults with disabilities experience violence or abuse at least twice as often as people without disabilities, and adults with developmental disabilities are at risk of being physically or sexually assaulted at rates four to ten times greater than other adults. In fact, an estimated 5 million crimes are committed annually against persons with developmental disabilities and an estimated 70 percent of these crimes are not reported.

Adding insult to injury, individuals with disabilities suffer additional ''victimization'' within the justice system, due to lack of physical, programmatic, and communications accommodations needed for equal access.

The Crime Victims with Disabilities Act takes a commonsense approach to fixing this problem by providing funds to increase the investigation, prosecution, and prevention of crimes against persons with disabilities and by facilitating collaboration among criminal justice agencies and other agencies and organizations that provide services to people with disabilities to improve services to those who are victimized.

Collaboration among criminal justice agencies and agencies and organizations that provide services to individuals with disabilities is necessary to ensure that crimes are reported and investigated properly, prosecutors are properly trained, appropriate accommodations are provided to disabled victims, and communication between criminal justice agencies and organizations that provide services to individuals with disabilities is effective.

The bill funds a modest grant program that would allow States, units of local government, and Indian Tribes to develop programs to facilitate collaboration among criminal justice agencies and agencies and organizations that provide services to individuals with disabilities for these purposes. The bill authorizes $50,000 for each planning grant and $300,000 for each implementation grant for a total authorization for the grant program of $10 million for the first year.

The bill also authorizes $4 million over 4 years to fund research to assist the Attorney General in collecting valid, reliable national data relating to crimes against individuals with developmental and related disabilities for the National Crime Victims Survey conducted by the Bureau of Justice Statistics of the Department of Justice as required by the Crime Victims with Disabilities Awareness Act. Currently, the Bureau of Justice Statistics does not specifically collect this data, leaving many crimes against persons with disabilities unreported in the survey and making it difficult to address this problem adequately.

The Association of University Centers on Disabilities, the National Center for Victims of Crime, the National Council on Independent Living, the National Disability Rights Network, the National Child Abuse Coalition, Easter Seals, the Arc of the United States, and United Cerebral Palsy have endorsed the bill. I hope my colleagues will join me in supporting this bill which will protect some of the most vulnerable members of our society—individuals with disabilities who are victims of crime.

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. 3668

*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 ''Crime Victims with Disabilities Act of 2008''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Adults with disabilities experience violence or abuse at least twice as often as people without disabilities, and adults with developmental disabilities are at risk of being physically or sexually assaulted at rates four to ten times greater than other adults.

(2) Individuals with disabilities suffer from additional ''victimization'' within the justice system, due to lack of physical, programmatic, and communications accommodations needed for equal access.

(3) Women with disabilities are more likely to be victimized, to experience more severe and prolonged violence, and to suffer more serious and chronic effects from that violence, than women without such disabilities.

(4) Sixty-eight to 83 percent of women with developmental disabilities will be sexually assaulted in their lifetime.

(5) An estimated 5,000,000 crimes are committed against individuals with developmental disabilities annually.

(6) Over 70 percent of crimes committed against individuals with developmental disabilities are not reported.

(7) Studies in the United States, Canada, Australia, and Great Britain consistently show that victims with developmental disabilities suffer repeated victimization because so few of the crimes against them are reported.

(8) The National Crime Victims Survey conducted annually by the Bureau of Justice

Statistics of the Department of Justice, does not specifically collect data relating to crimes against individuals with developmental disabilities, nor do they use disability as a demographic variable as they use other important demographic variables, such as gender, age, and racial and ethnic membership.

**SEC. 3. PURPOSE.**

(a) IN GENERAL.—The purpose of this Act is to increase the awareness, investigation, prosecution, and prevention of crimes against individuals with a disability, including developmental disabilities, and improve services to those who are victimized, by facilitating collaboration among the criminal justice system and a range of agencies and other organizations that provide services to individuals with disabilities.

(b) NEED FOR COLLABORATION.—Collaboration among the criminal justice system and agencies and other organizations that provide services to individuals with disabilities is needed to—

(1) protect individuals with disabilities by ensuring that crimes are reported, and that reported crimes are actively investigated by both law enforcement agencies and agencies and other organizations that provide services to individuals with disabilities;

(2) provide prosecutors and victim assistance organizations with adequate training to ensure that crimes against individuals with disabilities are appropriately and effectively addressed in court;

(3) identify and ensure that appropriate reasonable accommodations are provided to individuals with disabilities in a safe and conducive environment, allowing crimes to be reported accurately to law enforcement agencies; and

(4) promote communication among criminal justice agencies, and agencies and other organizations that provide services to individuals with disabilities, including Victim Assistance Organizations, to ensure that the needs of crime victims with disabilities are met.

**SEC. 4. DEPARTMENT OF JUSTICE CRIME VICTIMS WITH DISABILITIES COLLABORATION PROGRAM.**

The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

**"PART JJ—GRANTS TO RESPOND TO CRIMES AGAINST INDIVIDUALS WITH DISABILITIES**

**"SEC. 3001. CRIME VICTIMS WITH DISABILITIES COLLABORATION PROGRAM GRANTS.**

''(a) DEFINITIONS.—In this section:

''(1) APPLICANT.—The term 'applicant' means a State, unit of local government, Indian tribe, or tribal organization that applies for a grant under this section.

''(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to ensure coordination between or among a criminal justice agency, an adult protective services agency, a victim assistance organization, and an agency or other organization that provides services to individuals with disabilities, including but not limited to individuals with developmental disabilities, to address crimes committed against individuals with disabilities and to provide services to individuals with disabilities who are victims of crimes.

''(3) CRIMINAL JUSTICE AGENCY.—The term 'criminal justice agency' means an agency of a State, unit of local government, Indian tribe, or tribal organization that is responsible for detection, investigation, arrest, enforcement, adjudication, or incarceration relating to the violation of the criminal laws of that State, unit of local government, Indian tribe, or tribal organization, or an agency contracted to provide such services.

''(4) ADULT PROTECTIVE SERVICES AGENCY.—The term 'adult protective services agency' means an agency that provides adult protective services to adults with disabilities, such as the protection and advocacy systems established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043), including—

''(A) receiving reports of abuse, neglect, or exploitation;

''(B) investigating the reports described in subparagraph (A);

''(C) case planning, monitoring, evaluation, and other casework and services; and

''(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services for adults with disabilities.

''(5) DAY PROGRAM.—The term 'day program' means a government or privately funded program that provides care, supervision, social opportunities, or jobs to individuals with disabilities.

''(6) IMPLEMENTATION GRANT.—The term 'implementation grant' means a grant under subsection (e).

''(7) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means individuals—

''(A) 18 years of age or older; and

''(B) who have a developmental, cognitive, physical, or other disability that results in substantial functional limitations in 1 or more of the following areas of major life activity:

''(i) Self-care.

''(ii) Receptive and expressive language.

''(iii) Learning.

''(iv) Mobility.

''(v) Self-direction.

''(vi) Capacity for independent living.

''(vii) Economic self-sufficiency.

''(viii) Cognitive functioning.

''(ix) Emotional adjustment.

''(8) PLANNING GRANT.—The term 'planning grant' means a grant under subsection (f).

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(10) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State.

''(b) AUTHORIZATION.—In consultation with the Secretary, the Attorney General may make grants to applicants to prepare a comprehensive plan for or to implement a collaboration program that provides for—

''(1) the investigation and remediation of instances of abuse of or crimes committed against individuals with disabilities; or

''(2) the provision of services to individuals with disabilities who are the victims of a crime or abuse.

''(c) USE OF FUNDS.—A grant under this section shall be used for a collaborative program that—

''(1) receives reports of abuse of individuals with disabilities or crimes committed against such individuals;

''(2) investigates and evaluates reports of abuse of or crimes committed against individuals with disabilities;

''(3) visits the homes or other locations of abuse, and, if applicable, the day programs of individuals with disabilities who have been victims of abuse or a crime for purposes of, among other things, assessing the scene of the abuse and evaluating the condition and needs of the victim;

''(4) identifies the individuals responsible for the abuse of or crimes committed against individuals with disabilities;

''(5) remedies issues identified during an investigation described in paragraph (2);

''(6) prosecutes the perpetrator, where appropriate, of any crime identified during an investigation described in paragraph (2);

''(7) provides services to and enforces statutory rights of individuals with disabilities who are the victims of a crime; and

''(8) develops curricula and provides interdisciplinary training for prosecutors, criminal justice agencies, protective service agencies, victims assistance agencies, educators, community based providers and health, mental health, and allied health professionals in the area of disabilities, including developmental disabilities.

''(d) APPLICATIONS.—

''(1) IN GENERAL.—To receive a planning grant or an implementation grant, an applicant shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General, in consultation with the Secretary, may reasonably require, in addition to the information required by subsection (e)(1) or (f)(1), respectively.

''(2) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—

''(A) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall develop a procedure allowing an applicant to submit a single application requesting both a planning grant and an implementation grant.

''(B) CONDITIONAL GRANT.—The award of an implementation grant to an applicant submitting an application under subparagraph (A) shall be conditioned on successful completion of the activities funded under the planning grant, if applicable.

''(e) PLANNING GRANTS.—

''(1) APPLICATIONS.—An application for a planning grant shall include, at a minimum—

''(A) a budget;

''(B) a budget justification;

''(C) a description of the outcome measures that will be used to measure the effectiveness of the program;

''(D) a schedule for completing the activities proposed in the application;

''(E) a description of the personnel necessary to complete activities proposed in the application; and

''(F) provide assurances that program activities and locations are and will be in compliance with section 504 of the Rehabilitation Act of 1973 throughout the grant period.

''(2) PERIOD OF GRANT.—A planning grant shall be made for a period of 1 year, beginning on the first day of the month in which the planning grant is made.

''(3) AMOUNT.—The amount of planning grant shall not exceed $50,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

''(4) LIMIT ON NUMBER.—The Attorney General, in consultation with the Secretary, shall not make more than 1 such planning grant to any State, unit of local government, Indian tribe, or tribal organization.

''(f) IMPLEMENTATION GRANTS.—

''(1) IMPLEMENTATION GRANT APPLICATIONS.—An application for an implementation grant shall include the following:

''(A) COLLABORATION.—An application for an implementation grant shall—

''(i) identify not fewer than 1 criminal justice enforcement agency or adult protective services organization and not fewer than 1 agency, crime victim assistance program, or other organization that provides services to individuals with disabilities, such as the protection and advocacy systems established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043), that will participate in the collaborative program; and

''(ii) describe the responsibilities of each participating agency or organization, including how each agency or organization will use grant funds to facilitate improved responses to reports of abuse and crimes committed against individuals with disabilities.

''(B) GUIDELINES.—An application for an implementation grant shall describe the guidelines that will be developed for personnel of a criminal justice agency, adult protective services organization, crime victim assistance program, and agencies or other organizations responsible for services provided to individuals with disabilities to carry out the goals of the collaborative program.

''(C) FINANCIAL.—An application for an implementation grant shall—

''(i) explain why the applicant is unable to fund the collaboration program adequately without Federal funds;

''(ii) specify how the Federal funds provided will be used to supplement, and not supplant, the funding that would otherwise be available from the State, unit of local government, Indian tribe, or tribal organization; and

''(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of the grant under this section.

''(D) OUTCOMES.—An application for an implementation grant shall—

''(i) identify the methodology and outcome measures, as required by the Attorney General, in consultation with the Secretary, for evaluating the effectiveness of the collaboration program, which may include—

''(I) the number and type of agencies participating in the collaboration;

''(II) any trends in the number and type of cases referred for multidisciplinary case review;

''(III) any trends in the timeliness of law enforcement review of reported cases of violence against individuals with a disability; and

''(IV) the number of persons receiving training by type of agency;

''(ii) describe the mechanisms of any existing system to capture data necessary to evaluate the effectiveness of the collaboration program, consistent with the methodology and outcome measures described in clause (i) and including, where possible, data regarding—

''(I) the number of cases referred by the adult protective services agency, or other relevant agency, to law enforcement for review;

''(II) the number of charges filed and percentage of cases with charges filed as a result of such referrals;

''(III) the period of time between reports of violence against individuals with disabilities and law enforcement review; and

''(IV) the number of cases resulting in criminal prosecution, and the result of each such prosecution; and

''(iii) include an agreement from any participating or affected agency or organization to provide the data described in clause (ii).

''(E) FORM OF DATA.—The Attorney General, in consultation with the Secretary, shall promulgate and supply a common electronic reporting form or other standardized mechanism for reporting of data required under this section.

''(F) COLLABORATION SET ASIDE.—Not less than 5 percent and not more than 10 percent of the funds provided under an implementation grant shall be set aside to procure technical assistance from any recognized State model program or from a recognized national organization, as determined by the Attorney General (in consultation with the Secretary), including the National District Attorneys Association and the National Adult Protective Services Association.

''(G) OTHER PROGRAMS.—An applicant for an implementation grant shall describe the relationship of the collaboration program to any other program of a criminal justice agency or other agencies or organizations providing services to individuals with disabilities of the State, unit of local government, Indian tribe, or tribal organization applying for an implementation grant.

''(2) PERIOD OF GRANT.—

''(A) IN GENERAL.—An implementation grant shall be made for a period of 2 years, beginning on the first day of the month in which the implementation grant is made.

''(B) RENEWAL.—An implementation grant may be renewed for 1 additional period of 2 years, if the applicant submits to the Attorney General and the Secretary a detailed explanation of why additional funds are necessary.

''(3) AMOUNT.—An implementation grant shall not exceed $300,000.

''(g) EVALUATION OF PROGRAM EFFICACY.—

''(1) ESTABLISHMENT.—The Attorney General, in consultation with the Secretary, shall establish a national center to evaluate the overall effectiveness of the collaboration programs funded under this section.

''(2) RESPONSIBILITIES.—The national center established under paragraph (1) shall—

''(A) analyze information and data supplied by grantees under this section; and

''(B) submit an annual report to the Attorney General and the Secretary that evaluates the number and rate of change of reporting, investigation, and prosecution of charges of a crime or abuse against individuals with disabilities.

''(3) AUTHORIZATION.—The Attorney General may use not more than $500,000 of amounts made available under subsection (h) to carry out this subsection.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

''(1) $10,000,000 for fiscal year 2009; and

''(2) such sums as are necessary for each of fiscal years 2010 through 2015.''.

**SEC. 5. RESEARCH GRANT AND REPORT.**

(a) IN GENERAL.—The purpose of this section is to provide for research to assist the Attorney General in collecting valid, reliable national data relating to crimes against individuals with developmental and related disabilities for the National Crime Victims Survey conducted by the Bureau of Justice Statistics of the Department of Justice as required by the Crime Victims with Disabilities Awareness Act.

(b) NATIONAL INTERDISCIPLINARY ADVISORY COUNCIL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a national interdisciplinary advisory council (referred to in this section as the ''advisory council''), that includes individuals with disabilities, which shall provide input into the methodologies used to collect valid, reliable national data on crime victims with developmental and related disabilities, participate in reviewing the data collected through the research grant program, and assist in writing the final report.

(2) RECOMMENDED METHODOLOGY.—Not later than 6 months after the establishment of the advisory council, the advisory council shall provide to the Secretary of Health and Human Services its recommended methodology for collecting incidence data on violence against people with developmental and related disabilities.

(c) RESEARCH GRANT PROGRAM.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall—

(1) review the methodology developed by the advisory council related to collecting incidence data on violence against people with developmental and related disabilities; and

(2) based on such review, shall award grants in accordance with this section to eligible recipients, to collect valid, reliable national data on crime victims with developmental and related disabilities that can be validly compared to data from the National Crime Victims Survey.

(d) REPORT.—Not later than 12 months after the Secretary of Health and Human Services awards the research grants under subsection (c), the advisory council shall review the data eligible recipients of the grants collected and write a report to be presented to the Secretary of Health and Human Services, the Attorney General, and the Bureau of Justice Statistics.

(e) DEFINITIONS.—

(1) ELIGIBLE RECIPIENT.—The term ''eligible recipient'' means—

(A) a State agency;

(B) a private, nonprofit organization;

(C) a University Center for Excellence in Developmental Disabilities; or

(D) any public entity that has a demonstrated ability to—

(i) collaborate with criminal justice, child welfare, and other agencies and organizations that provide services to individuals with disabilities, including victim assistance and violence prevention organizations, to ensure that incidence data can be aggregated to accurately show the incidence of abuse of individuals with disabilities nationally; and

(ii) conduct research and collect data to measure the extent of the problem of crimes against individuals with developmental and related disabilities, including—

(I) understanding the nature and extent of crimes against individuals with developmental and related disabilities, including domestic violence and all types of abuse;

(II) describing the manner in which the justice system responds to crimes against individuals with developmental and related disabilities; and

(III) identifying programs, policies, or laws that hold promises for making the justice system more responsive to crimes against individuals with developmental and related disabilities.

(2) DEVELOPMENTAL DISABILITIES.—The term ''developmental disabilities'' has the meaning given that term in section 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002(8)).

(3) RELATED DISABILITIES.—The term ''related disabilities'' means autism spectrum disorders, cerebral palsy, spina bifida, epilepsy, traumatic brain injury, or other lifelong disabilities that are acquired prior to the age of 21.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2009 through 2012.

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By Mr. VOINOVICH:

S. 3669. A bill to reduce gas prices by promoting domestic energy production, alternative energy, and conservation, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation, the Harmonizing America's Energy, Economy, Environment, and National Security Act, that I believe can lead our Nation out of the current energy crisis.

Much of the Nation's attention has understandably been focused on the financial turmoil taking place on Wall Street. Since the very beginning, I have been hard at work in addressing the financial crisis and I will be supporting the economic stabilization bill when the Senate votes tonight.

But I will vote with a heavy heart, for I have spent my entire career focusing on eliminating debt at the local, State and Federal level. While deciding to vote for a package of this magnitude feels like being punched in the gut, the thought of what would happen to average Americans if we did nothing is much more painful. I am, however, very pleased to see that any profit we may make off this deal will be used to pay down the national debt.

This is affecting not only Wall Street but Main Street and my street. Ohioans depend on credit to buy a home, drive to work and send their children to school. If this doesn't pass, the possible ramifications are staggering. Imagine if you can, businesses laying off staff or closing completely because they can't make payroll; retirement funds that have already taken a dramatic hit being reduced to nothing; parents unable to get a loan to pay for child's college tuition; families unable to get credit for a car or a house; cities unable to float bonds to build hospitals or schools; and home prices continuing to plummet.

We must act Mr. President. We must set aside our differences and our ideologies and do what is right. But our work cannot stop here. We must make a full-court press to stabilize the housing market and secure our energy supplies. While we have been debating and acting on the financial crisis, our energy crisis has not only continued, but in many ways grown worse. It remains an issue that needs to be addressed sooner rather than later, and if our economy is to quickly recover, a comprehensive energy policy will need to be part of the equation.

I have heard loud and clear from thousands of Ohioans how this energy crisis is directly affecting them and their loved ones. They are expecting that we work together in bipartisan fashion to craft legislation that will address our Nation's long-term energy requirements.

Take for example, the severe fuel supply disruption created by our short-sighted offshore drilling policy and hurricanes Ike and Gustav. Both hurricanes followed paths that paved straight through the heart of our Nation's offshore oil production and home to the bulk of our refining capacity. Due to the frequency of gulf hurricanes, many oil experts have pointed to this as a reason we need to open additional areas of the Outer Continental Shelf outside of the Gulf of Mexico. With 25 percent of our oil production currently taking place within the Gulf of Mexico, gulf hurricanes frequently lead to wild price spikes in the gasoline market as oil rigs and refineries are taken off line to avoid damage and loss of life.

According to the Energy Information Agency, Ike and Gustav lead to a 25 percent drop in our domestic oil production compared to this time last year, from 5.1 billion barrels a day to 3.8 billion barrels per day. The loss in refining capacity cut our gasoline inventories to levels we have not seen since 1967, resulting in widespread fuel shortages that left many in the Southeast driving from gas station to gas station, desperate to find fuel for their cars. Much of the reason why these supply disruptions have not spread across the country is that we have reached out and imported large quantities of gasoline from overseas. Some of which has undoubtedly come from countries like Venezuela, that do not have our best interests at heart.

This situation is cause for concern in its own right, but is also underscored by the current financial crisis and the fact that this is no longer a question about the price of oil. Energy security is a matter of national security.

We have clearly ignored our financial situation for far too long. The national debt stands at $9.6 trillion, almost double the $5.4 trillion debt that existed when the senator came to the Senate in 1999. By the end of 2009, the national debt is expected to have grown to $10.5 trillion. The Congressional Budget Office said the Federal Government will finish the fiscal year with a near-record deficit of $407 billion. These numbers do not include borrowing from the Social Security Trust Fund which would put the overall number close to $600 billion and $700 billion by next year.

We cannot overlook our ballooning national debt. Today, 51 percent of the privately-owned national debt is held by foreign creditors—mostly foreign central banks. Foreign creditors provided more than 70 percent of the funds that the U.S. has borrowed since 2001, according to the Department of Treasury. And who are these creditors?

According to the Treasury Department, the three largest foreign holders of U.S. debt are China, Japan, and OPEC Nations.

This is insane and it has to stop. We cannot afford to allow the countries that control our oil and our debt to control our future.

Americans are hurting from our addiction to oil, I'm not sure they fully realize the extent our national security, and indeed our very way of life, is threatened by our reliance on foreign oil.

Every year we send billions of dollars overseas for oil to pad the coffers of many Nations that wish our demise. In fact, in 2007, we spent more than $327 billion to import oil, and 60 percent of that, or nearly $200 billion, went to the oil-exporting OPEC nations. In 2008, the amount we will spend to import oil is expected to double to more than $600 billion, $360 billion of which will come from OPEC. Let's take a moment to put those import figures into context. When compared to our FY2008 budget for our Nation's defense, which was more than $693 billion, the $600 billion we will spend to import oil in 2008 is nearly equal to our entire defense budget.

There is no question that our dependence on foreign oil has serious national security implications. In addition to funding our enemies—as I just explained—we cannot ignore the fact that much of our oil comes from and travels through the most volatile regions of the world.

A couple of years ago, I attended a series of war games hosted by the National Defense University. I saw first-hand how our country's economy could be brought to its knees if somebody cut off our oil.

In 2006, Hillard Huntington, Executive Director of Stanford University's Energy Modeling Forum testified before the Senate Foreign Relations Committee, and based on his modeling, ''the odds of a foreign oil disruption happening over the next 10 years are slightly higher [than] 80 percent.'' He went on to testify that if global production were reduced by merely 2.1 percent due to some event, that it would have a more serious effect on oil prices and the economy than hurricanes Katrina and Rita.

Let us take a moment to think of our Nation like a business. Our feedstock is oil, and our of competitors control the cost of our oil. We have debt, but our competitors also control our debt. What's to keep our competitors from raising prices, calling in our debt and running us out of business?

I hope this scenario scares you as much as it scares me.

But also keep in mind, that as Congress sat here and twiddle its thumbs over simply expanding domestic drilling within our own borders, Russia and China were actively and aggressively laying claim to energy resources around the globe.

Russia, the world's second biggest oil exporter, has its sights on a large section of the Arctic seafloor that is believed to contain billion of barrels of fuel equivalent. The country has also made moves to control a larger portion of the world's natural gas reserves. Russia, which has significant reserves of natural gas, is considering the creation of a natural gas cartel similar to OPEC. Venezuela and Iran have expressed interest.

Russia has proven it has no qualms with using energy as a weapon. In 1990, Russia tried to suppress independence movements in the Baltics by cutting energy supplies. In all, Russia has used energy as a tool to further their foreign policy goals on no less than six countries. Energy is believed to be one of the driving reasons for Russia's military action in the independent nation of Georgia.

China as well is moving ahead in securing its energy future. In Africa, China is handing out loans and funding

expansive infrastructure projects in an effort to lay claim to lucrative oil reserves. With the help of Chinese investment, Angola recently passed Nigeria to become the largest petroleum producer on the continent.

I am going to be brutally honest with you folks, the future of our country is in jeopardy. We cannot continue to transfer our wealth overseas to this degree without expecting serious consequences. Rather than addressing these national security concerns we have been living the life of Riley, and allowed the environmental movement to run wild.

Congress let them get away with. We let them get away with it Mr. President. Why? Because oil was cheap and so Congress felt no urgency to act. Well, oil is not cheap anymore. While detrimental to our economy and competitiveness, the high price of oil finally spurred some of my colleagues into action and I am proud that Congress has taken some steps to address the energy crisis.

The recently passed fiscal year 2009 Continuing Resolution removed the moratoria on oil exploration in the Outer Continental Shelf and moratorium on regulations for the development of oil shale. Reserves in the Outer Continental Shelf are believed to equal 8.5 billion barrels of oil, and undiscovered resources could equal ten times that. There are currently 800 billion barrels of technically recoverable reserves locked up in our Nation's oil shale. This is three times larger than the total proven oil reserves of Saudi Arabia.

The Senate has also passed a tax extenders package that includes many incentives to develop advanced alternative energies that will lead our country to a future free of oil. Included in the package were popular tax credits for the wind and solar industry that have helped foster strong emerging industries in my home State of Ohio.

Congress needs to continue to act. I believe the Harmonizing America's Energy, Economy, Environment, and National Security Act is the vehicle for a bipartisan effort to develop a meaningful comprehensive energy plan.

Addressing this crisis requires nothing less than a Second Declaration of Independence—to move us away from foreign sources of energy in the near term and away from oil in the long term.

As you know, oil is not easily found nor substituted, and it will remain an integral component to our economy in the short-term. But we must make investments today that will help us achieve our goal tomorrow. To do this I believe we must find more, use less, and conserve what we have.

In order to find more and stabilize our Nation's energy supply, my legislation would encourage the development of oil resources within the Outer Continental Shelf and with regards to our oil shale reserves. It would also open ANWR to responsible development, where it is believed that there is over 10 billion barrels of oil.

While these resources will not physically come online for a number of years, moves to expand development will send a clear signal to the market that we are serious about meeting our future energy demands and begin to drive down the cost of oil because investors will know that gas won't be worth as much in the future and will therefore sell it off today—lowering the cost immediately.

And while we must increase our production of fossil fuels to relieve costs and reestablish our independence in the short term, in the long term we must reduce our demand for oil.

With that goal in mind, it is essential that we explore alternative means to meet our Nation's energy needs.

It is long past time for our government to provide the spark to rekindle our Nation's creativity and innovation. Following Russia's launch of Sputnik, President Kennedy challenged our country to be the first in the world to land a man on the moon. We must now undertake a similar Apollo-like project to establish clean, reliable and domestically abundant energy alternatives and in turn usher in a new era of American freedom and independence.

My legislation would help to fund such a project by setting aside a portion of the federal revenues raised through lease revenues in the Outer Continental Shelf and ANWR to be used for the development of advanced alternative energies, like wind, solar, fuel cells, advanced batteries, and advanced biofuels. It would also set aside funds to be explicitly to boost funding for the Low-Income Home Energy Assistance Program and to pay down our national debt.

The bill will also repeal Section 526, a provision that places our domestic coal-to-liquid industry in jeopardy. We have the largest coal reserves in the world, and at current rates of consumption, U.S. coal deposits will last for more than 240 years.

Coal can provide significant new supplies of affordable synthetic fuels for transportation. A lot of Americans don't understand that many country's get their oil from coal. In fact, South Africa gets nearly 70 percent of their oil from coal. But we are beginning to make advances here. In fact, Baard Energy is planning a CTL and biomass facility in SE Ohio that will produce 53,000 BPD of jet and diesel fuel, and other liquid production from coal and biomass feedstocks.

Last but not least, as we look to increase our supply and spark new innovation, we must also be more responsible with the energy we currently use. My legislation would fund the development of new conservation technologies and practices and would help to disseminate these across the country.

Americans today demand action and they demand we come together in a bipartisan fashion to solve our energy crisis. For 10 years I have been a member of the Environmental and Public Works Committee and for 10 years I have tried to coax Congress into harmonizing our energy, economy and the environment. Congress has refused and now the chickens have come home to roost.

I believe that the best message we can send to OPEC, those investing in the oil market, and indeed the entire world, is that we get it. We must demonstrate that we are going to find more by going after every drop of oil that we can responsibly drill and that we are going to use less by undertaking a new Apollo project to make the U.S. the most oil independent nation in the world.

I envision an America ten years from now where we have enough oil to take care of our needs. I imagine an America that is the least reliant country in the world on oil, an America where our economy is not threatened by our reliance on foreign energy sources. It will be an America that has created hundreds of thousands of jobs through the responsible development of our Nation's resources and the through the creation of new industries in the field of alternative energy.

Wouldn't it be great for our children and grandchildren to one day celebrate the time America put aside its differences and came together to reaffirm its independence a second time and rekindled the American spirit of self reliance, innovation and creativity to usher in new era of prosperity?

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. 3669

*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 ''Harmonizing America's Energy, Economy, Environment, and National Security 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—DOMESTIC ENERGY PRODUCTION

Subtitle A—Outer Continental Shelf

Sec. 101. Termination of prohibitions on expenditures for, and withdrawals from, offshore and onshore leasing and other limitations on energy production.
Sec. 102. Coordination with Secretary of Defense on leasing.
Sec. 103. Sharing of revenues.

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. Rights-of-way and easements across coastal plain.

Sec. 118. Conveyance.
Sec. 119. Local government impact aid and community service assistance.
Sec. 120. Allocation of revenues.
Subtitle C—Oil Shale
Sec. 131. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.
TITLE II—ALTERNATIVE ENERGY AND CONSERVATION
Subtitle A—Conservation Reserve and Renewable Energy Reserve Accounts
Sec. 201. Conservation Reserve and Renewable Energy Reserve Accounts.
Subtitle B—Department of Defense Facilitation of Secure Domestic Fuel Development
Sec. 211. Procurement and acquisition of alternative fuels.

## TITLE I—DOMESTIC ENERGY PRODUCTION

### Subtitle A—Outer Continental Shelf

**SEC. 101. TERMINATION OF PROHIBITIONS ON EXPENDITURES FOR, AND WITHDRAWALS FROM, OFFSHORE AND ONSHORE LEASING AND OTHER LIMITATIONS ON ENERGY PRODUCTION.**

(a) PROHIBITIONS ON EXPENDITURES.—Notwithstanding any other provision of law, all provisions of Federal law that prohibit the expenditure of appropriated funds to conduct natural gas, oil, oil shale, and other energy production leasing, preleasing, and related activities on Federal land shall have no force or effect with respect to the activities.

(b) REVOCATION WITHDRAWALS.—Notwithstanding any other provision of law, all withdrawals of Federal submerged land of the outer Continental Shelf from leasing (including withdrawals by the President under section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(a)), are revoked and are no longer in force or effect with respect to the leasing of areas for exploration for, and development and production of, natural gas and oil.

(c) GULF OF MEXICO OIL AND GAS.—Section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is repealed.

(d) CONFORMING AMENDMENTS.—

(1) 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.

(2) 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 by striking ''Except as provided in section 104, the'' and inserting ''The''.

**SEC. 102. COORDINATION WITH SECRETARY OF DEFENSE ON LEASING.**

The Outer Continental Shelf Lands Act is amended by inserting after section 9 (43 U.S.C. 1338) the following:

**''SEC. 10. COORDINATION WITH SECRETARY OF DEFENSE ON LEASING.**

''(a) IN GENERAL.—The Secretary shall consult with the Secretary of Defense regarding military operations needs for the outer Continental Shelf.

''(b) CONFLICTS.—

''(1) IN GENERAL.—The Secretary shall work with the Secretary of Defense to resolve any conflict that may arise between operations described in subsection (a) and leasing under this Act.

''(2) UNRESOLVED ISSUES.—If the Secretary and the Secretary of Defense are unable to resolve any conflict described in paragraph (1), any unresolved issue shall be referred by the Secretaries to the President in a timely fashion for immediate resolution.''.

**SEC. 103. SHARING OF REVENUES.**

(a) IN GENERAL.—Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended—

(1) in paragraph (2), by striking ''(2) Notwithstanding'' and inserting the following:

''(2) DISPOSITION OF REVENUES.—Except as provided in paragraph (6) and notwithstanding'';

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

''(6) BONUS BIDS AND ROYALTIES UNDER QUALIFIED LEASES.—

''(A) DEFINITIONS.—In this paragraph:

''(i) ADJACENT STATE.—The term 'adjacent State' means, with respect to any program, plan, lease sale, leased tract, or other activity proposed, conducted, or approved pursuant to 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 the program, plan, lease sale, leased tract, or activity applies or is, or is proposed to be, conducted.

''(ii) ADJACENT ZONE.—The term 'adjacent zone' means, with respect to any program, plan, lease sale, leased tract, or other activity proposed, conducted, or approved pursuant to this Act, the portion of the outer Continental Shelf for which the laws of an adjacent State are declared, pursuant to section 4(a)(2), to be the law of the United States.

''(iii) PRODUCING STATE.—The term 'producing State' means an adjacent State having an adjacent zone containing leased tracts from which are derived bonus bids and royalties under a lease under this Act.

''(iv) QUALIFIED LEASE.—The term 'qualified lease' means a natural gas or oil lease made available under this Act granted after the date of enactment of the Harmonizing America's Energy, Economy, Environment, and National Security Act of 2008, for an area that is available for leasing as a result of enactment of section 101 of that Act.

''(v) STATE.—The term 'State' includes—

''(I) the Commonwealth of Puerto Rico; and

''(II) any other territory or possession of the United States.

''(B) NEW LEASES.—Of amounts received by the United States as bonus bids, royalties, rentals, and other sums collected under any qualified lease on submerged land made available for leasing under this Act by the enactment of section 101 of the Harmonizing America's Energy, Economy, Environment, and National Security Act of 2008 that are located within the seaward boundaries of a State established under section 4(a)(2)(A)—

''(i) 27 percent shall be paid to producing States with respect to that submerged land;

''(ii) 25 percent shall be deposited in the Conservation Reserve Account established by section 201(a)(1) of the Harmonizing America's Energy, Economy, Environment, and National Security Act of 2008;

''(iii) 25 percent shall be deposited in the Renewable Energy Reserve Account established by section 201(a)(2) of that Act;

''(iv) 20 percent shall be deposited in the general fund of the Treasury of the United States for debt reduction; and

''(v) subject to the availability of appropriations, 3 percent may be available to the Secretary of Health and Human Services for carrying 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.).

''(C) LEASED TRACT THAT LIES PARTIALLY WITHIN THE SEAWARD BOUNDARIES OF A STATE.—In the case of a leased tract that lies partially within the seaward boundaries of a State, the amount of bonus bids and royalties from the tract that is subject to subparagraph (B) with respect to the State shall be a percentage of the total amounts of bonus bids and royalties from the tract that is equivalent to the total percentage of the surface acreage of the tract that lies within the seaward boundaries.

''(D) APPLICATION.—This paragraph applies to bonus bids and royalties received by the United States under qualified leases after September 30, 2008.''.

(b) ESTABLISHMENT OF STATE SEAWARD BOUNDARIES.—Section 4(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)) is amended—

(1) by striking ''(2)(A) To'' and inserting the following:

''(2) LAWS OF ADJACENT STATES; INTERNATIONAL BOUNDARY DISPUTES.—

''(A) LAWS OF ADJACENT STATES.—

''(i) IN GENERAL.—To''; and

(2) in subparagraph (A)—

(A) in the first sentence, by striking '', and the President'' and all that follows through the end of the sentence and inserting a period;

(B) by inserting after clause (i) (as designated by paragraph (1)) the following:

''(ii) EXTENDED LINES.—

''(I) IN GENERAL.—Subject to subclauses (II) and (III), the extended lines described in clause (i) shall be considered to be indicated on the maps for each outer Continental Shelf region entitled—

''(aa) 'Alaska OCS Region State Adjacent Zone and OCS Planning Areas';

''(bb) 'Pacific OCS Region State Adjacent Zones and OCS Planning Areas';

''(cc) 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas'; and

''(dd) 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas'.

''(II) MAPS.—For the purpose of subclause (I), all of the maps described in subclause (I) are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

''(III) GULF OF MEXICO.—Subclause (I) shall not apply with respect to the treatment under section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) of qualified outer Continental Shelf revenues deposited and disbursed under section 105(a)(2) of that Act.''; and

(C) by striking ''All of such applicable laws'' and inserting the following:

''(iii) ADMINISTRATION; ENFORCEMENT.—The applicable laws described in subparagraph (A)''.

### 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. 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. 118. 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. 119. 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 120(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 Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 120(1).

(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 land lies 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. 120. 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) 27 percent shall be disbursed to the State of Alaska.

(2) 25 percent shall be deposited in the Conservation Reserve Account established by section 201(a)(1).

(3) 25 percent shall be deposited in the Renewable Energy Reserve Account established by section 201(a)(2).

(4) 20 percent shall be deposited in the general fund of the Treasury of the United States for debt reduction.

(5) 3 percent shall be available to the Secretary of Health and Human Services for carrying 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.).

## Subtitle C—Oil Shale

**SEC. 131. 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.

# TITLE II—ALTERNATIVE ENERGY AND CONSERVATION

## Subtitle A—Conservation Reserve and Renewable Energy Reserve Accounts

**SEC. 201. CONSERVATION RESERVE AND RENEWABLE ENERGY RESERVE ACCOUNTS.**

(a) IN GENERAL.—For budgetary purposes, there are established in the Treasury of the United States as separate accounts—

(1) the Conservation Reserve Account, to offset the cost of legislation enacted on or after the date of enactment of this Act for conservation programs (including weatherization) and conservation tax credits and deductions for energy efficiency in the residential, commercial, industrial, and public sectors (including conservation districts); and

(2) the Renewable Energy Reserve Account, to offset the cost of legislation enacted on or after the date of enactment of this Act—

(A) to accelerate the use of cleaner domestic energy resources and alternative fuels;

(B) to promote the use of energy-efficient products and practices; and

(C) to increase research, development, and deployment of clean renewable energy and efficiency technologies and job training programs for those purposes.

(b) PROCEDURE FOR ADJUSTMENTS.—

(1) BUDGET COMMITTEE CHAIRMAN.—After the reporting of a bill or joint resolution, or the offering of an amendment or the submission of a conference report for a bill or joint resolution, that provides funding for the purposes described in paragraph (1) or (2) of subsection (a) in excess of the amount of the deposits under this Act or an amendment made by this Act for those purposes for fiscal year 2009, the chairman of the Committee on the Budget of the applicable House of Congress shall make the adjustments described in paragraph (2) for the amount of new budget authority and outlays in that measure and the outlays resulting from the budget authority.

(2) MATTERS TO BE ADJUSTED.—The adjustments referred to in paragraph (1) shall be made to—

(A) the discretionary spending limits, if any, specified in the appropriate concurrent resolution on the budget;

(B) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)); and

(C) the budget aggregates contained in the appropriate concurrent resolution on the budget as required by section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)).

(3) AMOUNTS OF ADJUSTMENTS.—The adjustments referred to in paragraphs (1) and (2) shall not exceed the receipts estimated by the Congressional Budget Office that are attributable to this Act and the amendments made by this Act for the fiscal year in which the adjustments are made.

(c) CONSULTATION.—Legislation shall not be treated as legislation referred to in subsection (a) unless any expenditure under the legislation for a purpose referred to in that subsection may be made only after consultation with (as appropriate)—

(1) the Administrator of the Environmental Protection Agency;

(2) the Administrator of the National Oceanic and Atmospheric Administration;

(3) the Secretary of the Army, acting through the Corps of Engineers; and

(4) the Secretary of State.

(d) MAINTENANCE OF EFFORT BY STATES.—The Secretary of the Interior, the Secretary of Health and Human Services, the Secretary of Energy, and any other Federal official with authority to implement legislation referred to in subsection (a) shall ensure that financial assistance provided to a State under the legislation for any purpose with amounts made available under this section or in any legislation with respect to which subsection (a) applies supplements, and does not replace, the amounts expended by the State for that purpose before the date of enactment of this Act.

**Subtitle B—Department of Defense Facilitation of Secure Domestic Fuel Development**

**SEC. 211. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.**

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

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By Mr. BUNNING:

S. 3670. A bill to regulate certain State and local taxation of electronic commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BUNNING. 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. 3670

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

**SECTION 1. MINIMUM JURISDICTIONAL STANDARD FOR STATE AND LOCAL TAXES ON ELECTRONIC COMMERCE.**

(a) IN GENERAL.—No taxing authority of a State shall have power to require the collection and remittance of a State tax by any person resulting from the electronic commerce of such person unless such person has a physical presence in the State during the taxable period with respect to which the tax is imposed.

(b) REQUIREMENTS FOR PHYSICAL PRESENCE.—

(1) IN GENERAL.—For purposes of subsection (a), a person has a physical presence in a State only if such person's electronic commerce in the State includes any of the following during such person's taxable year:

(A) Being an individual physically in the State, or assigning one or more employees to be in the State.

(B) Using the services of an agent (excluding an employee) to establish or maintain the electronic commerce in the State, if such agent does not perform the same services in the State for any other person during such taxable year.

(C) The leasing or owning of tangible personal property or of real property in the State.

(2) DE MINIMIS PHYSICAL PRESENCE.—For purposes of this section, the term ''physical presence'' shall not include—

(A) entering into an agreement to share revenue generated by an electronic commerce presence owned or maintained by a person who is physically present in a State;

(B) presence in a State for less than 15 days in a taxable year (or a greater number of days if provided by State law); and

(C) presence in a State to conduct limited or transient business activity.

(c) TAXABLE PERIODS NOT CONSISTING OF A YEAR.—If the taxable period for which the tax is imposed is not a year, then any requirements expressed in days for establishing physical presence under this Act shall be adjusted pro rata accordingly.

(d) MINIMUM JURISDICTIONAL STANDARD.—This section provides for minimum jurisdictional standards and shall not be construed to modify, affect, or supersede the authority of a State or any other provision of Federal law allowing persons to conduct greater activities without the imposition of tax jurisdiction.

(e) EXCEPTIONS.—

(1) DOMESTIC BUSINESS ENTITIES AND INDIVIDUALS DOMICILED IN, OR RESIDENTS OF, THE STATE.—Subsection (a) shall not apply with respect to—

(A) a person (other than an individual) that is incorporated or formed under the laws of the State (or domiciled in the State) in which the tax is imposed; or

(B) an individual who is domiciled in, or a resident of, the State in which the tax is imposed.

(2) PRESERVATION OF AUTHORITY.—This section shall not be construed to modify, affect, or supersede the authority of a State to bring an enforcement action against a person or entity that may be engaged in an illegal activity, a sham transaction, or any perceived or actual abuse in its electronic commerce if such enforcement action does not modify, affect, or supersede the operation of any provision of this section or of any other Federal law.

(f) RULE OF CONSTRUCTION.—This section shall not be construed to modify, affect, or supersede the operation of title I of the Act entitled ''An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto'', approved September 14, 1959 (15 U.S.C. 381 et seq.).

(g) DEFINITIONS, ETC.—For purposes of this section:

(1) ELECTRONIC COMMERCE.—The term ''electronic commerce'' has the meaning given that term in section 1105(3) of the Internet Tax Freedom Act (47 U.S.C. 151 note).

(2) PERSON.—The term ''person'' has the meaning given such term by section 1 of title 1 of the United States Code.

(3) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any territory or possession of the United States, or any political subdivision of any of the foregoing.

(4) TANGIBLE PERSONAL PROPERTY.—For purposes of subsection (b)(1)(C), the leasing or owning of tangible personal property does not include the leasing or licensing of computer software.

(h) EFFECTIVE DATE.—This section shall apply with respect to taxable periods beginning on or after January 1, 2009.

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By Mrs. FEINSTEIN:

S. 3671. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to develop and impose aggregate position limits on certain large over-the-counter transactions and classes of large over-the-counter transactions; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Over-the-Counter Swaps Speculation Limit Act, a bill to establish workable speculative position limits that apply to both bilateral over-the-counter swaps transactions and on-exchange transactions.

The Over-the-Counter Swaps Speculation Limit Act would close the ''over-the-counter swaps loophole'' once and for all by requiring the Commodity Futures Trading Commission—or CFTC—to apply the position limit system to bilateral swaps, not just the on-exchange transactions that are limited today.

Let me explain what the bill would do:

CFTC would enforce ''aggregate'' position limits so that a trader's positions on and off exchange would be combined. Swaps would no longer be exempt from position limits.

CFTC would be allowed to grant hedge exemptions for bone fide hedging. This exemption would be limited to trading that hedges against price risk exposure related to physical transactions in that energy commodity.

Neither institutional investors hedging against inflation, nor swaps dealers hedging their secret dealings would qualify for a hedge exemption.

The bill would give CFTC the power to issue civil fines to enforce position limits when unwinding a speculative position would be disruptive to the marketplace.

This legislation is the missing piece to otherwise comprehensive anti-speculation legislation debated in the Senate in July and adopted by the House of Representatives in September.

Both of the House and Senate bills included vital provisions to protect our markets, including provisions to close the London Loophole by imposing speculation position limits on trading conducted on Foreign Boards of Trade.

It would grant CFTC the authority to collect data and monitor trading in Over-the-Counter Swaps markets, shining the bright light of oversight onto a previously un-watched market.

It would improve the data collection systems at CFTC to distinguish between swaps dealers, institutional investors, and genuine speculators;

It would assure no true speculator is exempted from speculative position limits; and increase CFTC's staffing levels.

Reacting to congressional pressure, the CFTC took many of the steps through administrative action that our bills in Congress would have required.

CFTC largely closed the London Loophole and began monitoring London trading of American crude oil.

CFTC began collecting detailed data on OTC swaps trading, especially by swaps dealers and institutional index traders, and it began monitoring these markets.

CFTC reclassified a major swaps dealer as a speculator and proposed a rulemaking to revise its system for granting speculative limit exemptions.

This is true progress, but the swaps loophole—exempting voice brokered bilateral swaps from the speculative position limit system—remains in place. Traders are able to hold positions far above speculative position limits simply by executing their trades through a voice broker.

Until this summer, the Federal Government knew very little about OTC swaps, which have been exempt from CFTC oversight since 1993. But thanks to CFTC's increased oversight this summer, published in its September 2008 ''Staff Report on Commodity Swap Dealers and Index Traders,'' we know that traders do in fact use these swaps markets to hold positions above the speculative position limits on regulated exchanges.

The CFTC report found that on a single day in June there were:

''18 noncommercial traders (speculators) in 13 markets who appeared to have an aggregate position . . . that would have been above the speculative limit or an exchange accountability level if all the positions were on-exchange.''

CFTC discovered that a few traders held positions that would have ''significantly exceeded'' an aggregate position limit.

What is the purpose of speculative position limits if traders know they can buy the equivalent product in unlimited quantities from a voice broker?

The Over-the-Counter Swaps Speculation Limit Act puts an end to this flawed system by instructing CFTC to establish a system of aggregate position limits. As the staff report demonstrated, CFTC knows how to calculate such limits.

I believe this legislation avoids the pitfalls of previous efforts in the 110th Congress to limit speculative positions in swaps.

It is simple, granting CFTC the broad mandate to impose aggregate position limits across positions held on registered entities, foreign boards of trade, and OTC markets that impact the price discovery function of a regulated market. It grants the regulator proper discretion to determine which contracts are functionally equivalent and what the limits should be.

It applies speculative position limits only to swaps that impact the price discovery function on regulated markets. By focusing CFTC efforts only on the major, standardized swaps contracts, the bill maintains legal certainty for unique financing agreements and other private bilateral transactions.

The bill also prevents speculators from migrating to less regulated contracts. CFTC will only be allowed to exempt contracts from position limits after it determines that the contract is not functioning as a haven from regulation. CFTC must impose speculative position limits on any contract that: is highly standardized; settles on the price of a contracted traded in a regulated marketplace; has its prices widely published and referenced; or traded in significant volumes.

Finally, the legislation addresses CFTC staff concerns that enforcing position limits on bilateral swaps contracts would be too cumbersome. In recent briefings, CFTC staff argued that the primary reason CFTC was not calling for speculative position limits on swaps is that position limits on swaps would force parties to void existing contracts, which harms the counterparty as much as the trader who is over their limit.

Regulators should not force a trader to break a contract if such action would punish the counterparties as well as the speculator. To address this, this legislation gives CFTC the power to enforce position limits with fines instead of forcing a trader to unwind a position.

Over the past 6 months, OTC swaps markets have been exposed, and it has become increasingly apparent that speculative position limits are both appropriate and feasible in order to protect regulated markets from manipulation and excessive speculation.

The regulated and unregulated energy markets are fully integrated. With traders moving back and forth freely, it is no longer reasonable to believe that bad behavior in swaps can be isolated.

A manipulated swaps market would likely impact the price discovery function of a futures market, and in turn affect consumer prices.

If we want fair play in the energy markets, we cannot continue to instruct the CFTC to swallow its whistle when it sees violations at the Swaps' end of the court.

We need to allow CFTC to call foul when it sees excessive speculation, whether on an exchange or in a voice brokered swaps market.

The Over-the-Counter Swaps Speculation Limit Act would give the CFTC back its whistle. It would allow the Commission to use the speculative position limit system in existence since the 1930s—to reel in excessive speculation in American energy markets.

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. 3671

*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 ''Over-the-Counter Swaps Speculation Limit Act''.

**SEC. 2. AGGREGATE POSITION LIMITS.**

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

''(j) AGGREGATE POSITION LIMITS.—

''(1) DEFINITION OF BONA FIDE HEDGING TRANSACTION.—In this subsection:

''(A) IN GENERAL.—The term 'bona fide hedging transaction' means a transaction that—

''(i) is 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 a potential change in the value of—

''(I) assets that a person owns, produces, manufactures, possesses, or merchandises (or anticipates owning, producing, manufacturing, possessing, or merchandising);

''(II) liabilities that a person incurs or anticipates incurring; or

''(III) services that a person provides or purchases (or anticipates providing or purchasing).

''(B) EXCLUSION.—The term 'bona fide hedging transaction' 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) AGGREGATE POSITION LIMITS.—

''(A) DEVELOPMENT; IMPOSITION.—Notwithstanding any other provision of this Act, in accordance with subparagraph (B), to reduce the potential threat of market manipulation, excessive speculation, or congestion in any contract listed for trading on a registered entity or a contract that the Commission has determined to provide a price discovery role, the Commission shall impose aggregate position limits on positions held on registered entities, foreign boards of trade, and each large over-the-counter transaction or class of large over-the-counter transactions that the Commission determines to be appropriate to assist the Commission in protecting the price discovery function of contracts under the jurisdiction of the Commission.

''(B) REQUIREMENTS FOR DEVELOPMENT AND IMPOSITION OF AGGREGATE POSITION LIMITS.—

''(i) EVALUATION SYSTEM.—In developing aggregate position limits under subparagraph (A), the Commission shall establish a system for evaluating the degree to which—

''(I) each large over-the-counter transaction and class of large over-the-counter transactions are equivalent to positions in contracts on registered entities; and

''(II) contracts on registered entities are equivalent to contracts on other registered entities.

''(ii) MAXIMUM LEVEL OF AGGREGATE POSITION LIMITS.—In developing aggregate position limits under subparagraph (A), the Commission shall set the aggregate position limits at the minimum level practicable to ensure sufficient market liquidity for the conduct of bona fide hedging transactions.

''(C) CONSIDERATION OF FACTORS FOR DETERMINATION.—

''(i) IN GENERAL.—In making a determination under subparagraph (A) with respect to the imposition of aggregate position limits on appropriate large over-the-counter transactions and classes of large over-the-counter transactions, the Commission may determine not to impose aggregate position limits

on any large over-the-counter transaction or class of large over-the-counter transactions if the Commission determines that the large over-the-counter transaction or class of large over-the-counter transactions does not meet any of the factors described in clause (ii).

''(ii) FACTORS.—The factors described in clause (i) include—

''(I) whether a standardized agreement is used to execute the large over-the-counter transaction or class of large over-the-counter transactions;

''(II) whether the large over-the-counter transaction or class of large over-the-counter transactions settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity;

''(III) whether the price of the large over-the-counter transaction or class of large over-the-counter transactions is reported to a third party, published, or otherwise disseminated;

''(IV) whether the price of the large over-the-counter transaction or class of large over-the-counter transactions is referenced in any other transaction;

''(V) whether there is a significant volume of the large over-the-counter transaction or class of large over-the-counter transactions; and

''(VI) any other factor that the Commission determines to be appropriate.

''(D) EXEMPTION FOR BONA FIDE HEDGING TRANSACTIONS.—The Commission may exempt any large over-the-counter transaction or class of large over-the-counter transactions from any aggregate position limit developed and imposed by the Commission under subparagraph (A) if the Commission determines that the large over-the-counter transaction or class of large over-the-counter transactions is a bona fide hedging transaction.

''(E) NET SUM OF POSITIONS.—The aggregate position limits developed and imposed by the Commission under subparagraph (A) shall apply to the net sum of the like positions held by a person on or in—

''(i) registered entities;

''(ii) foreign boards of trade; and

''(iii) over-the-counter commodity derivatives.

''(F) ENFORCEMENT.—

''(i) IN GENERAL.—Subject to clause (ii), in enforcing each aggregate position limit developed and imposed by the Commission under subparagraph (A), the Commission may order a person to reduce any position of the person.

''(ii) MAINTENANCE OF POSITION; CIVIL PENALTY.—

''(I) MAINTENANCE OF POSITION.—If the Commission determines that the reduction of a position of a person under clause (i) would be disruptive to the price discovery function, the Commission may allow the person to maintain the position.

''(II) CIVIL PENALTY.—The Commission shall impose on the person described in subclause (I) a civil penalty in an amount not greater than—

''(aa) $1,000,000 for each violation committed by the person; or

''(bb) with respect to each violation committed by the person, the market value of the position in excess of the appropriate aggregate position limit.

''(iii) EFFECT OF VIOLATION.—A violation of an aggregate position limit developed and imposed by the Commission under subparagraph (A) shall be determined to be a violation of this Act.''.

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By Mrs. CLINTON:

S. 3674. A bill to amend the Public Health Service Act to establish a Wellness Trust; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, reforming the healthcare system is a top priority for me. I have been on the frontlines in the fight for healthcare for every single American for as long as I have been in public service. And every passing day, and year, the task becomes both more urgent and more difficult—success more expensive and failure more costly.

The United States spent about $2.1 trillion on healthcare in 2006, twice what we spent 10 years ago, and half of what we're projected to spend 10 years from now. Preventable and chronic diseases are this century's epidemic. The number of people with chronic conditions is rapidly increasing and it is estimated that if we do not intervene now, by 2025 nearly half of the population will suffer from at least one chronic disease.

The wellness gap also affects health care costs. About 78 percent of all health spending in the United States is attributable to chronic illness, much of which is preventable. Chronic diseases cost the United States an additional $1 trillion each year in lost productivity, and are a major contributing factor to the overall poor health that is placing the Nation's economic security and competitiveness in jeopardy.

Unlike some health care challenges, proven preventive services and programs exist. If effective risk reduction were implemented and sustained, by 2015 the death rate due to cancer could drop by 29 percent. Improved blood sugar control for people with diabetes could reduce the risk for eye disease, kidney disease, and nerve disease by 40 percent. Similarly, blood pressure control could reduce the risk for heart disease and stroke by 33 to 50 percent. Yet, only half of recommended clinical preventive services are provided to adults. About 20 percent of children do not receive all recommended immunizations, with higher rates in certain areas. Nearly 70 percent of people with high blood pressure do not now control it. And racial disparities in the use of prevention exist.

The country faces low use of preventive services because of the low value placed on prevention, a delivery system bent toward fixing rather than preventing problems, and financial disincentives for prevention. Insurers have little incentive to invest in preventive services today that will benefit other insurers tomorrow. This is especially true for those preventive services that reduce chronic diseases that develop over a period of several years or decades. The costs of prevention are incurred immediately but most of its benefits are realized later, often by Medicare. The United States spends only an estimated 1 to 3 percent of national health expenditures on preventive healthcare services and health promotion.

In addition, the workforce to deliver prevention is also insufficient. The supply of providers who are trained to emphasize prevention is shrinking. Between 1997 and 2005, the number of medical school graduates entering family practice residencies dropped by 50 percent. There is an acute shortage of community health workers. Between 25 and 50 percent of the existing Federal, State and local public health workforce is eligible for retirement in the next 5 years. Today, more than 75 percent of the existing public health workforce has no formal public health or prevention training. There is no national, uniform credentialing system for public health or prevention workers that would ensure that these workers are trained in the basics of preventive care.

A system that promoted full use of high-priority prevention could save lives and reduce costs. For example, complete, routine childhood vaccination could save up to $40 billion in direct and societal costs over time. Promoting screenings and behavioral modifications in the workplace can lower absenteeism and, in most cases, health costs to firms. Preventive health care services could reduce government spending on health care. If all seniors recommended to received a flu vaccine did, health costs could be reduced by nearly $1 billion per year. Over 25 years, Medicare could save an estimated $890 billion from effective control of hypertension, and $1 trillion from returning to levels of obesity observed in the 1980s.

So today, I am pleased to introduce The 21st Century Wellness Trust Act. This legislation is a critical part of the broader effort we will undertake next Congress to cover every single American and bring reforms to our delivery system that make it more efficient and improve health outcomes.

The 21st Century Wellness Trust Act would create a Wellness Trust at the Centers for Disease Control and Prevention at the Department of Health and Human Services to refocus the efforts of our healthcare system on prevention and wellness. Through the Trust Fund Board, the Wellness Trust will become the primary payer for priority prevention services, as well as ensure an adequate and appropriately trained and credentialed prevention health workforce. The Trust will also serve as a central source of prevention information and ensure the inclusion of prevention and wellness in the development of a nationwide, interoperable health IT infrastructure.

We cannot afford to wait any longer and I am proud to introduce The 21st Century Wellness Trust Act which will be an important part of the solution. We must undertake reforms that move us from a system of sickness to a system of wellness. From a system that is tilted towards institutional and emergency care to one that not only covers everyone, but is designed to promote prevention of disease and wellness.

By Mr. KERRY:

S. 3675. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain excessive employee remuneration, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Compensation Fairness Act of 2008 to tighten the rules for the amount of compensation that is deductible as an ordinary and necessary business expense. The recent financial crisis has brought the issue of executive compensation to the forefront.

We have all read about the outrageous salaries that many of the chief executive officers of troubled companies have earned over the past few years. Some have increased their pay by increasing the risks their companies take. According to Equilar, a compensation research firm, the CEOs of the 10 largest financial services firms in a survey of 200 companies with revenues of at least $6.5 billion were awarded a combined total of $320 million last year, even though the firms reported mortgage-related losses that totaled $55 billion and that wiped out more than $200 billion in shareholder value. That is unacceptable.

It is not just the financial industry where executive pay has become excessive. For 2006, the CEOs of large U.S. companies averaged $10.8 million in total compensation, more than 364 times the pay of the average U.S. worker. We can learn from what led us to the current situation and one way to make CEOs more accountable is to limit the taxpayer subsidy for executive compensation.

I am pleased that the bailout legislation places limits on the executive compensation of the firms that participate in the Treasury program. I commend Chairmen DODD and BAUCUS for their efforts for to place limits on executive compensation part of the solution. However, I believe that executive compensation for all public companies should be reexamined.

Under current law, the allowable deduction for the compensation of the top five highly paid individuals, including the CEO and the chief financial officer, CFO, is limited to $1 million per year. This limitation does not include commissions and performance-based pay. I am concerned that these exceptions have weakened the effectiveness of the limitation and encourage performance-based pay arrangements which could cause executives to manipulate earnings.

The Compensation Fairness Act of 2008 would make several changes to the limitation on deduction for compensation. It would repeal the exceptions for commission and performance-based pay. Under current law, an employee that is covered by the limitation has to be an employee the last day of the year. The legislation would change this to make a covered employee one who is employed at any time during the year. This legislation would retain the $1 million limitation and index it for inflation.

The Compensation Fairness Act of 2008 would not limit the amount of salary an executive can receive, but it would just limit the tax subsidy. Taxpayers should not have to bear the cost of excessive compensation. Warren Buffett, one of the most successful businessmen of all time, has annual salary of $100,000.

Limiting the deduction of executive compensation is just one part of addressing compensation. Earlier this Congress, the Senate passed legislation which would limit the amount of compensation that can be deferred to $1 million. Senator OBAMA has introduced legislation that I cosponsored and the House has passed which would require annual shareholder approval of a public company's executive compensation plan.

Once we address the current crisis, we need to have a serious debate on executive compensation and the deductibility of compensation should be part of the conversation. I urge my colleagues to consider changing the current tax treatment of compensation.

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By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 3677. A bill to establish a Special Joint Task Force on Financial Crimes; to the Committee on the Judiciary.

Ms. SNOWE. Mr. President, I rise in support of legislation that I am introducing today to make sure that those responsible for the financial meltdown of recent days are brought to justice. Joining me on the bill is my distinguished colleague, Senator FEINSTEIN.

While I congratulate the congressional leadership, especially Chairmen DODD and FRANK, and Senators REID, MCCONNELL, and GREGG, in crafting the Emergency Economic Stabilization Act of 2008, one issue continues to deeply disturb me and many of my constituents. Specifically, I refer to accountability and the importance of bringing criminals to justice.

In my view, today's economic turmoil did not happen by pure chance, and I am troubled that certain greedy individuals may have crossed the line into criminal activity.

Clearly, no one should reap rewards from this colossal failure, and those responsible on Wall Street should follow the Enron criminals straight to jail. The pursuit and prosecution of those liable for this meltdown must receive the highest possible level of attention, and this legislation dedicates a Special Task Force on Financial Crimes within the Justice Department whose sole mission is to ferret out those directly involved in engineering this catastrophe.

The congressional pursuit of answers—through hearings that Senator DODD has indicated he will hold—should occur in tandem with the legal investigation and prosecution of those responsible for this debacle. Both must receive the same rigorous attention applied to this rescue package—and not be subsumed by the routine of the day-to-day legislative and criminal investigation process moving forward.

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By Mrs. BOXER:

S. 3678. A bill to promote freedom, human rights, and the rule of law in Vietnam; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, I rise today to introduce an important piece of legislation—the Vietnam Human Rights Act.

Over the last several sessions of Congress, legislation addressing the human rights situation in Vietnam has been repeatedly introduced but has never been enacted into law.

Like many of my Senate colleagues, I had hoped that strengthening our relationship with Vietnam on the trade and economic front and supporting Vietnam's integration into the international community would dramatically improve Vietnam's human rights record.

But that has not turned out to be the case.

The United States has removed Vietnam from its list of Countries of Particular Concern, granted Vietnam permanent normalized trade relations, and supported Vietnam's bid to join the World Trade Organization, yet Vietnam continues to arrest its citizens for their peaceful advocacy of political views.

It also continues to strictly restrict religious freedom, to harass and detain labor activists, and to refuse its citizens the basic rights of freedom of association, assembly, and expression.

Just last year, Vietnam carried out one of its harshest crackdowns in 20 years against peaceful protestors calling for political change.

The crackdown, which continued through mid-2007, led to the arrest of hundreds of individuals, including Father Nguyen Van Ly, who was sentenced to 8 years in prison.

This crackdown happened shortly before the visit of Vietnamese President Nguyen Minh Triet to the United States last June.

At the end of 2007, the United States Commission on International Religious Freedom summed up Vietnam's recent behavior this way:

> Vietnam's overall human rights record remains very poor and deteriorated in the last year . . . Dozens of legal and political reform advocates, free speech activists, labor unionists, and independent religious leaders and religious freedom advocates have been arrested, placed under home detention or surveillance, threatened, intimidated, and harassed.

Now we are witnessing yet another crackdown—this time on Catholic Church members in Hanoi who have been holding prayer vigils to demand the return of properties confiscated after the Communist government took power in the 1950s.

The Vietnamese government has responded to these protests through intimidation, violence, and arrest.

Just last week, Ben Stocking, the Bureau Chief for the Associated Press in Hanoi, was beaten by Vietnamese security forces for photographing one such vigil. It is time for such behavior to stop.

The Boxer bill seeks to improve human rights in Vietnam by shifting the focus of U.S. non-humanitarian foreign aid to a comprehensive approach that does more to address human rights.

The bill specifically requires that any spending increase for U.S. non-humanitarian development, economic, trade, and security assistance to Vietnam be matched by additional funding for programs focusing on human rights, the rule of law, and democracy promotion.

To date, the majority of non-humanitarian U.S. assistance programs to Vietnam have focused on business, trade, and security, and have not effectively addressed human rights abuses.

In addition, the bill outlines objectives for U.S. diplomacy with Vietnam on human rights related issues and encourages Vietnam to release its religious and political prisoners.

The Boxer bill also prohibits Vietnam from having access to the U.S. Generalized System of Preferences, GSP, program until Vietnam improves its labor standards. The GSP program allows developing countries to import certain items into the U.S. duty-free.

While the 110th Congress will shortly come to an end, I wanted to introduce this legislation as a signal to the Vietnamese government that its record on human rights and recent behavior has not gone unnoticed. I intend to reintroduce this legislation very early in the 111th Congress.

Let me be clear. I support a strong bilateral relationship between Vietnam and the United States. But the Vietnamese government must dramatically improve its human rights record in order for our relationship to grow.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 701—HONORING THE LIFE OF MICHAEL P. SMITH

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 701

Whereas Michael P. Smith was an award-winning photographer nationally recognized for his work over 4 decades documenting the music, culture, and folklife of New Orleans and the State of Louisiana;

Whereas Michael P. Smith greatly influenced the understanding of New Orleans and Louisiana of people around the world;

Whereas Michael P. Smith's work captured and made accessible the environment, social structures, and neighborhoods that both create and sustain the musical traditions of New Orleans;

Whereas Michael P. Smith was born in Metairie, Louisiana, the son of a member of the Rex organization and the Boston Club, was a star athlete, and graduated from Metairie Park Country Day School and Tulane University;

Whereas Michael P. Smith was the only person to photograph at every New Orleans Jazz & Heritage Festival since the festival began in 1970 until his retirement in 2004, when he was honored with a major grandstand exhibition and photo kiosks placed around the fairgrounds at the festival;

Whereas Michael P. Smith received 2 Photographer's Fellowships from the National Endowment for the Arts early in his career and his prints have toured worldwide through the United States Information Agency (USIA);

Whereas Michael P. Smith's work has been presented at the National Museum of American History, the International Center for Photography in New York, and the LeRoy Neiman Gallery at Columbia University, as well as numerous other museums, galleries, and jazz festivals in America and Europe;

Whereas Michael P. Smith's work is part of the permanent collections of the National Museum of American History in Washington, DC, the Metropolitan Museum of Art in New York, the Bibliothèque Nationale in Paris, the Louisiana State Museum, the Ogden Museum of Southern Art, and the New Orleans Museum of Art;

Whereas Michael P. Smith's work is represented in 5 photography books including ''Spirit World: Pattern in the Expressive Folk Culture of African American New Orleans'', ''A Joyful Noise: A Celebration of New Orleans Music'', ''New Orleans Jazz Fest: A Pictorial History'', ''Jazz Fest Memories'', and ''Mardi Gras Indians'', which is a visual and sociological history of the unique masking and musical traditions still alive in the older Black neighborhoods of New Orleans;

Whereas Michael P. Smith's photographs grace the covers of many compact discs and record albums, illustrate numerous books and magazine articles published in America and Europe, and are in continual demand for documentary films produced at home and abroad;

Whereas Michael P. Smith won numerous awards for his work, including the 2002 Lifetime Achievement Award from the Louisiana Endowment for the Humanities, the (New Orleans) Mayor's Arts Award, the Clarence John Laughlin Lifetime Achievement Award from the New Orleans chapter of the American Society of Magazine Photographers, and the Artist Recognition Award from the New Orleans Museum of Arts's Delgado Society;

Whereas Michael P. Smith was an original owner and a founder of Tipitina's, the iconic club that has featured, and continues to feature, the best and brightest of New Orleans music; and

Whereas Michael P. Smith is survived by a companion, Karen Louise Snyder, 2 daughters, Jan Lamberton Smith of Quail Springs, California, and Leslie Blackshear Smith of New Orleans, a brother, Joseph Byrd Hatchitt Smith of Port Angeles, Washington, and 2 grandchildren: Now, therefore, be it

*Resolved,* That the Senate—

(1) honors the life of Michael P. Smith;

(2) recognizes Michael P. Smith for his invaluable contributions as a cultural archivist of New Orleans and Louisiana history and culture;

(3) recommits itself to ensuring that artists such as Michael P. Smith receive recognition for their creative and cultural endeavors; and

(4) extends condolences to his family on the death of this talented and beloved man.

### SENATE CONCURRENT RESOLUTION 105—DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO CORRECT THE ENROLLMENT OF H.R. 6063

Mr. NELSON of Florida submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 105

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of the bill H.R. 6063, an Act to authorize the programs of the National Aeronautics and Space Administration, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

In section 601(b)(2)(A)(iii) of the bill, strike ''Orbiter''.

In section 611(d)(1) of the bill, strike ''first President'' and insert ''President''.

In section 611(e)(3) of the bill, strike ''correctly'' and insert ''currently''.

In section 611(e)(7) of the bill, strike ''extention'' and insert ''extension''.

In section 612 of the bill, strike ''operations'' and insert ''operational''.

In section 1119 of the bill, strike ''The Report'' and insert ''The report''.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 5683. Mr. BINGAMAN (for Mr. DORGAN (for himself, Mr. BINGAMAN, Mr. AKAKA, Mr. HARKIN, Mr. FEINGOLD, Mrs. BOXER, Mr. BYRD, Mr. SANDERS, and Mrs. FEINSTEIN)) proposed an amendment to the bill H.R. 7081, to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes.

SA 5684. Mr. DODD (for Mr. PRYOR) proposed an amendment to the bill S. 602, to develop the next generation of parental control technology.

SA 5685. Mr. DODD proposed an amendment to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes.

SA 5686. Mr. DODD proposed an amendment to the bill H.R. 1424, supra.

SA 5687. Mr. SANDERS proposed an amendment to amendment SA 5685 proposed by Mr. DODD to the bill H.R. 1424, supra.

SA 5688. Mr. DURBIN proposed an amendment to the bill S. 1703, to prevent and reduce trafficking in persons.

SA 5689. Mr. DURBIN (for Ms. COLLINS) proposed an amendment to the bill S. 3013, to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes.

SA 5690. Mr. DURBIN (for Mr. CORNYN (for himself and Mrs. FEINSTEIN)) proposed an amendment to the bill S. 3073, to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

SA 5691. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with