

109TH CONGRESS
1ST SESSION

H. R. 3544

To provide for the stabilization of prices for gasoline, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. DEFAZIO (for himself and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, the Judiciary, Resources, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the stabilization of prices for gasoline, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Gasoline Price Stabilization Act of 2005”.

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

Sec. 1. Short title and table of contents.

Sec. 2. Authorization for gasoline price stabilization.

Sec. 3. Strategic petroleum reserve drawdown.

- Sec. 4. Requirement for the release of oil from the Strategic Petroleum Reserve.
- Sec. 5. Minimum inventory levels.
- Sec. 6. Ban on exporting of Alaskan oil.
- Sec. 7. Sense of Congress regarding the Organization of the Petroleum Exporting Countries and the World Trade Organization.
- Sec. 8. Windfall profits tax.
- Sec. 9. Merger moratoriums.
- Sec. 10. Petroleum Industry Concentration and Market Power Review Commission.
- Sec. 11. Increased average fuel economy standards for passenger automobiles and light trucks.
- Sec. 12. Fuel economy of the Federal fleet of vehicles.

1 **SEC. 2. AUTHORIZATION FOR GASOLINE PRICE STABILIZA-**
 2 **TION.**

3 (a) PRESIDENTIAL AUTHORITY.—The President may
 4 issue such orders and regulations as he may deem appro-
 5 priate, including price caps, to stabilize prices for whole-
 6 sale and retail gasoline to levels at or below levels pre-
 7 vailing on March 1, 2004, if the President makes a deter-
 8 mination that—

9 (1) there is an increase in gasoline prices
 10 that—

11 (A) is of significant scope and duration;
 12 and

13 (B) is likely to cause a significant adverse
 14 impact on the national economy, or on a State
 15 or regional economy; and

16 (2) the price increase is substantially caused by
 17 conduct that lessens competition (or tends to create
 18 a monopoly) by—

1 (A) at least one foreign country or inter-
2 national entity; or

3 (B) at least one producer, refiner, or mar-
4 keter of petroleum products.

5 (b) CIVIL MONEY PENALTY.—Whoever willfully vio-
6 lates any order or regulation issued under this section
7 shall be subject to a civil money penalty for each violation
8 of not more than \$1,000,000.

9 (c) INJUNCTIONS.—Whenever it appears to any agen-
10 cy of the United States, authorized by the President to
11 exercise the authority contained in this subsection to en-
12 force orders and regulations issued under this section, that
13 any person has engaged, is engaged, or is about to engage
14 in any acts or practices constituting a violation of any
15 order or regulation under this section, such agency may
16 in its discretion bring an action, in the proper district
17 court of the United States or the proper United States
18 court of any territory or other place subject to the jurisdic-
19 tion of the United States, to enjoin such acts or practices,
20 and upon a proper showing the court may issue a perma-
21 nent or temporary injunction or restraining order without
22 bond. Upon application of the agency, any such court may
23 also order any person to comply with any order or regula-
24 tion under this section.

25 (d) EXPIRATION.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), this section shall cease to have effect one
 3 year after the date of the enactment of this Act.

4 (2) EXCEPTION.—Paragraph (1) shall not af-
 5 fect enforcement relating to a violation of this sec-
 6 tion occurring before the expiration date in para-
 7 graph (1).

8 **SEC. 3. STRATEGIC PETROLEUM RESERVE DRAWDOWN.**

9 (a) DRAWDOWNS AUTHORIZED TO ADDRESS STATE
 10 OR REGIONAL ECONOMIC HARM.—Section 161(d)(2)(C)
 11 of the Energy Policy and Conservation Act (42 U.S.C.
 12 6241(d)(2)(C)) is amended by inserting “, or on a State
 13 or regional economy” after “national economy”.

14 (b) DRAWDOWNS AUTHORIZED TO COMBAT ANTI-
 15 COMPETITIVE CONDUCT.—Section 161(d) of the Energy
 16 Policy and Conservation Act (42 U.S.C. 6241(d)) is fur-
 17 ther amended by adding at the end the following new para-
 18 graph:

19 “(3)(A) For purposes of this section, in addition to
 20 the circumstances set forth in section 3(8) and in para-
 21 graph (2) of this subsection, a severe energy supply inter-
 22 ruption exists if the President determines that—

23 “(i) there is a significant reduction in supply
 24 that—

1 “(I) is of significant scope and duration;
2 and

3 “(II) has caused a significant increase in
4 the price of petroleum products;

5 “(ii) the increase in price is likely to cause a
6 significant adverse impact on the national economy,
7 or on a State or regional economy; and

8 “(iii) the reduction in supply is substantially
9 caused by conduct that lessens competition (or tends
10 to create a monopoly) by—

11 “(I) at least one foreign country or inter-
12 national entity; or

13 “(II) at least one producer, refiner, or
14 marketer of petroleum products.

15 “(B) Proceeds from the sale of petroleum drawn
16 down pursuant to a Presidential determination under sub-
17 paragraph (A) shall—

18 “(i) be deposited in the SPR Petroleum Ac-
19 count established under section 167; and

20 “(ii) be used only for the purposes specified in
21 such section.”.

22 (c) REPORTING AND CONSULTATION REQUIRE-
23 MENTS.—When the price of a barrel of crude oil exceeds
24 \$30 (in constant 2005 United States dollars) on the New
25 York Mercantile Exchange for a period greater than 14

1 days, the President, through the Secretary of Energy,
2 shall, not later than 30 days after the end of the 14-day
3 period, submit to Congress a report that—

4 (1) states the results of a comprehensive review
5 of the causes and potential consequences of the price
6 increase;

7 (2) provides an estimate of the likely duration
8 of the price increase, based on analyses and fore-
9 casts of the Energy Information Administration;

10 (3) provides an analysis of the effects of the
11 price increase on the cost of gasoline at the whole-
12 sale and retail levels; and

13 (4) states whether, and provides a specific ra-
14 tionale for why, the President does or does not sup-
15 port the drawdown and distribution of a specified
16 amount of oil from the Strategic Petroleum Reserve.

17 (d) GENERAL ACCOUNTING OFFICE STUDY.—The
18 Comptroller General of the United States shall, not later
19 than one year after the date of the enactment of this Act,
20 submit to Congress a review of the drawdown authority
21 of the President with respect to the Strategic Petroleum
22 Reserve. Such review shall address—

23 (1) how and why the authority has changed
24 over time;

1 (2) under what circumstances Presidents have
2 actually exercised the authority;

3 (3) what the impact on oil prices was as a re-
4 sult of the exercising of the presidential authority;
5 and

6 (4) the implications of expanding the drawdown
7 authority beyond the severe energy supply interrup-
8 tion standard described in section 3(8) or 161(d) of
9 the Energy Policy and Conservation Act (42 U.S.C.
10 6202(8), 6241(d)), by—

11 (A) allowing the release of oil as a regular
12 hedging tool for oil companies;

13 (B) allowing such companies to tap the
14 Strategic Petroleum Reserve as necessary to
15 dampen price shocks; and

16 (C) requiring such companies to replace
17 the oil (and additional barrels) at some pre-
18 determined time in the future.

19 **SEC. 4. REQUIREMENT FOR THE RELEASE OF OIL FROM**
20 **THE STRATEGIC PETROLEUM RESERVE.**

21 (a) FINDINGS.—Congress makes the following find-
22 ings:

23 (1) The prices of gasoline and crude oil have a
24 direct and substantial impact on the financial well-
25 being of families and businesses in the United

1 States, on the potential for national economic recov-
2 ery, and on the economic security of the United
3 States.

4 (2) The Strategic Petroleum Reserve was cre-
5 ated to enhance the physical and economic security
6 of the United States, and the law allows the Stra-
7 tegic Petroleum Reserve to be used to provide relief
8 when oil and gasoline supply shortages cause eco-
9 nomic hardship.

10 (3) The proper management of the resources of
11 the Strategic Petroleum Reserve could provide gaso-
12 line price relief to families in the United States and
13 provide the United States with a tool to counter-
14 balance the supply management policies of the Orga-
15 nization of the Petroleum Exporting Countries.

16 (4) In order to combat high gasoline prices dur-
17 ing the summer and fall of 2000, President Clinton
18 released 30,000,000 barrels of oil from the Strategic
19 Petroleum Reserve and stabilized the price of gaso-
20 line.

21 (b) REQUIREMENT.—For purposes of lowering the
22 burden of gasoline prices on the economy of the United
23 States and circumventing the Organization of the Petro-
24 leum Exporting Countries' efforts to reap windfall crude

1 oil profits and starting on the date of the enactment of
2 this Act, the President shall—

3 (1) suspend the delivery of oil to the Strategic
4 Petroleum Reserve until the date on which the price
5 for a gallon of gasoline, as reported by the United
6 States Energy Information Administration, is less
7 than \$1.50 per gallon; and

8 (2) release at least 1,000,000 barrels of oil per
9 day from the Strategic Petroleum Reserve until the
10 sooner of —

11 (A) the date that is 60 days following the
12 date of the enactment of this Act; or

13 (B) the date on which the average price for
14 a gallon of gasoline, as reported by the United
15 States Energy Information Administration, is
16 less than \$1.50 per gallon.

17 **SEC. 5. MINIMUM INVENTORY LEVELS.**

18 (a) ESTABLISHING MINIMUM LEVELS.—The Sec-
19 retary of Energy shall establish minimum inventory levels
20 that producers, refiners, and marketers of crude oil and
21 petroleum products must maintain in order to limit the
22 impact unexpected supply disruptions have on prices at
23 the wholesale and retail levels.

24 (b) REGIONAL VARIATIONS.—For purposes of sub-
25 section (a), the minimum inventory levels shall take into

1 account regional variations in supply and demand, and
 2 market structure.

3 (c) ADMINISTRATIVE PROCEDURES.—For purposes
 4 of subsection (a), the Secretary may perform the following
 5 procedures:

6 (1) DIFFERENT INDUSTRY SEGMENTS.—Set
 7 varying levels for each segment of the oil industry as
 8 the Secretary determines appropriate.

9 (2) DIFFERENT PRODUCTS.—Set different lev-
 10 els for the various crude oil and petroleum products,
 11 including gasoline, home heating oil, and jet fuel.

12 (3) SEASONAL ADJUSTMENT.—Adjust minimum
 13 inventory levels to reflect seasonal adjustments.

14 **SEC. 6. BAN ON EXPORTING OF ALASKAN OIL.**

15 (a) REPEAL OF PROVISION AUTHORIZING EX-
 16 PORTS.—Section 28(s) of the Mineral Leasing Act (30
 17 U.S.C. 185(s)) is repealed.

18 (b) REIMPOSITION OF PROHIBITION ON CRUDE OIL
 19 EXPORTS.—Section 7(d) of the Export Administration
 20 Act of 1979 (50 U.S.C. App. 2406(d)) shall be effective
 21 as of the date of the enactment of this Act, and those
 22 provisions of the Export Administration Act of 1979 (in-
 23 cluding sections 11 and 12) shall apply to the extent nec-
 24 essary to carry out such section 7(d), notwithstanding sec-
 25 tion 20 of such Act and notwithstanding any other provi-

1 sion of law that would otherwise allow the export of oil
2 to which such section 7(d) applies.

3 **SEC. 7. SENSE OF CONGRESS REGARDING THE ORGANIZA-**
4 **TION OF THE PETROLEUM EXPORTING COUN-**
5 **TRIES AND THE WORLD TRADE ORGANIZA-**
6 **TION.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) No free market exists in oil production be-
10 cause of collusion among large oil-producing coun-
11 tries.

12 (2) The Organization of the Petroleum Export-
13 ing Countries (in this section referred to as
14 “OPEC”) and other oil-producing countries have re-
15 peatedly agreed to coordinated cutbacks in produc-
16 tion, thus manipulating world oil markets, resulting
17 in de facto price fixing.

18 (3) Such manipulation led to the highest price
19 per barrel of oil in nearly a decade, substantial in-
20 creases in consumer prices for items such as home
21 heating oil and gasoline, and continued price vola-
22 tility.

23 (4) Rising oil prices greatly harm consumers,
24 farmers, small businesses, and manufacturers, in-
25 crease the likelihood of inflation, increase the cost of

1 conducting interstate and international commerce,
2 and pose a strong threat to continued economic
3 growth.

4 (5) Article XI of the General Agreement on
5 Tariffs and Trade of 1994 (in this section referred
6 to as “GATT”) prohibits members of the World
7 Trade Organization (in this section referred to as
8 “WTO”) from setting quantitative restrictions on
9 the import or export of resources or products across
10 their borders; specifically the language reads: “No
11 prohibitions or restrictions other than duties, taxes
12 or other charges, whether made effective through
13 quotas, import or export licenses or other measures,
14 shall be instituted or maintained by any contracting
15 party on the importation of any product of the terri-
16 tory of any other contracting party or on the expor-
17 tation or sale for export of any product destined for
18 the territory of any other contracting party.”.

19 (6) The precise meaning of such article XI was
20 spelled out in a GATT Panel Report issued in 1988
21 entitled “Japan—Trade in Semi-conductors”, which
22 notes, “. . . this wording [in article XI] was com-
23 prehensive: it applied to all measures instituted or
24 maintained by a contracting party prohibiting or re-
25 stricting the importation, exportation, or sale for ex-

1 port of products other than measures that take the
2 form of duties, taxes, or other charges. . . . This
3 wording indicated clearly that any measure insti-
4 tuted or maintained by a contracting party which re-
5 stricted the exportation or sale for export of prod-
6 ucts was covered by this provision, irrespective of
7 the legal status of the measure.”.

8 (7) Oil production restrictions clearly qualify as
9 a “quantitative restriction” based on the original
10 WTO rules and the 1988 GATT panel report, which
11 certify that only “duties, taxes, or other charges”
12 are allowable, not pacts among countries to limit
13 production of a product for export.

14 (8) Article XX of GATT, which sets out a se-
15 ries of exceptions to article XI, notes that none of
16 the exceptions is valid if it is “applied in a manner
17 which would constitute . . . a disguised restriction on
18 international trade”, a phrase which describes pro-
19 duction restrictions of OPEC.

20 (9) Of the 11 OPEC countries, six are members
21 of the WTO (Kuwait, Indonesia, Nigeria, Qatar,
22 Venezuela, and United Arab Emirates), two have ob-
23 server status and have applied to join the WTO
24 (Saudi Arabia and Algeria), and only three have no
25 relationship with the WTO (Libya, Iran, and Iraq).

1 (10) Of the remaining large oil-producing coun-
 2 tries, Mexico, Norway, and Oman are members of
 3 the WTO, and Russia has observer status.

4 (11) Given the substantial WTO membership
 5 and pending membership of oil-producing countries,
 6 filing a complaint would likely have an immediate
 7 impact on the current and future behavior of these
 8 countries.

9 (b) SENSE OF CONGRESS.—Congress strongly urges
 10 the President to instruct the United States Trade Rep-
 11 resentative to file a complaint in the World Trade Organi-
 12 zation against oil-producing countries for violating their
 13 obligations under the rules of that organization.

14 **SEC. 8. WINDFALL PROFITS TAX.**

15 (a) WINDFALL PROFITS TAX.—

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

20 **“CHAPTER 56—WINDFALL PROFIT ON**
 21 **CRUDE OIL, GASOLINE, AND PROD-**
 22 **UCTS THEREOF**

“Sec. 5896. Imposition of tax.

1 **“SEC. 5896. IMPOSITION OF TAX.**

2 “(a) IN GENERAL.—In addition to any other tax im-
3 posed under this title, there is hereby imposed an excise
4 tax on the sale in the United States of any crude oil, gaso-
5 line, or other taxable product equal to the applicable per-
6 centage of the windfall profit on such sale.

7 “(b) DEFINITIONS.—For purposes of this section—

8 “(1) TAXABLE PRODUCT.—The term ‘taxable
9 product’ means any fuel which is a product of crude
10 oil or gasoline.

11 “(2) WINDFALL PROFIT.—The term ‘windfall
12 profit’ means, with respect to any sale, so much of
13 the profit on such sale as exceeds a reasonable prof-
14 it.

15 “(3) APPLICABLE PERCENTAGE.—The term
16 ‘applicable percentage’ means—

17 “(A) 50 percent to the extent that the
18 profit on the sale exceeds 100 percent of the
19 reasonable profit on the sale but does not ex-
20 ceed 102 percent of the reasonable profit on the
21 sale;

22 “(B) 75 percent to the extent that the
23 profit on the sale exceeds 102 percent of the
24 reasonable profit on the sale but does not ex-
25 ceed 105 percent of the reasonable profit on the
26 sale; and

1 “(C) 100 percent to the extent that the
2 profit on the sale exceeds 105 percent of the
3 reasonable profit on the sale.

4 “(4) REASONABLE PROFIT.—The term ‘reason-
5 able profit’ means the amount determined by the
6 Reasonable Profits Board, established under section
7 8(c) of the ‘Gasoline Price Stabilization Act of
8 2005’, to be a reasonable profit on the sale.

9 “(c) LIABILITY FOR PAYMENT OF TAX.—The taxes
10 imposed by subsection (a) shall be paid by the seller.”.

11 (2) CLERICAL AMENDMENT.—The table of
12 chapters for subtitle E of such Code is amended by
13 adding at the end the following new item:

“CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL, GASOLINE, AND PRODUCTS
THEREOF”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this section shall take effect on the date that is
16 90 days after the date of the enactment of this Act.

17 (b) CREDIT FOR PURCHASING FUEL EFFICIENT
18 AMERICAN-MADE PASSENGER VEHICLES.—

19 (1) IN GENERAL.—Subpart A of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code
21 of 1986 (relating to nonrefundable personal credits)
22 is amended by inserting after section 25B the fol-
23 lowing new section:

1 **“SEC. 25C. PURCHASE OF FUEL-EFFICIENT AMERICAN-**
2 **MADE PASSENGER VEHICLES.**

3 “(a) IN GENERAL.—In the case of an individual,
4 there shall be allowed as a credit against the tax imposed
5 by this chapter for the taxable year an amount equal to
6 the cost of any qualified passenger vehicle purchased by
7 the taxpayer during the taxable year.

8 “(b) MAXIMUM CREDIT.—The credit allowed by this
9 section for the taxable year shall not exceed—

10 “(1) \$3,000 in the case of a qualified passenger
11 vehicle not described in paragraph (2) or (3),

12 “(2) \$4,500 in the case of a qualified passenger
13 vehicle the fuel economy of which is—

14 “(A) in the case of a truck or sport utility
15 vehicle, at least 45 miles per gallon but less
16 than 55 miles per gallon, and

17 “(B) in any other case, at least 55 miles
18 per gallon but less than 65 miles per gallon,
19 and

20 “(3) \$6,000 in the case of a qualified passenger
21 vehicle the fuel economy of which is—

22 “(A) in the case of a truck or sport utility
23 vehicle, at least 55 miles per gallon, and

24 “(B) in any other case, at least 65 miles
25 per gallon.

1 “(c) QUALIFIED PASSENGER VEHICLE.—For pur-
2 poses of this section—

3 “(1) IN GENERAL.—The term ‘qualified pas-
4 senger vehicle’ means any automobile (as defined in
5 section 4064(b)(1))—

6 “(A) which is purchased after the date of
7 the enactment of this section,

8 “(B) which is assembled in the United
9 States by individuals employed under a collec-
10 tive bargaining agreement,

11 “(C) the original use of which begins with
12 the taxpayer,

13 “(D) substantially all of the use of which
14 is for personal, nonbusiness purposes, and

15 “(E) the fuel economy of such automobile
16 is—

17 “(i) at least 35 miles per gallon in the
18 case of a truck or sport utility vehicle, and

19 “(ii) at least 45 miles per gallon in
20 any other case.

21 “(2) FUEL ECONOMY.—Fuel economy shall be
22 determined in accordance with section 4064.

23 “(d) SPECIAL RULES.—

24 “(1) BASIS REDUCTION.—The basis of any
25 property for which a credit is allowable under sub-

1 section (a) shall be reduced by the amount of such
2 credit.

3 “(2) PROPERTY USED OUTSIDE UNITED STATES
4 NOT QUALIFIED.—No credit shall be allowed under
5 subsection (a) with respect to any property referred
6 to in section 50(b).”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions for such subpart A is amended by inserting
9 after the item relating to section 25B the following
10 new item:

“Sec. 25C. Purchase of fuel-efficient American-made passenger vehicles.”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this section shall apply to taxable years ending
13 after the date of the enactment of this Act.

14 (c) REASONABLE PROFITS BOARD.—

15 (1) ESTABLISHMENT.—There is established an
16 independent board to be known as the “Reasonable
17 Profits Board” (in this subsection referred to as the
18 “Board”).

19 (2) DUTIES.—The Board shall make reasonable
20 profit determinations for purposes of applying sec-
21 tion 5896 of the Internal Revenue Code of 1986, as
22 added by subsection (a) (relating to windfall profit
23 on crude oil, gasoline, and products thereof).

24 (3) ADVISORY COMMITTEE.—The Board shall
25 be considered an advisory committee within the

1 meaning of the Federal Advisory Committee Act (5
2 U.S.C. App.).

3 (4) APPOINTMENT.—

4 (A) MEMBERS.—The Board shall be com-
5 posed of three members appointed by the Presi-
6 dent of the United States.

7 (B) TERM.—Member of the Board shall be
8 appointed for a term of three years.

9 (C) VACANCIES.—Any member appointed
10 to fill a vacancy occurring before the expiration
11 of the term for which the predecessor of the
12 member was appointed shall be appointed only
13 for the remainder of that term. A member may
14 serve after the expiration of the term of such
15 member until a successor has taken office. A
16 vacancy in the Board shall be filled in the man-
17 ner in which the original appointment was
18 made.

19 (5) FINANCIAL INTERESTS.—

20 (A) PROHIBITION.—No member may have
21 a financial interest in any of the businesses for
22 which reasonable profits are determined by the
23 Board.

1 (B) REMOVAL.—A member shall be re-
2 moved from the Board if the member is in vio-
3 lation of subparagraph (A).

4 (6) PAY AND TRAVEL EXPENSES.—

5 (A) PAY.—Notwithstanding section 7 of
6 the Federal Advisory Committee Act (5 U.S.C.
7 App.), members of the Board shall be paid at
8 a rate equal to the daily equivalent of the min-
9 imum annual rate of basic pay for level IV of
10 the Executive Schedule under section 5315 of
11 title 5, United States Code, for each day (in-
12 cluding travel time) during which the member is
13 engaged in the actual performance of duties
14 vested in the Board.

15 (B) TRAVEL EXPENSES.—Members shall
16 receive travel expenses, including per diem in
17 lieu of subsistence, in accordance with section
18 5702 and 5703 of title 5, United States Code.

19 (7) DIRECTOR OF STAFF.—

20 (A) QUALIFICATIONS.—The Board shall
21 appoint a Director who has no financial inter-
22 ests in any of the businesses for which reason-
23 able profits are determined by the Board.

24 (B) PAY.—Notwithstanding section 7 of
25 the Federal Advisory Committee Act (5 U.S.C.

1 App.), the Director shall be paid at the rate of
2 basic pay payable for level IV of the Executive
3 Schedule under section 5315 of title 5, United
4 States Code.

5 (8) STAFF.—

6 (A) ADDITIONAL PERSONNEL.—The Direc-
7 tor, with the approval of the Board, may ap-
8 point and fix the pay of additional personnel.

9 (B) APPOINTMENTS.—The Director may
10 make such appointments without regard to the
11 provisions of title 5, United States Code, gov-
12 erning appointments in the competitive service,
13 and any personnel so appointed may be paid
14 without regard to the provisions of chapter 51
15 and subchapter III of chapter 53 of that title
16 relating to classification and General Schedule
17 pay rates.

18 (C) DETAILEES.—Upon the request of the
19 Director, the head of any Federal department
20 or agency may detail any of the personnel of
21 that department or agency to the Board to as-
22 sist the Board in accordance with an agreement
23 entered into with the Board.

24 (D) ASSISTANCE.—The Comptroller Gen-
25 eral of the United States may provide assist-

1 ance, including the detailing of employees, to
 2 the Board in accordance with an agreement en-
 3 tered into with the Board.

4 (9) OTHER AUTHORITY.—

5 (A) EXPERTS AND CONSULTANTS.—The
 6 Board may procure by contract, to the extent
 7 funds are available, the temporary or intermit-
 8 tent services of experts or consultants pursuant
 9 to section 3109 of title 5, United States Code.

10 (B) LEASING.—The Board may lease
 11 space and acquire personal property to the ex-
 12 tent that funds are available.

13 (10) FUNDING.—There are authorized to be ap-
 14 propriated such funds as are necessary to carry out
 15 this subsection.

16 **SEC. 9. MERGER MORATORIUMS.**

17 (a) PROHIBITION ON CERTAIN MERGERS IN OIL IN-
 18 DUSTRY.—Section 7 of the Clayton Act (15 U.S.C. 18)
 19 is amended by adding at the end the following:

20 “No person engaged in commerce in the petroleum
 21 industry may be acquired by another person unless the
 22 acquisition is likely to result in a net benefit to consumers
 23 by maintaining or increasing competition.”.

24 (b) MORATORIUM ON LARGE PETROLEUM AND
 25 CRUEL OIL MERGERS.—

1 (1) ONE-YEAR MORATORIUM.—During the one-
 2 year period beginning on the date of the enactment
 3 of this Act and except as provided in paragraph (2),
 4 with respect to petroleum and crude oil products no
 5 explorer, producer, transporter, refiner, or wholesale
 6 distributor of such products, or operator of a retail
 7 gasoline outlet, with annual net sales or total assets
 8 of more than \$10,000,000 shall merge or acquire,
 9 directly or indirectly, any voting securities or assets
 10 of any other such explorer, producer, transporter, re-
 11 finer, distributor, or operator with annual net sales
 12 or total assets of more than \$10,000,000.

13 (2) WAIVER AUTHORITY.—The Attorney Gen-
 14 eral may waive the moratorium imposed by
 15 paragragraph (1) only under extraordinary cir-
 16 cumstances, such as insolvency or similar financial
 17 distress of one of the affected parties.

18 **SEC. 10. PETROLEUM INDUSTRY CONCENTRATION AND**
 19 **MARKET POWER REVIEW COMMISSION.**

20 (a) ESTABLISHMENT OF COMMISSION.—There is es-
 21 tablished a commission to be known as the “Petroleum
 22 Industry Concentration and Market Power Review Com-
 23 mission” (in this section referred to as the “Commis-
 24 sion”).

25 (b) DUTIES OF THE COMMISSION.—

1 (1) STUDY ON PETROLEUM INDUSTRY.—The
2 Commission shall study the nature, causes, and con-
3 sequences of concentration of ownership in the ex-
4 ploration, production, transportation, refinement,
5 wholesale distribution, and retail sale of crude oil
6 and petroleum products in the United States in the
7 broadest possible terms.

8 (2) ISSUES TO BE ADDRESSED.—The study
9 shall include an examination of the following mat-
10 ters:

11 (A) The nature and extent of the con-
12 centration described in paragraph (1).

13 (B) Current trends in such concentration
14 and what such industry is likely to look like in
15 the near term and longer term future.

16 (C) The effect of such concentration on the
17 exploration, production, transportation, refine-
18 ment, wholesale distribution, and retail sale of
19 crude oil and petroleum products.

20 (D) The effect of such concentration on
21 prices at the wholesale and retail levels.

22 (E) The effect of such concentration on
23 consumers of petroleum products, including re-
24 tail consumers, businesses (including fuel de-

1 pendent industries such as aviation and truck-
2 ing), and farmers.

3 (F) The relationship between current laws
4 and administrative practices and the support
5 and encouragement of such concentration.

6 (G) Such related matters as the Commis-
7 sion determines to be important.

8 (c) MEMBERSHIP OF COMMISSION.—

9 (1) COMPOSITION.—The Commission shall be
10 composed of 12 members as follows:

11 (A) Three persons shall be appointed by
12 the President pro tempore of the Senate upon
13 the recommendation of the Majority Leader of
14 the Senate, after consultation with the Chair-
15 man of the Committee on Energy and Natural
16 Resources.

17 (B) Three persons shall be appointed by
18 the President pro tempore of the Senate upon
19 the recommendation of the Minority Leader of
20 the Senate, after consultation with the ranking
21 minority member of the Committee on Energy
22 and Natural Resources.

23 (C) Three persons shall be appointed by
24 the Speaker of the House of Representatives,

1 after consultation with the Chairman of the
2 Committee on Energy and Commerce.

3 (D) Three persons shall be appointed by
4 the Minority Leader of the House of Represent-
5 atives, after consultation with the ranking mi-
6 nority member of the Committee on Energy and
7 Commerce.

8 (2) QUALIFICATIONS OF MEMBERS.—

9 (A) APPOINTMENTS.—Persons who are ap-
10 pointed under paragraph (1) shall be persons
11 who—

12 (i) have expertise in petroleum eco-
13 nomics and antitrust, or have other perti-
14 nent qualifications or experience relating to
15 petroleum industries; and

16 (ii) are not officers or employees of
17 the United States.

18 (B) OTHER CONSIDERATION.—Persons
19 who are appointed under paragraph (1) shall—

20 (i) be representative of a broad cross
21 sector of—

22 (I) explorers, producers, trans-
23 porters, refiners, wholesale distribu-
24 tors, and retail sellers in the petro-
25 leum industry;

1 (II) various antitrust perspectives
2 within the United States; and

3 (III) consumers, fuel-dependent
4 businesses, and other interests that
5 the Secretary considers necessary to
6 ensure a balanced representation of
7 perspectives and expertise in the pe-
8 troleum industry; and

9 (ii) provide fresh insights to analyzing
10 the causes and impacts of the concentra-
11 tion of ownership described in subsection
12 (b)(1).

13 (3) PERIOD OF APPOINTMENT AND VACAN-
14 CIES.—

15 (A) PERIOD OF APPOINTMENT.—Members
16 shall be appointed not later than 60 days after
17 the date of enactment of this Act and the ap-
18 pointment shall be for the life of the Commis-
19 sion.

20 (B) VACANCIES.—Any vacancy in the
21 Commission shall not affect its powers, but
22 shall be filled in the same manner as the origi-
23 nal appointment.

24 (4) MEETINGS.—

1 (A) IN GENERAL.—The Commission shall
2 meet at the call of the Chairman.

3 (B) INITIAL MEETING.—Not later than 30
4 days after the date on which all members of the
5 Commission have been appointed, the Commis-
6 sion shall hold its first meeting.

7 (5) CHAIRMAN AND VICE CHAIRMAN.—The
8 members of the Commission shall elect a chairman
9 and vice chairman from among the members of the
10 Commission.

11 (6) QUORUM.—A majority of the members of
12 the Commission shall constitute a quorum for the
13 transaction of business.

14 (d) FINAL REPORT.—

15 (1) FINDINGS, CONCLUSION, AND REC-
16 OMMENDATIONS OF COMMISSION.—Not later than
17 12 months after the date of the initial meeting of
18 the Commission, the Commission shall submit to the
19 President and Congress a final report that con-
20 tains—

21 (A) the findings and conclusions of the
22 study of the Commission required under sub-
23 section (b); and

24 (B) recommendations for addressing any
25 problems identified in such study.

1 (2) SEPARATE VIEWS.—Any member of the
2 Commission may submit additional findings and rec-
3 ommendations as part of the final report.

4 (e) POWERS OF COMMISSION.—

5 (1) HEARINGS.—The Commission may hold
6 such hearings, sit and act at such times and places,
7 take such testimony, and receive such evidence as
8 the Commission may find advisable to fulfill the re-
9 quirements of this section. The Commission shall
10 hold at least one hearing in Washington, D.C., and
11 at least four in a variety of geographic regions of the
12 United States.

13 (2) INFORMATION FROM FEDERAL AGENCIES.—
14 The Commission may secure directly from any Fed-
15 eral department or agency such information as the
16 Commission considers necessary to carry out the
17 provisions of this section. Upon request of the Chair-
18 man of the Commission, the head of such depart-
19 ment or agency shall furnish such information to the
20 Commission.

21 (3) MAILS.—The Commission may use the
22 United States mails in the same manner and under
23 the same conditions as other departments and agen-
24 cies of the Federal Government.

25 (f) COMMISSION PERSONNEL MATTERS.—

1 (1) COMPENSATION OF MEMBERS.—Each mem-
2 ber of the Commission shall be compensated at a
3 rate equal to the daily equivalent of the annual rate
4 of basic pay prescribed for level IV of the Executive
5 Schedule under section 5315 of title 5, United
6 States Code, for each day (including travel time)
7 during which such member is engaged in the per-
8 formance of the duties of the Commission.

9 (2) TRAVEL EXPENSES.—The members of the
10 Commission shall be allowed travel expenses, includ-
11 ing per diem in lieu of subsistence, at rates author-
12 ized for employees of agencies under subchapter I of
13 chapter 57 of title 5, United States Code, while
14 away from their homes or regular places of business
15 in the performance of duties of the Commission.

16 (3) STAFF.—

17 (A) IN GENERAL.—The Chairman of the
18 Commission may, without regard to the civil
19 service laws and regulations, appoint and termi-
20 nate an executive director and such other addi-
21 tional personnel as may be necessary to enable
22 the Commission to perform its duties. The em-
23 ployment of an executive director shall be sub-
24 ject to confirmation by the Commission.

1 (B) COMPENSATION.—The Chairman of
2 the Commission may fix the compensation of
3 the executive director and other personnel with-
4 out regard to the provisions of chapter 51 and
5 subchapter III of chapter 53 of title 5, United
6 States Code, relating to classification of posi-
7 tions and General Schedule pay rates, except
8 that the rate of pay for the executive director
9 and other personnel may not exceed the rate
10 payable for level V of the Executive Schedule
11 under section 5316 of such title.

12 (4) DETAIL OF GOVERNMENT EMPLOYEES.—
13 Upon request of the Chairman, the head of any Fed-
14 eral department or agency may detail any of the per-
15 sonnel of that department or agency to the Commis-
16 sion to assist it in carrying out its duties under this
17 section. Such detail shall be without reimbursement
18 and without interruption or loss of civil service sta-
19 tus or privilege.

20 (5) PROCUREMENT OF TEMPORARY AND INTER-
21 MITTENT SERVICES.—The Chairman of the Commis-
22 sion may procure temporary and intermittent serv-
23 ices under section 3109(b) of title 5, United States
24 Code, at rates for individuals which do not exceed
25 the daily equivalent of the annual rate of basic pay

1 prescribed for level V of the Executive Schedule
2 under section 5316 of such title.

3 (g) SUPPORT SERVICES.—The Administrator of Gen-
4 eral Services shall provide to the Commission on a reim-
5 bursable basis such administrative support services as the
6 Commission may request.

7 (h) AUTHORIZATION FOR APPROPRIATIONS.—There
8 is authorized to be appropriated \$2,000,000 to carry out
9 the provisions of this section.

10 **SEC. 11. INCREASED AVERAGE FUEL ECONOMY STAND-**
11 **ARDS FOR PASSENGER AUTOMOBILES AND**
12 **LIGHT TRUCKS.**

13 (a) DEFINITION OF LIGHT TRUCK.—Section
14 32901(a) of title 49, United States Code, is amended by
15 adding at the end the following:

16 “(17) ‘light truck’ has the meaning given that
17 term in regulations prescribed by the Secretary of
18 Transportation in the administration of this chap-
19 ter.”.

20 (b) INCREASED STANDARDS.—Section 32902 of such
21 title is amended—

22 (1) in subsection (a)—

23 (A) by striking “NON-PASSENGER AUTO-
24 MOBILES—” and inserting “PRESCRIPTION OF
25 STANDARDS BY REGULATION—”; and

1 (B) by striking “(except passenger auto-
2 mobiles)” and inserting “(except passenger
3 automobiles and light trucks)”; and

4 (2) by amending subsection (b) to read as fol-
5 lows:

6 “(b) PASSENGER AUTOMOBILES AND LIGHT
7 TRUCKS.—

8 “(1) PASSENGER AUTOMOBILES.—The average
9 fuel economy standard for passenger automobiles
10 manufactured by a manufacturer in a model year
11 after model year 2014 shall be 45.0 miles per gallon.

12 “(2) LIGHT TRUCKS.—The average fuel econ-
13 omy standard for light trucks manufactured by a
14 manufacturer in a model year after model year 2014
15 shall be 34.0 miles per gallon.”.

16 (c) CONFORMING AMENDMENTS.—Such section is
17 amended in subsection (c)—

18 (1) in paragraph (1), by striking “the stand-
19 ard” and inserting “a standard”; and

20 (2) in paragraph (2), by striking “increases the
21 standard above 27.5 miles per gallon, or decreases
22 the standard below 26.0 miles per gallon” and in-
23 serting “increases the standard above 45.0 miles per
24 gallon or decreases the standard below 43.5 miles
25 per gallon in the case of passenger automobiles, or

1 increases the standard above 34.0 miles per gallon
 2 or decreases the standard below 32.5 miles per gal-
 3 lon in the case of light trucks,”.

4 (d) APPLICABILITY OF EXISTING STANDARDS.—This
 5 section does not affect the application of section 32902
 6 of title 49, United States Code, to passenger automobiles
 7 and light trucks manufactured before model year 2015.

8 **SEC. 12. FUEL ECONOMY OF THE FEDERAL FLEET OF VEHI-**
 9 **CLES.**

10 (a) BASELINE AVERAGE FUEL ECONOMY.—The head
 11 of each executive agency shall determine, for each class
 12 of vehicles that are in the agency’s fleet of vehicles in fiscal
 13 year 2007, the average fuel economy for all of the vehicles
 14 in that class that are in the agency’s fleet of vehicles for
 15 that fiscal year. For the purposes of this section, the aver-
 16 age fuel economy so determined for the agency’s vehicles
 17 in a class of vehicles shall be the baseline average fuel
 18 economy for the agency’s fleet of vehicles in that class.

19 (b) INCREASE OF AVERAGE FUEL ECONOMY.—The
 20 head of an executive agency shall manage the procurement
 21 of vehicles in each class of vehicles for that agency in such
 22 a manner that—

23 (1) not later than September 30, 2009, the av-
 24 erage fuel economy of the new vehicles in the agen-
 25 cy’s fleet of vehicles in each class of vehicles is not

1 less than three miles per gallon higher than the
2 baseline average fuel economy determined for that
3 class; and

4 (2) not later than September 30, 2012, the av-
5 erage fuel economy of the new vehicles in the agen-
6 cy's fleet of vehicles in each class of vehicles is not
7 less than six miles per gallon higher than the base-
8 line average fuel economy determined for that class.

9 (c) CALCULATION OF AVERAGE FUEL ECONOMY.—
10 Average fuel economy shall be calculated for the purposes
11 of this section in accordance with guidance which the Sec-
12 retary of Transportation shall prescribe for the implemen-
13 tation of this section.

14 (d) DEFINITIONS.—

15 (1) The term “class of vehicles” means a class
16 of vehicles for which an average fuel economy stand-
17 ard is in effect under chapter 329 of title 49, United
18 States Code.

19 (2) The term “executive agency” has the mean-
20 ing given the term in section 4(1) of the Office of
21 Federal Procurement Policy Act (41 U.S.C. 403(1)).

22 (3) The term “new vehicle”, with respect to the
23 fleet of vehicles of an executive agency, means a ve-

- 1 hicle procured by or for the agency after September
- 2 30, 2008.

