

109TH CONGRESS  
2D SESSION

# S. 2446

To promote the national security and stability of the economy of the United States by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Mr. OBAMA (for himself and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To promote the national security and stability of the economy of the United States by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, 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.**

4       This Act may be cited as the “American Fuels Act  
5       of 2006”.

6       **SEC. 2. OFFICE OF ENERGY SECURITY.**

7       (a) DEFINITIONS.—In this section:

1           (1) DIRECTOR.—The term “Director” means  
2           the Director of Energy Security appointed under  
3           subsection (c)(1).

4           (2) OFFICE.—The term “Office” means the Of-  
5           fice of Energy Security established by subsection  
6           (b).

7           (b) ESTABLISHMENT.—There is established in the  
8           Executive Office of the President the Office of Energy Se-  
9           curity.

10          (c) DIRECTOR.—

11           (1) IN GENERAL.—The Office shall be headed  
12           by a Director, who shall be appointed by the Presi-  
13           dent, by and with the advice and consent of the Sen-  
14           ate.

15           (2) RATE OF PAY.—The Director shall be paid  
16           at a rate of pay equal to level I of the Executive  
17           Schedule under section 5312 of title 5, United  
18           States Code.

19          (d) RESPONSIBILITIES.—

20           (1) IN GENERAL.—The Office, acting through  
21           the Director, shall be responsible for overseeing all  
22           Federal energy security programs, including the co-  
23           ordination of efforts of Federal agencies to assist the  
24           United States in achieving full energy independence.

1           (2) SPECIFIC RESPONSIBILITIES.—In carrying  
2       out paragraph (1), the Director shall—

3           (A) serve as head of the energy commu-  
4       nity;

5           (B) act as the principal advisor to the  
6       President, the National Security Council, the  
7       National Economic Council, the Domestic Pol-  
8       icy Council, and the Homeland Security Council  
9       with respect to intelligence matters relating to  
10      energy security;

11          (C) with request to budget requests and  
12      appropriations for Federal programs relating to  
13      energy security—

14           (i) consult with the President and the  
15          Director of the Office of Management and  
16          Budget with respect to each major Federal  
17          budgetary decision relating to energy secu-  
18          rity of the United States;

19           (ii) based on priorities established by  
20          the President, provide to the heads of de-  
21          partments containing agencies or organiza-  
22          tions within the energy community, and to  
23          the heads of such agencies and organiza-  
24          tions, guidance for use in developing the

1 budget for Federal programs relating to  
2 energy security;

3 (iii) based on budget proposals pro-  
4 vided to the Director by the heads of agen-  
5 cies and organizations described in clause  
6 (ii), develop and determine an annual con-  
7 solidated budget for Federal programs re-  
8 lating to energy security; and

9 (iv) present the consolidated budget,  
10 together with any recommendations of the  
11 Director and any heads of agencies and or-  
12 ganizations described in clause (ii), to the  
13 President for approval;

14 (D) establish and meet regularly with a  
15 council of business and labor leaders to develop  
16 and provide to the President and Congress rec-  
17 ommendations relating to the impact of energy  
18 supply and prices on economic growth;

19 (E) submit to Congress an annual report  
20 that describes the progress of the United States  
21 toward the goal of achieving full energy inde-  
22 pendence; and

23 (F) carry out such other responsibilities as  
24 the President may assign.

25 (e) STAFF.—

1           (1) IN GENERAL.—The Director may, without  
 2       regard to the civil service laws (including regula-  
 3       tions), appoint and terminate such personnel as are  
 4       necessary to enable the Director to carry out the re-  
 5       sponsibilities of the Director under this section.

6           (2) COMPENSATION.—

7               (A) IN GENERAL.—Except as provided in  
 8       subparagraph (B), the Director may fix the  
 9       compensation of personnel without regard to  
 10      the provisions of chapter 51 and subchapter III  
 11      of chapter 53 of title 5, United States Code, re-  
 12      lating to classification of positions and General  
 13      Schedule pay rates.

14            (B) MAXIMUM RATE OF PAY.—The rate of  
 15      pay for the personnel appointed by the Director  
 16      shall not exceed the rate payable for level V of  
 17      the Executive Schedule under section 5316 of  
 18      title 5, United States Code.

19       (f) AUTHORIZATION OF APPROPRIATIONS.—There  
 20      are authorized to be appropriated such sums as are nec-  
 21      essary to carry out this section.

22   **SEC. 3. CREDIT FOR PRODUCTION OF QUALIFIED FLEXIBLE**  
 23       **FUEL MOTOR VEHICLES.**

24       (a) IN GENERAL.—Subpart D of part IV of sub-  
 25      chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new  
 2 section:

3 **“SEC. 45N. PRODUCTION OF QUALIFIED FLEXIBLE FUEL**  
 4 **MOTOR VEHICLES.**

5 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
 6 tion 38, the qualified flexible fuel motor vehicle production  
 7 credit determined under this section for any taxable year  
 8 is an amount equal to \$100 for each qualified flexible fuel  
 9 motor vehicle produced in the United States by the manu-  
 10 facturer during the taxable year.

11 “(b) QUALIFIED FLEXIBLE FUEL MOTOR VEHI-  
 12 CLE.—For purposes of this section, the term ‘qualified  
 13 flexible fuel motor vehicle’ means a flexible fuel motor ve-  
 14 hicle—

15 “(1) the production of which is not required for  
 16 the manufacturer to meet—

17 “(A) the maximum credit allowable for ve-  
 18 hicles described in paragraph (2) in determining  
 19 the fleet average fuel economy requirements (as  
 20 determined under section 32904 of title 49,  
 21 United States Code) of the manufacturer for  
 22 the model year ending in the taxable year, or

23 “(B) the requirements of any other provi-  
 24 sion of Federal law, and

1           “(2) which is designed so that the vehicle is  
 2           propelled by an engine which can use as a fuel a  
 3           gasoline mixture of which 85 percent (or another  
 4           percentage of not less than 70 percent, as the Sec-  
 5           retary may determine, by rule, to provide for re-  
 6           quirements relating to cold start, safety, or vehicle  
 7           functions) of the volume of consists of ethanol.

8           “(c) OTHER DEFINITIONS AND SPECIAL RULES.—  
 9           For purposes of this section—

10           “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
 11           cle’ has the meaning given such term by section  
 12           30(c)(2).

13           “(2) MANUFACTURER.—The term ‘manufac-  
 14           turer’ has the meaning given such term in regula-  
 15           tions prescribed by the Administrator of the Envi-  
 16           ronmental Protection Agency for purposes of the ad-  
 17           ministration of title II of the Clean Air Act (42  
 18           U.S.C. 7521 et seq.).

19           “(3) REDUCTION IN BASIS.—For purposes of  
 20           this subtitle, if a credit is allowed under this section  
 21           for any expenditure with respect to any property, the  
 22           increase in the basis of such property which would  
 23           (but for this paragraph) result from such expendi-  
 24           ture shall be reduced by the amount of the credit so  
 25           allowed.

1           “(4) NO DOUBLE BENEFIT.—The amount of  
 2           any deduction or credit allowable under this chapter  
 3           (other than the credits allowable under this section  
 4           and section 30B) shall be reduced by the amount of  
 5           credit allowed under subsection (a) for such vehicle  
 6           for the taxable year.

7           “(5) ELECTION NOT TO TAKE CREDIT.—No  
 8           credit shall be allowed under subsection (a) for any  
 9           vehicle if the taxpayer elects to not have this section  
 10          apply to such vehicle.

11          “(6) TERMINATION.—This section shall not  
 12          apply to any vehicle produced after December 31,  
 13          2010.

14          “(7) CROSS REFERENCE.—For an election to  
 15          claim certain minimum tax credits in lieu of the  
 16          credit determined under this section, see section  
 17          53(e).”.

18          (b) CREDIT ALLOWED AGAINST THE ALTERNATIVE  
 19          MINIMUM TAX.—Section 38(c)(4)(B) of the Internal Rev-  
 20          enue Code of 1986 (defining specified credits) is amended  
 21          by striking the period at the end of clause (ii)(II) and in-  
 22          serting “, and”, and by adding at the end the following  
 23          new clause:

24                               “(iii) the credit determined under sec-  
 25                               tion 45N.”.

1 (c) ELECTION TO USE ADDITIONAL AMT CREDIT.—

2 Section 53 of the Internal Revenue Code of 1986 (relating  
3 to credit for prior year minimum tax liability) is amended  
4 by adding at the end the following new subsection:

5 “(e) ADDITIONAL CREDIT IN LIEU OF FLEXIBLE  
6 FUEL MOTOR VEHICLE CREDIT.—

7 “(1) IN GENERAL.—In the case of a taxpayer  
8 making an election under this subsection for a tax-  
9 able year, the amount otherwise determined under  
10 subsection (c) shall be increased by any amount of  
11 the credit determined under section 45N for such  
12 taxable year which the taxpayer elects not to claim  
13 pursuant to such election.

14 “(2) ELECTION.—A taxpayer may make an  
15 election for any taxable year not to claim any  
16 amount of the credit allowable under section 45N  
17 with respect to property produced by the taxpayer  
18 during such taxable year. An election under this sub-  
19 section may only be revoked with the consent of the  
20 Secretary.

21 “(3) CREDIT REFUNDABLE.—The aggregate in-  
22 crease in the credit allowed by this section for any  
23 taxable year by reason of this subsection shall for  
24 purposes of this title (other than subsection (b)(2)

1 of this section) be treated as a credit allowed to the  
 2 taxpayer under subpart C.”.

3 (d) CONFORMING AMENDMENTS.—Section 38(b) of  
 4 the Internal Revenue Code of 1986 is amended by striking  
 5 “and” at the end of paragraph (29), by striking the period  
 6 at the end of paragraph (30) and inserting a comma, and  
 7 by adding at the end the following new paragraph:

8 “(31) the qualified flexible fuel motor vehicle  
 9 production credit determined under section 45N,  
 10 plus”.

11 (e) CLERICAL AMENDMENT.—The table of sections  
 12 for subpart D of part IV of subchapter A of chapter 1  
 13 of the Internal Revenue Code of 1986 is amended by add-  
 14 ing at the end the following new item:

“Sec. 45N. Production of qualified flexible fuel motor vehicles.”.

15 (f) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to motor vehicles produced in  
 17 model years ending after the date of the enactment of this  
 18 Act.

19 **SEC. 4. INCENTIVES FOR THE RETAIL SALE OF ALTER-**  
 20 **NATIVE FUELS AS MOTOR VEHICLE FUEL.**

21 (a) IN GENERAL.—Subpart D of part IV of sub-  
 22 chapter A of chapter 1 of the Internal Revenue Code of  
 23 1986 (relating to business related credits) is amended by  
 24 inserting after section 40A the following new section:

1 **“SEC. 40B. CREDIT FOR RETAIL SALE OF ALTERNATIVE**  
 2 **FUELS AS MOTOR VEHICLE FUEL.**

3 “(a) GENERAL RULE.—The alternative fuel retail  
 4 sales credit for any taxable year is the applicable amount  
 5 for each gallon of alternative fuel sold at retail by the tax-  
 6 payer during such year.

7 “(b) APPLICABLE AMOUNT.—For purposes of this  
 8 section, the applicable amount shall be determined in ac-  
 9 cordance with the following table:

<b>“In the case of any sale:</b>	<b>The applicable amount for each gallon is:</b>
Before 2009 .....	35 cents
During 2009 or 2010 .....	20 cents
During 2011 .....	10 cents.

10 “(c) DEFINITIONS.—For purposes of this section—

11 “(1) ALTERNATIVE FUEL.—The term ‘alter-  
 12 native fuel’ means any fuel at least 85 percent (or  
 13 another percentage of not less than 70 percent, as  
 14 the Secretary may determine, by rule, to provide for  
 15 requirements relating to cold start, safety, or vehicle  
 16 functions) of the volume of which consists of eth-  
 17 anol.

18 “(2) SOLD AT RETAIL.—

19 “(A) IN GENERAL.—The term ‘sold at re-  
 20 tail’ means the sale, for a purpose other than  
 21 resale, after manufacture, production, or impor-  
 22 tation.

1           “(B) USE TREATED AS SALE.—If any per-  
 2           son uses alternative fuel (including any use  
 3           after importation) as a fuel to propel any quali-  
 4           fied alternative fuel motor vehicle (as defined in  
 5           this section) before such fuel is sold at retail,  
 6           then such use shall be treated in the same man-  
 7           ner as if such fuel were sold at retail as a fuel  
 8           to propel such a vehicle by such person.

9           “(3) QUALIFIED ALTERNATIVE FUEL MOTOR  
 10          VEHICLE.—The term ‘new qualified alternative fuel  
 11          motor vehicle’ means any motor vehicle—

12                   “(A) which is capable of operating on an  
 13                   alternative fuel,

14                   “(B) the original use of which commences  
 15                   with the taxpayer,

16                   “(C) which is acquired by the taxpayer for  
 17                   use or lease, but not for resale, and

18                   “(D) which is made by a manufacturer.

19          “(d) ELECTION TO PASS CREDIT.—A person which  
 20          sells alternative fuel at retail may elect to pass the credit  
 21          allowable under this section to the purchaser of such fuel  
 22          or, in the event the purchaser is a tax-exempt entity or  
 23          otherwise declines to accept such credit, to the person  
 24          which supplied such fuel, under rules established by the  
 25          Secretary.

1       “(e) PASS-THRU IN THE CASE OF ESTATES AND  
 2 TRUSTS.—Under regulations prescribed by the Secretary,  
 3 rules similar to the rules of subsection (d) of section 52  
 4 shall apply.

5       “(f) TERMINATION.—This section shall not apply to  
 6 any fuel sold at retail after December 31, 2011.”.

7       (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
 8 tion 38(b) of the Internal Revenue Code of 1986 (relating  
 9 to current year business credit) (as amended by section  
 10 3(d)) is amended by adding at the end the following new  
 11 paragraph:

12               “(32) the alternative fuel retail sales credit de-  
 13 termined under section 40B(a).”.

14       (c) CLERICAL AMENDMENT.—The table of sections  
 15 for subpart D of part IV of subchapter A of chapter 1  
 16 of the Internal Revenue Code of 1986 is amended by in-  
 17 serting after the item relating to section 40A the following  
 18 new item:

          “Sec. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.”.

19       (d) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to fuel sold at retail after the date  
 21 of enactment of this Act, in taxable years ending after  
 22 such date.

23 **SEC. 5. ALTERNATIVE DIESEL FUEL CONTENT OF DIESEL.**

24       (a) FINDINGS.—Congress finds that—

1           (1) section 211(o) of the Clean Air Act (42  
2       U.S.C. 7535(o)) (as amended by section 1501 of the  
3       Energy Policy Act of 2005 (Public Law 109–58))  
4       established a renewable fuel program under which  
5       entities in the petroleum sector are required to blend  
6       renewable fuels into motor vehicle fuel based on the  
7       gasoline motor pool;

8           (2) the need for energy diversification is greater  
9       as of the date of enactment of this Act than it was  
10      only months before the date of enactment of the En-  
11      ergy Policy Act (Public Law 109–58; 119 Stat.  
12      594); and

13          (3)(A) the renewable fuel program under sec-  
14      tion 211(o) of the Clean Air Act requires a small  
15      percentage of the gasoline motor pool, totaling near-  
16      ly 140,000,000,000 gallons, to contain a renewable  
17      fuel; and

18          (B) the small percentage requirement described  
19      in subparagraph (A) does not include the  
20      40,000,000,000-gallon diesel motor pool.

21      (b) ALTERNATIVE DIESEL FUEL PROGRAM FOR DIE-  
22      SEL MOTOR POOL.—Section 211 of the Clean Air Act (42  
23      U.S.C. 7545) is amended by inserting after subsection (o)  
24      the following:

1       “(p) ALTERNATIVE DIESEL FUEL PROGRAM FOR  
2 DIESEL MOTOR POOL.—

3               “(1) DEFINITION OF ALTERNATIVE DIESEL  
4 FUEL.—

5               “(A) IN GENERAL.—In this subsection, the  
6 term ‘alternative diesel fuel’ means biodiesel (as  
7 defined in section 312(f) of the Energy Policy  
8 Act of 1992 (42 U.S.C. 13220(f))) and any  
9 blending components derived from alternative  
10 fuel (provided that only the alternative fuel por-  
11 tion of any such blending component shall be  
12 considered to be part of the applicable volume  
13 under the alternative diesel fuel program estab-  
14 lished by this subsection).

15               “(B) INCLUSIONS.—The term ‘alternative  
16 diesel fuel’ includes a diesel fuel substitute pro-  
17 duced from—

18                       “(i) animal fat;

19                       “(ii) vegetable oil;

20                       “(iii) recycled yellow grease;

21                       “(iv) thermal depolymerization;

22                       “(v) thermochemical conversion;

23                       “(vi) the coal-to-liquid process (includ-  
24 ing the Fischer-Tropsch process); or

1 “(vii) a diesel-ethanol blend of not less  
2 than 7 percent ethanol.

3 “(2) ALTERNATIVE DIESEL FUEL PROGRAM.—

4 “(A) REGULATIONS.—

5 “(i) IN GENERAL.—Not later than 1  
6 year after the date of enactment of this  
7 subsection, the Administrator shall promul-  
8 gate regulations to ensure that diesel sold  
9 or introduced into commerce in the United  
10 States (except in noncontiguous States or  
11 territories), on an annual average basis,  
12 contains the applicable volume of alter-  
13 native diesel fuel determined in accordance  
14 with subparagraph (B).

15 “(ii) PROVISIONS OF REGULATIONS.—  
16 Regardless of the date of promulgation,  
17 the regulations promulgated under clause  
18 (i)—

19 “(I) shall contain compliance pro-  
20 visions applicable to refineries, blend-  
21 ers, distributors, and importers, as  
22 appropriate, to ensure that the re-  
23 quirements of this paragraph are met;  
24 but

25 “(II) shall not—

1 “(aa) restrict geographic  
2 areas in which alternative diesel  
3 fuel may be used; or

4 “(bb) impose any per-gallon  
5 obligation for the use of alter-  
6 native diesel fuel.

7 “(iii) REQUIREMENT IN CASE OF  
8 FAILURE TO PROMULGATE REGULA-  
9 TIONS.—If the Administrator fails to pro-  
10 mulgate regulations under clause (i), the  
11 percentage of alternative diesel fuel in the  
12 diesel motor pool sold or dispensed to con-  
13 sumers in the United States, on a volume  
14 basis, shall be 0.6 percent for calendar  
15 year 2008.

16 “(B) APPLICABLE VOLUME.—

17 “(i) CALENDAR YEARS 2008 THROUGH  
18 2015.—For the purpose of subparagraph  
19 (A), the applicable volume for any of cal-  
20 endar years 2008 through 2015 shall be  
21 determined in accordance with the fol-  
22 lowing table:

<b>“Applicable volume of Alternative diesel fuel in diesel motor pool (in millions of gallons):</b>	<b>Calendar year:</b>
250 .....	2008
500 .....	2009
750 .....	2010
1,000 .....	2011

<b>“Applicable volume of Alternative diesel fuel in diesel motor pool (in millions of gallons):</b>	<b>Calendar year:</b>
1,250 .....	2012
1,500 .....	2013
1,750 .....	2014
2,000 .....	2015.

1                   “(ii) CALENDAR YEAR 2016 AND  
2                   THEREAFTER.—The applicable volume for  
3                   calendar year 2016 and each calendar year  
4                   thereafter shall be determined by the Ad-  
5                   ministrator, in coordination with the Sec-  
6                   retary of Agriculture and the Secretary of  
7                   Energy, based on a review of the imple-  
8                   mentation of the program during calendar  
9                   years 2008 through 2015, including a re-  
10                  view of—

11                   “(I) the impact of the use of al-  
12                   ternative diesel fuels on the environ-  
13                   ment, air quality, energy security, job  
14                   creation, and rural economic develop-  
15                   ment; and

16                   “(II) the expected annual rate of  
17                   future production of alternative diesel  
18                   fuels to be used as a blend component  
19                   or replacement to the diesel motor  
20                   pool.

21                   “(iii) MINIMUM APPLICABLE VOL-  
22                   UME.—For the purpose of subparagraph

1 (A), the applicable volume for calendar  
2 year 2016 and each calendar year there-  
3 after shall be equal to the product obtained  
4 by multiplying—

5 “(I) the number of gallons of die-  
6 sel that the Administrator estimates  
7 will be sold or introduced into com-  
8 merce during the calendar year; and

9 “(II) the ratio that—

10 “(aa) 2,000,000,000 gallons  
11 of alternative diesel fuel; bears to

12 “(bb) the number of gallons  
13 of diesel sold or introduced into  
14 commerce during calendar year  
15 2015.

16 “(3) APPLICABLE PERCENTAGES.—

17 “(A) PROVISION OF ESTIMATE OF VOL-  
18 UMES OF DIESEL SALES.—Not later than Octo-  
19 ber 31 of each of calendar years 2007 through  
20 2015, the Administrator of the Energy Infor-  
21 mation Administration shall provide to the Ad-  
22 ministrator an estimate, with respect to the fol-  
23 lowing calendar year, of the volumes of diesel  
24 projected to be sold or introduced into com-  
25 merce in the United States.

1           “(B) DETERMINATION OF APPLICABLE  
2 PERCENTAGES.—

3           “(i) IN GENERAL.—Not later than  
4 November 30 of each of calendar years  
5 2008 through 2015, based on the estimate  
6 provided under subparagraph (A), the Ad-  
7 ministrator shall determine and publish in  
8 the Federal Register, with respect to the  
9 following calendar year, the alternative die-  
10 sel fuel obligation that ensures that the re-  
11 quirements of paragraph (2) are met.

12           “(ii) REQUIRED ELEMENTS.—The al-  
13 ternative diesel fuel obligation determined  
14 for a calendar year under clause (i) shall—

15           “(I) be applicable to refineries,  
16 blenders, and importers, as appro-  
17 priate;

18           “(II) be expressed in terms of a  
19 volume percentage of diesel sold or in-  
20 troduced into commerce in the United  
21 States; and

22           “(III) subject to subparagraph  
23 (C), consist of a single applicable per-  
24 centage that applies to all categories  
25 of persons described in subclause (I).

1           “(C) ADJUSTMENTS.—In determining the  
2           applicable percentage for a calendar year, the  
3           Administrator shall make adjustments to pre-  
4           vent the imposition of redundant obligations on  
5           any person described in subparagraph  
6           (B)(ii)(I).

7           “(4) CREDIT PROGRAM.—

8           “(A) IN GENERAL.—The regulations pro-  
9           mulgated pursuant to paragraph (2)(A) shall  
10          provide for the generation of an appropriate  
11          amount of credits by any person that refines,  
12          blends, or imports diesel that contains a quan-  
13          tity of alternative diesel fuel that is greater  
14          than the quantity required under paragraph  
15          (2).

16          “(B) USE OF CREDITS.—A person that  
17          generates a credit under subparagraph (A) may  
18          use the credit, or transfer all or a portion of the  
19          credit to another person, for the purpose of  
20          complying with regulations promulgated pursu-  
21          ant to paragraph (2).

22          “(C) DURATION OF CREDITS.—A credit  
23          generated under this paragraph shall be valid  
24          during the 1-year period beginning on the date  
25          on which the credit is generated.

“(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated pursuant to paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits under subparagraph (A) to meet the requirements of paragraph (2) by carrying forward a credit generated during a previous year on the condition that the person, during the calendar year following the year in which the alternative diesel fuel deficit is created—

“(i) achieves compliance with the alternative diesel fuel requirement under paragraph (2); and

“(ii) generates or purchases additional credits under subparagraph (A) to offset the deficit of the previous year.

“(5) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on receipt of a petition of 1 or more States by reducing the national quantity of alternative diesel fuel for the diesel motor pool required

1 under paragraph (2) based on a determination  
 2 by the Administrator, after public notice and  
 3 opportunity for comment, that—

4 “(i) implementation of the require-  
 5 ment would severely harm the economy or  
 6 environment of a State, a region, or the  
 7 United States; or

8 “(ii) there is an inadequate domestic  
 9 supply of alternative diesel fuel.

10 “(B) PETITIONS FOR WAIVERS.—Not later  
 11 than 90 days after the date on which the Ad-  
 12 ministrator receives a petition under subpara-  
 13 graph (A), the Administrator, in consultation  
 14 with the Secretary of Agriculture and the Sec-  
 15 retary of Energy, shall approve or disapprove  
 16 the petition.

17 “(C) TERMINATION OF WAIVERS.—

18 “(i) IN GENERAL.—Except as pro-  
 19 vided in clause (ii), a waiver under sub-  
 20 paragraph (A) shall terminate on the date  
 21 that is 1 year after the date on which the  
 22 waiver is provided.

23 “(ii) EXCEPTION.—The Adminis-  
 24 trator, in consultation with the Secretary  
 25 of Agriculture and the Secretary of En-

1                   ergy, may extend a waiver under subpara-  
 2                   graph (A), as the Administrator deter-  
 3                   mines to be appropriate.”.

4           (c) PENALTIES AND ENFORCEMENT.—Section  
 5 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is  
 6 amended—

7           (1) in paragraph (1), by striking “or (o)” each  
 8           place it appears and inserting “(o), or (p)”; and

9           (2) in paragraph (2), by striking “and (o)”  
 10          each place it appears and inserting “(o), and (p)”.

11          (d) TECHNICAL AMENDMENTS.—Section 211 of the  
 12 Clean Air Act (42 U.S.C. 7545) is amended—

13          (1) in subsection (i)(4), by striking “section  
 14          324” each place it appears and inserting “section  
 15          325”;

16          (2) in subsection (k)(10), by indenting subpara-  
 17          graphs (E) and (F) appropriately;

18          (3) in subsection (n), by striking “section  
 19          219(2)” and inserting “section 216(2)”;

20          (4) by redesignating the second subsection (r)  
 21          and subsection (s) as subsections (s) and (t), respec-  
 22          tively; and

23          (5) in subsection (t)(1) (as redesignated by  
 24          paragraph (4)), by striking “this subtitle” and in-  
 25          serting “this part”.

1 **SEC. 6. EXCISE TAX CREDIT FOR CELLULOSIC BIOMASS**

2 **ETHANOL.**

3 (a) **IN GENERAL.**—Paragraph (2) of section 6426(b)  
4 of the Internal Revenue Code of 1986 (relating to alcohol  
5 fuel mixture credit) is amended by adding at the end the  
6 following new subparagraph:

7 “(C) **CELLULOSIC BIOMASS ETHANOL.**—In  
8 the case of an alcohol fuel mixture consisting of  
9 cellulosic biomass ethanol (as defined in section  
10 211(o)(1)(A) of the Clean Air Act), the applica-  
11 ble amount is equal to the product of—

12 “(i) the amount specified in subpara-  
13 graph (A), times

14 “(ii) the equivalent number of gallons  
15 of renewable fuel specified in section  
16 211(o)(4) of such Act.”.

17 (b) **CONFORMING AMENDMENT.**—Section  
18 6426(b)(2)(A) of such Code is amended by striking “sub-  
19 paragraph (B)” and inserting “subparagraphs (B) and  
20 (C)”.

21 (c) **EFFECTIVE DATE.**—The amendments made by  
22 this section shall apply to fuel sold or used after the date  
23 of the enactment of this Act.

1 **SEC. 7. INCENTIVE FOR FEDERAL AND STATE FLEETS FOR**  
 2 **MEDIUM AND HEAVY DUTY HYBRIDS.**

3 Section 301 of the Energy Policy Act of 1992 (42  
 4 U.S.C. 13211) is amended—

5 (1) in paragraph (3), by striking “or a dual  
 6 fueled vehicle” and inserting “, a dual fueled vehicle,  
 7 or a medium or heavy duty vehicle that is a hybrid  
 8 vehicle”;

9 (2) by redesignating paragraphs (11), (12),  
 10 (13), and (14) as paragraphs (12), (14), (15), and  
 11 (16), respectively;

12 (3) by inserting after paragraph (10) the fol-  
 13 lowing:

14 “(11) the term ‘hybrid vehicle’ means a vehicle  
 15 powered both by a diesel or gasoline engine and an  
 16 electric motor that is recharged as the vehicle oper-  
 17 ates;”; and

18 (4) by inserting after paragraph (12) (as redes-  
 19 igned by paragraph (2)) the following:

20 “(13) the term ‘medium or heavy duty vehicle’  
 21 means a vehicle that—

22 “(A) in the case of a medium duty vehicle,  
 23 has a gross vehicle weight rating of more than  
 24 8,500 pounds but not more than 14,000  
 25 pounds; and

1 “(B) in the case of a heavy duty vehicle,  
 2 has a gross vehicle weight rating of more than  
 3 14,000 pounds;”.

4 **SEC. 8. PUBLIC ACCESS TO FEDERAL ALTERNATIVE RE-**  
 5 **FUELING STATIONS.**

6 (a) DEFINITIONS.—In this section:

7 (1) ALTERNATIVE FUEL REFUELING STA-  
 8 TION.—The term “alternative fuel refueling station”  
 9 has the meaning given the term “qualified alter-  
 10 native fuel vehicle refueling property” in section  
 11 30C(c)(1) of the Internal Revenue Code of 1986.

12 (2) SECRETARY.—The term “Secretary” means  
 13 the Secretary of Energy.

14 (b) ACCESS TO FEDERAL ALTERNATIVE REFUELING  
 15 STATIONS.—Not later than 18 months after the date of  
 16 enactment of this Act—

17 (1) except as provided in subsection (d)(1), any  
 18 Federal property that includes at least 1 fuel refuel-  
 19 ing station shall include at least 1 alternative fuel  
 20 refueling station; and

21 (2) except as provided in subsection (d)(2), any  
 22 alternative fuel refueling station located on property  
 23 owned by the Federal government shall permit full  
 24 public access for the purpose of refueling using al-  
 25 ternative fuel.

1 (c) DURATION.—The requirements described in sub-  
2 section (b) shall remain in effect until the sooner of—

3 (1) the date that is 7 years after the date of en-  
4 actment of this Act; or

5 (2) the date on which the Secretary determines  
6 that not less than 5 percent of the commercial re-  
7 fueling infrastructure in the United States offers al-  
8 ternative fuels to the general public.

9 (d) EXCEPTIONS.—

10 (1) WAIVER.—Subsection (b)(1) shall not apply  
11 to any Federal property under the jurisdiction of a  
12 Federal agency if the Secretary determines that al-  
13 ternative fuel is not reasonably available to retail  
14 purchasers of the fuel, as certified by the head of  
15 the agency to the Secretary.

16 (2) NATIONAL SECURITY EXEMPTION.—Sub-  
17 section (b)(2) does not apply to property of the Fed-  
18 eral government that the Secretary, in consultation  
19 with the Secretary of Defense, has certified must be  
20 exempt for national security reasons.

21 (e) VERIFICATION OF COMPLIANCE.—The Secretary  
22 shall—

23 (1) monitor compliance with this section by all  
24 Federal agencies; and

1           (2) annually submit to Congress a report de-  
 2       scribing the extent of compliance with this section.

3   **SEC. 9. PURCHASE OF CLEAN FUEL BUSES.**

4       (a) IN GENERAL.—Chapter 53 of title 49, United  
 5   States Code, is amended by inserting after section 5325  
 6   the following:

7   **“§ 5326. Purchase of clean fuel buses.**

8       “(a) DEFINITION OF CLEAN FUEL BUS.—In this sec-  
 9   tion, the term ‘clean fuel bus’ means a vehicle that—

10           “(1) is capable of being powered by—

11                   “(A) compressed natural gas;

12                   “(B) liquefied natural gas;

13                   “(C) 1 or more batteries;

14                   “(D) a fuel that is composed of at least 85  
 15       percent ethanol (or another percentage of not  
 16       less than 70 percent, as the Secretary may de-  
 17       termine, by rule, to provide for requirements re-  
 18       lating to cold start, safety, or vehicle functions);

19                   “(E) electricity (including a hybrid electric  
 20       or plug-in hybrid electric vehicle);

21                   “(F) a fuel cell; or

22                   “(G) ultra-low sulfur diesel; and

23           “(2) has been certified by the Administrator of  
 24   the Environmental Protection Agency to signifi-  
 25   cantly reduce harmful emissions, particularly in a

1 nonattainment area (as defined in section 171 of the  
2 Clean Air Act (42 U.S.C. 7501)).

3 “(b) PURCHASE OF BUSES.—A bus purchased using  
4 funds made available from the Mass Transit Account of  
5 the Highway Trust Fund shall be a clean fuel bus.”.

6 (b) CONFORMING AMENDMENT.—The analysis for  
7 chapter 53 is amended by inserting after the item relating  
8 to section 5325 the following:

“5326. Clean fuel buses.”.

9 **SEC. 10. DOMESTIC FUELS INFRASTRUCTURE FOR THE DE-**  
10 **PARTMENT OF DEFENSE.**

11 (a) PROGRAM REQUIRED.—The Secretary of Defense  
12 shall carry out a program to evaluate the commercial and  
13 technical viability of advanced technologies for the produc-  
14 tion of alternative transportation fuels having applications  
15 for the Department of Defense. The program shall include  
16 the construction and operation of testing facilities in ac-  
17 cordance with subsection (d).

18 (b) ALTERNATIVE TRANSPORTATION FUELS DE-  
19 FINED.—For purposes of this section, the term “alter-  
20 native transportation fuels” means—

- 21 (1) denatured ethanol and other alcohols;
- 22 (2) mixtures containing at least 85 percent (or  
23 another percentage of not less than 70 percent, as  
24 the Secretary may determine, by rule, to provide for  
25 requirements relating to cold start, safety, or vehicle

1 functions) by volume of denatured ethanol, particu-  
2 larly ethanols derived from cellulosic biomass;

3 (3) coal-derived liquid fuels, including Fischer-  
4 Tropsch fuels;

5 (4) fuels (other than alcohol) derived from bio-  
6 logical materials, including fuels derived from vege-  
7 table oils, animal fats, thermal depolymerization, or  
8 thermalchemical conversion; and

9 (5) any other fuel the Secretary determines, by  
10 rule, is substantially not petroleum and would yield  
11 substantial energy security benefits and substantial  
12 environmental benefits.

13 (c) COORDINATION OF EFFORTS.—

14 (1) IN GENERAL.—The Secretary of Defense  
15 shall carry out the program required by this section  
16 through the Under Secretary of Defense for Acquisi-  
17 tion, Technology, and Logistics and in consultation  
18 with the Director of Defense Research and Engi-  
19 neering, the Advanced Systems and Concepts Office,  
20 the Secretary of Agriculture, and the Secretary of  
21 Energy.

22 (2) ROLE OF BIOMASS RESEARCH AND DEVEL-  
23 OPMENT TECHNOLOGIC ADVISORY COMMITTEE.—

24 The consultations under paragraph (1) shall include  
25 the participation of the Biomass Research and De-

1        velopment Technical Advisory Committee established  
 2        under section 306 of the Biomass Research and De-  
 3        velopment Act of 2000 (title III of Public Law 106–  
 4        224; 7 U.S.C. 8101 note).

5        (d) FACILITIES FOR EVALUATING PRODUCTION OF  
 6        ALTERNATIVE TRANSPORTATION FUELS.—

7                (1) IN GENERAL.—In carrying out the program  
 8        required by this section, the Secretary of Defense  
 9        shall provide for the construction or capital modi-  
 10        fication of—

11                (A) not more than 3 facilities for the pur-  
 12        poses of evaluating the production from cel-  
 13        lulosic biomass of alternative transportation  
 14        fuels having applications for the Department of  
 15        Defense; and

16                (B) not more than 3 facilities for the pur-  
 17        poses of evaluating the production from coal of  
 18        alternative transportation fuels having applica-  
 19        tions for the Department of Defense, with not  
 20        less than one of such facilities utilizing coal re-  
 21        sources with a ranking by the American Society  
 22        for Testing and Materials of high volatile bitu-  
 23        minous B and C.

1           (2) LOCATION OF FACILITIES.—The facilities  
2           constructed under paragraph (1) for the purposes of  
3           cellulosic biomass shall—

4                   (A) afford the efficient use of a diverse  
5           range of fuel sources; and

6                   (B) give initial preference to existing do-  
7           mestic facilities with current or potential capac-  
8           ity for cellulose or coal conversion.

9           (3) CAPACITY OF FACILITIES.—Each facility  
10          constructed under paragraph (1) shall have the flexi-  
11          bility for producing commercial volumes of alter-  
12          native transportation fuels such that when the facil-  
13          ity demonstrates economic viability of the process it  
14          can provide commercial production for the region in  
15          which it is located.

16          (4) AUTHORITY TO ENTER INTO TRANSACTIONS  
17          FOR FACILITY CONSTRUCTION.—The Secretary of  
18          Defense shall seek to construct the facilities required  
19          by paragraph (1) at the lowest cost practicable. The  
20          Secretary may make grants, enter into agreements,  
21          and provide loans or loan guarantees to corpora-  
22          tions, cooperatives, and consortia of such entities for  
23          such purposes.

24          (5) EVALUATIONS AT FACILITIES.—Not later  
25          than 5 years after the date of enactment of this Act,

1 the Secretary of Defense shall begin at the facilities  
2 described in paragraph (1) evaluations of the tech-  
3 nical and commercial viability of different processes  
4 of producing alternative transportation fuels having  
5 Department of Defense applications from cellulosic  
6 biomass or coal.

7 (e) PROGRAM MILESTONES.—In carrying out the  
8 program required by this section, the Secretary of Defense  
9 shall meet the following milestones:

10 (1) SELECTION OF TESTING PROCESSES.—Not  
11 later than 180 days after the date of enactment of  
12 this Act, the Secretary shall select processes for  
13 evaluating the technical and commercial viability of  
14 producing alternative fuels from cellulosic biomass or  
15 coal.

16 (2) INITIATION OF WORK AT EXISTING FACILI-  
17 TIES.—Not later than one year after the date of en-  
18 actment of this Act, the Secretary shall enter into  
19 agreements to carry out testing under this section at  
20 existing facilities.

21 (3) CONSTRUCTION AGREEMENTS.—Not later  
22 than one year after the date of enactment of this  
23 Act, the Secretary shall enter into agreements for  
24 the capital modification or construction of facilities  
25 under subsection (d)(1).

1           (4) COMPLETION OF ENGINEERING AND DESIGN  
2       WORK.—Not later than three years after the date of  
3       enactment of this Act, the Secretary shall complete  
4       capital modifications of existing facilities and the en-  
5       gineering and design work necessary for the con-  
6       struction of new facilities under this section.

7       (f) REPORT ON PROGRAM.—Not later than 18  
8       months after the date of enactment of this Act, and annu-  
9       ally thereafter for the next 5 years, the Secretary of De-  
10      fense shall, in consultation with the Under Secretary of  
11      Defense for Acquisition, Technology, and Logistics, sub-  
12      mit a report on the implementation and results of the pro-  
13      gram required by this section to—

14           (1) the Committees on Armed Services, Energy  
15      and Natural Resources, Agriculture, and Appropria-  
16      tions of the Senate; and

17           (2) the Committees on Armed Services, Energy  
18      and Commerce, Agriculture, and Appropriations of  
19      the House of Representatives.

20      (g) FUNDING.—

21           (1) IN GENERAL.—Of the amounts authorized  
22      to be appropriated under this section, \$250,000,000  
23      may be available for the program required by this  
24      section for fiscal years 2007 through 2012.

- 1           (2) AVAILABILITY.—Amounts available under  
2   paragraph (1) shall remain available until expended.

○