Sánchez, Linda T.	Smith (WA)	Velázquez
Sanchez, Loretta	Snyder	Visclosky
Sarbanes	Solis	Walz (MN)
Schakowsky	Space	Wasserman Schultz
Schiff	Spratt	Waters
Schwartz	Stark	Watson
Scott (GA)	Stupak	Watt
Scott (VA)	Sutton	Waxman
Serrano	Tanner	Weiner
Sestak	Tauscher	Welch (VT)
Shea-Porter	Taylor	Wexler
Sherman	Thompson (CA)	Wilson (OH)
Shuler	Thompson (MS)	Wu
Sires	Towns	Wynn
Skelton	Tsongas	Yarmuth
Slaughter	Udall (NM)	
	Van Hollen	

NAYS—188

Akin	Gallegly	Pearce
Alexander	Gerlach	Pence
Bachmann	Gilchrest	Peterson (PA)
Bachus	Gingrey	Petri
Barrett (SC)	Gohmert	Pickering
Bartlett (MD)	Goode	Pitts
Barton (TX)	Goodlatte	Platts
Biggert	Granger	Poe
Bilbray	Graves	Porter
Bilirakis	Hall (TX)	Price (GA)
Bishop (UT)	Hastings (WA)	Pryce (OH)
Blackburn	Hayes	Putnam
Blunt	Heller	Ramstad
Boehner	Hensarling	Regula
Bonner	Herger	Rehberg
Bono Mack	Hill	Reichert
Boozman	Hobson	Renzi
Boustany	Hoekstra	Reynolds
Brady (TX)	Hulshof	Rogers (AL)
Broun (GA)	Hunter	Rogers (KY)
Brown (SC)	Inglis (SC)	Rogers (MI)
Buchanan	Issa	Rohrabacher
Burgess	Johnson (IL)	Ros-Lehtinen
Burton (IN)	Johnson, Sam	Roskam
Buyer	Jones (NC)	Royce
Calvert	Jordan	Ryan (WI)
Camp (MI)	King (IA)	Sali
Campbell (CA)	King (NY)	Schmidt
Cannon	Kingston	Sensenbrenner
Cantor	Kirk	Sessions
Capito	Kline (MN)	Shadegg
Carter	Kuhl (NY)	Shays
Castle	LaHood	Shimkus
Chabot	Lamborn	Shuster
Coble	Latham	Simpson
Cole (OK)	LaTourette	Smith (NE)
Conaway	Latta	Smith (NJ)
Crenshaw	Lewis (CA)	Smith (TX)
Culberson	Lewis (KY)	Souder
Davis (KY)	Linder	Stearns
Davis, David	LoBiondo	Sullivan
Davis, Tom	Lucas	Tancredo
Deal (GA)	Mack	Terry
Dent	Manzullo	Thornberry
Diaz-Balart, L.	Marchant	Tiahrt
Doolittle	McCarthy (CA)	Tiberi
Drake	McCaul (TX)	Turner
Dreier	McCotter	Upton
Duncan	McCrery	Walberg
Ehlers	McHenry	Walden (OR)
Emerson	McHugh	Walsh (NY)
English (PA)	McKeon	Wamp
Everett	Mica	Weldon (FL)
Fallin	Miller (FL)	Weller
Feeney	Miller (MI)	Westmoreland
Ferguson	Miller, Gary	Whitfield (KY)
Flake	Moran (KS)	Wilson (NM)
Forbes	Murphy, Tim	Wilson (SC)
Fortenberry	Musgrave	Wittman (VA)
Fossella	Myrick	Wolf
Foxx	Neugebauer	Young (AK)
Franks (AZ)	Nunes	Young (FL)
Frelinghuysen	Paul	

NOT VOTING—20

Aderholt	Jones (OH)	Radanovich
Berry	Keller	Reyes
Brown-Waite, Ginny	Knollenberg	Ryan (OH)
Cubin	Lungren, Daniel E.	Saxton
Davis (CA)	McMorris Rodgers	Tierney
Diaz-Balart, M.	Miller (NC)	Udall (CO)
Garrett (NJ)		Woolsey

□ 1252

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. DAVIS of California. Mr. Speaker, on rollcall No. 81, I was unavoidable detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. Pursuant to section 3 of House Resolution 1001, House Resolution 983 is laid on the table.

RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT OF 2008

Mr. RANGEL. Mr. Speaker, pursuant to House Resolution 1001, I call up the bill (H.R. 5351) to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5351

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Renewable Energy and Energy Conservation Tax Act of 2008''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—PRODUCTION INCENTIVES

SEC. 101. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2012'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF CREDIT PHASEOUT.—

(1) REPEAL OF PHASEOUT.—Subsection (b) of section 45 is amended—

(A) by striking paragraph (1), and

(B) by striking ''the 8 cent amount in paragraph (1),'' in paragraph (2) thereof.

(2) LIMITATION BASED ON INVESTMENT IN FACILITY.—Subsection (b) of section 45 is amended by inserting before paragraph (2) the following new paragraph:

''(1) LIMITATION BASED ON INVESTMENT IN FACILITY.—

''(A) IN GENERAL.—In the case of any qualified facility originally placed in service after December 31, 2009, the amount of the credit determined under subsection (a) for any taxable year with respect to electricity produced at such facility shall not exceed the product of—

''(i) the applicable percentage with respect to such facility, multiplied by

''(ii) the eligible basis of such facility.

''(B) CARRYFORWARD OF UNUSED LIMITATION AND EXCESS CREDIT.—

''(i) UNUSED LIMITATION.—If the limitation imposed under subparagraph (A) with respect to any facility for any taxable year exceeds the prelimitation credit for such facility for such taxable year, the limitation imposed under subparagraph (A) with respect to such

facility for the succeeding taxable year shall be increased by the amount of such excess.

''(ii) EXCESS CREDIT.—If the prelimitation credit with respect to any facility for any taxable year exceeds the limitation imposed under subparagraph (A) with respect to such facility for such taxable year, the credit determined under subsection (a) with respect to such facility for the succeeding taxable year (determined before the application of subparagraph (A) for such succeeding taxable year) shall be increased by the amount of such excess. With respect to any facility, no amount may be carried forward under this clause to any taxable year beginning after the 10-year period described in subsection (a)(2)(A)(ii) with respect to such facility.

''(iii) PRELIMITATION CREDIT.—The term 'prelimitation credit' with respect to any facility for a taxable year means the credit determined under subsection (a) with respect to such facility for such taxable year, determined without regard to subparagraph (A) and after taking into account any increase for such taxable year under clause (ii).

''(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable percentage' means, with respect to any facility, the appropriate percentage prescribed by the Secretary for the month in which such facility is originally placed in service.

''(ii) METHOD OF PRESCRIBING APPLICABLE PERCENTAGES.—The applicable percentages prescribed by the Secretary for any month under clause (i) shall be percentages which yield over a 10-year period amounts of limitation under subparagraph (A) which have a present value equal to 35 percent of the eligible basis of the facility.

''(iii) METHOD OF DISCOUNTING.—The present value under clause (ii) shall be determined—

''(I) as of the last day of the 1st year of the 10-year period referred to in clause (ii),

''(II) by using a discount rate equal to the greater of 110 percent of the Federal long-term rate as in effect under section 1274(d) for the month preceding the month for which the applicable percentage is being prescribed, or 4.5 percent, and

''(III) by taking into account the limitation under subparagraph (A) for any year on the last day of such year.

''(D) ELIGIBLE BASIS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'eligible basis' means, with respect to any facility, the sum of—

''(I) the basis of such facility determined as of the time that such facility is originally placed in service, and

''(II) the portion of the basis of any shared qualified property which is properly allocable to such facility under clause (ii).

''(ii) RULES FOR ALLOCATION.—For purposes of subclause (II) of clause (i), the basis of shared qualified property shall be allocated among all qualified facilities which are projected to be placed in service and which require utilization of such property in proportion to projected generation from such facilities.

''(iii) SHARED QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'shared qualified property' means, with respect to any facility, any property described in section 168(e)(3)(B)(vi)—

''(I) which a qualified facility will require for utilization of such facility, and

''(II) which is not a qualified facility.

''(iv) SPECIAL RULE RELATING TO GEOTHERMAL FACILITIES.—In the case of any qualified facility using geothermal energy to produce electricity, the basis of such facility for purposes of this paragraph shall be determined as though intangible drilling and development costs described in section 263(c) were capitalized rather than expensed.

''(E) SPECIAL RULE FOR FIRST AND LAST YEAR OF CREDIT PERIOD.—In the case of any taxable year any portion of which is not within the 10-year period described in subsection (a)(2)(A)(ii) with respect to any facility, the amount of the limitation under subparagraph (A) with respect to such facility shall be reduced by an amount which bears the same ratio to the amount of such limitation (determined without regard to this subparagraph) as such portion of the taxable year which is not within such period bears to the entire taxable year.

''(F) ELECTION TO TREAT ALL FACILITIES PLACED IN SERVICE IN A YEAR AS 1 FACILITY.—At the election of the taxpayer, all qualified facilities which are part of the same project and which are placed in service during the same calendar year shall be treated for purposes of this section as 1 facility which is placed in service at the mid-point of such year or the first day of the following calendar year.''.

(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REPEAL OF CREDIT PHASEOUT.—The amendments made by subsection (b)(1) shall apply to taxable years ending after December 31, 2008.

(3) LIMITATION BASED ON INVESTMENT IN FACILITY.—The amendment made by subsection (b)(2) shall apply to property originally placed in service after December 31, 2009.

(4) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act.

(5) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.''.

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101(a), is amended by striking ''January 1, 2012'' and inserting ''the date of the enactment of paragraph (11)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 103. EXTENSION AND MODIFICATION OF ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) INCREASE IN LIMITATION FOR FUEL CELL PROPERTY.—The amendment made by subsection (c) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsection (d) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 104. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart I—Qualified Tax Credit Bonds

"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.

''(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

''(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a new clean renewable energy bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

''(2) SPECIAL RULES RELATING TO EXPENDITURES.—

''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

''(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

''(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

''(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

''(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

''(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(a)(1).

''(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

''(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

''(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

''(4) SPECIAL RULES RELATING TO ARBITRAGE.—

''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

''(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

''(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

''(i) such fund is funded at a rate not more rapid than equal annual installments,

''(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

''(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

''(5) MATURITY LIMITATION.—

''(A) IN GENERAL.—An issue shall not be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue exceeds the maximum term determined by the Secretary under subparagraph (B).

''(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

''(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

''(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses,

such additional rules are satisfied with respect to such issue.

''(e) OTHER DEFINITIONS.—For purposes of this subchapter—

''(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

''(A) the excess of—

''(i) the proceeds from the sale of an issue, over

''(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

''(B) the proceeds from any investment of the excess described in subparagraph (A).

''(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

''(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

''(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

''(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by public power providers or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 60 percent thereof may be allocated to qualified projects of public power providers, and

''(B) not more than 40 percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under subparagraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraph (2)(B) among qualified projects of cooperative electric companies in such manner as the Secretary determines appropriate.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(4) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(5) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking ''subpart C'' and inserting ''subparts C and I''.

(2) Section 1397E(c)(2) is amended by striking ''subpart H'' and inserting ''subparts H and I''.

(3) Section 6401(b)(1) is amended by striking ''and H'' and inserting ''H, and I''.

(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking ''**certain bonds**'' and inserting ''**clean renewable energy bonds**''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

''SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

''SUBPART I. QUALIFIED TAX CREDIT BONDS.''.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 105. EXTENSION AND MODIFICATION OF SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) (relating to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 106. EXTENSION AND MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) (relating to maximum credit) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,333''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) (relating to allowance of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) (relating to maximum credit) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) (relating to wind facility) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating to maximum expenditures) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a) (relating to allowance of credit), as amended by subsection (c), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) (relating to maximum credit), as amended by subsection (c), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.''.

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d) (relating to definitions), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

''(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

''(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating to maximum expenditures), as amended by subsection (c), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.''.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

TITLE II—CONSERVATION

Subtitle A—Transportation

PART 1—VEHICLES

SEC. 201. CREDIT FOR PLUG-IN HYBRID VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. PLUG-IN HYBRID VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified plug-in hybrid vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any qualified plug-in hybrid vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $4,000.

''(3) BATTERY CAPACITY.—In the case of vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which

section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) QUALIFIED PLUG-IN HYBRID VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plug-in hybrid vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity, and

''(G) which either—

''(i) is also propelled to a significant extent by other than an electric motor, or

''(ii) has a significant onboard source of electricity which also recharges the battery referred to in subparagraph (F).

''(2) EXCEPTION.—The term 'qualified plug-in hybrid vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF QUALIFIED PLUG-IN HYBRID VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a qualified plug-in hybrid vehicle sold during the phase-out period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified plug-in hybrid vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) PLUG-IN VEHICLES NOT TREATED AS NEW QUALIFIED HYBRID VEHICLES.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (31) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(32) the portion of the plug-in hybrid vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by this Act, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. Plug-in hybrid vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 202. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C (relating to alternative fuel vehicle refueling property credit) is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) (relating to termination) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. MODIFICATION OF LIMITATION ON AUTOMOBILE DEPRECIATION.

(a) IN GENERAL.—Paragraph (5) of section 280F(d) (defining passenger automobile) is amended to read as follows:

''(5) PASSENGER AUTOMOBILE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'passenger automobile' means any 4-wheeled vehicle—

''(i) which is primarily designed or which can be used to carry passengers over public streets, roads, or highways (except any vehicle operated exclusively on a rail or rails), and

''(ii) which is rated at not more than 14,000 pounds gross vehicle weight.

''(B) EXCEPTIONS.—The term 'passenger automobile' shall not include—

''(i) any exempt-design vehicle, and

''(ii) any exempt-use vehicle.

''(C) EXEMPT-DESIGN VEHICLE.—The term 'exempt-design vehicle' means—

''(i) any vehicle which, by reason of its nature or design, is not likely to be used more than a de minimis amount for personal purposes, and

''(ii) any vehicle—

''(I) which is designed to have a seating capacity of more than 9 persons behind the driver's seat,

''(II) which is equipped with a cargo area of at least 5 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment, or

''(III) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.

''(D) EXEMPT-USE VEHICLE.—The term 'exempt-use vehicle' means—

''(i) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,

''(ii) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and

''(iii) any truck or van if substantially all of the use of such vehicle by the taxpayer is directly in—

''(I) a farming business (within the meaning of section 263A(e)(4)),

''(II) the transportation of a substantial amount of equipment, supplies, or inventory, or

''(III) the moving or delivery of property which requires substantial cargo capacity.

''(E) RECAPTURE.—In the case of any vehicle which is not a passenger automobile by reason of being an exempt-use vehicle, if such vehicle ceases to be an exempt-use vehicle in any taxable year after the taxable year in which such vehicle is placed in service, a rule similar to the rule of subsection (b) shall apply.''.

(b) CONFORMING AMENDMENT.—Section 179(b) (relating to limitations) is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

PART 2—FUELS

SEC. 211. EXTENSION AND MODIFICATION OF CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''diesel fuel'' and inserting ''liquid fuel'',

(2) by striking ''using a thermal depolymerization process'', and

(3) by striking ''or D396'' in subparagraph (B) and inserting ''or other equivalent standard approved by the Secretary for fuels to be used in diesel-powered highway vehicles''.

(c) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following flush sentence:

''Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking ''(as defined in section 45K(c)(3))''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendments made by subsection (c) shall apply to fuel produced, and sold or used, after February 13, 2008.

SEC. 212. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) BIODIESEL FUELS CREDIT.—Paragraph (5) of section 40A(d), as added by subsection (c), is amended to read as follows:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel unless—

''(A) such biodiesel is produced in the United States for use as a fuel in the United States, and

''(B) the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the location of such production.

For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(h), as added by subsection (c), is amended to read as follows:

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel unless—

''(A) such biodiesel or alternative fuel is produced in the United States for use as a fuel in the United States, and

''(B) the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of such biodiesel or alternative fuel which identifies the product produced and the location of such production.''.

(c) PROVISIONS CLARIFYING TREATMENT OF FUELS WITH NO NEXUS TO THE UNITED STATES.—

(1) ALCOHOL FUELS CREDIT.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:

''(6) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(2) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(3) EXCISE TAX CREDIT.—

(A) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

''(h) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(B) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(h).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) PROVISIONS CLARIFYING TREATMENT OF FUELS WITH NO NEXUS TO THE UNITED STATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsection (c) shall take effect as if included in section 301 of the American Jobs Creation Act of 2004.

(B) ALTERNATIVE FUEL CREDITS.—So much of the amendments made by subsection (c) as relate to the alternative fuel credit or the alternative fuel mixture credit shall take effect as if included in section 11113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

(C) RENEWABLE DIESEL.—So much of the amendments made by subsection (c) as relate to renewable diesel shall take effect as if included in section 1346 of the Energy Policy Act of 2005.

SEC. 213. CREDIT FOR PRODUCTION OF CELLULOSIC ALCOHOL.

(a) IN GENERAL.—Subsection (b) of section 40 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) CELLULOSIC ALCOHOL FUEL PRODUCER CREDIT.—

''(A) IN GENERAL.—The cellulosic alcohol fuel producer credit of any cellulosic alcohol fuel producer for any taxable year is 50 cents for each gallon of qualified cellulosic fuel production of such producer.

''(B) QUALIFIED CELLULOSIC FUEL PRODUCTION.—For purposes of this paragraph, the term 'qualified cellulosic fuel production' means any cellulosic alcohol which is produced by a cellulosic alcohol fuel producer, and which during the taxable year—

''(i) is sold by such producer to another person—

''(I) for use by such other person in the production of a qualified mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such alcohol at retail to another person and places such alcohol in the fuel tank of such other person, or

''(ii) is used or sold by such producer for any purpose described in clause (i).

''(C) CELLULOSIC ALCOHOL.—For purposes of this paragraph, the term 'cellulosic alcohol' means any alcohol which—

''(i) is produced in the United States for use as a fuel in the United States, and

''(ii) is derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.

For purposes of this subparagraph, the term 'United States' includes any possession of the United States.

''(D) CELLULOSIC ALCOHOL FUEL PRODUCER.—For purposes of this paragraph, the term 'cellulosic alcohol fuel producer' means any person who produces cellulosic alcohol in a trade or business and is registered with the Secretary as a cellulosic alcohol fuel producer.

''(E) ADDITIONAL DISTILLATION EXCLUDED.—The qualified cellulosic fuel production of any producer for any taxable year shall not include any alcohol which is purchased by the producer and with respect to which such producer increases the proof of the alcohol by additional distillation.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 40 is amended by striking ''plus'' at the end of paragraph (1), by striking ''plus'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', plus'', and by

adding at the end the following new paragraph:

''(4) in the case of a cellulosic alcohol fuel producer, the cellulosic alcohol fuel producer credit.''.

(2) Clause (ii) of section 40(d)(3)(C) is amended by striking ''subsection (b)(4)(B)'' and inserting ''paragraph (4)(B) or (5)(B) of subsection (b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to alcohol produced after December 31, 2008.

PART 3—OTHER TRANSPORTATION INCENTIVES

SEC. 221. EXTENSION OF TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) (relating to general rule for qualified transportation fringe) is amended by adding at the end the following:

''(D) Any qualified bicycle commuting reimbursement.''.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.''.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) (relating to definitions) is amended by adding at the end the following:

''(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

''(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

''(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

''(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

''(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

''(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).''.

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting ''(other than a qualified bicycle commuting reimbursement)'' after ''qualified transportation fringe''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 222. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as section 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $169,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2008.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical in the flush language after clause (v) thereof and inserting ''(in the case of nonresidential real property and residential rental property, the date of the enactment of the Renewable Energy and Energy Conservation Tax Act of 2008 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''section 1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

''Sec. 1400L. New York Liberty Zone tax credits.''.

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

Subtitle B—Other Conservation Provisions

SEC. 231. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as added by section 104, is amended by adding at the end the following new section:

''SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,600,000,000.

''(d) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (c) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(e) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs,

''(iii) rural development involving the production of electricity from renewable energy resources, or

''(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(f) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(g) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (d) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as added by section 104, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a new clean renewable energy bond, or

''(B) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as added by section 104, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a new clean renewable energy bond, a purpose specified in section 54B(a)(1), and

''(ii) in the case of a qualified energy conservation bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54C. Qualified energy conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 232. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

''(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 233. EXTENSION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 234. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 235. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(B) (relating to 5-year property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED ENERGY MANAGEMENT DEVICE.—

''(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is installed on real property of a customer of the taxpayer and is placed in service by a taxpayer who—

''(i) is a supplier of electric energy or a provider of electric energy services, and

''(ii) provides all commercial and residential customers of such supplier or provider with net metering upon the request of such customer.

''(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's energy management device in support of time-based rates or other forms of demand response, and

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically.

''(C) NET METERING.—For purposes of subparagraph (A), the term 'net metering' means allowing customers a credit for providing electricity to the supplier or provider.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

TITLE III—REVENUE PROVISIONS

SEC. 301. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil,

gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 302. CLARIFICATION OF DETERMINATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) IN GENERAL.—Paragraph (1) of section 907(c) is amended by redesignating subparagraph (B) as subparagraph (C), by striking ''or'' at the end of subparagraph (A), and by inserting after subparagraph (A) the following new subparagraph:

''(B) so much of any transportation of such minerals as occurs before the fair market value event, or''.

(b) FAIR MARKET VALUE EVENT.—Subsection (c) of section 907 is amended by adding at the end the following new paragraph:

''(6) FAIR MARKET VALUE EVENT.—For purposes of this section, the term 'fair market value event' means, with respect to any mineral, the first point in time at which such mineral—

''(A) has a fair market value which can be determined on the basis of a transfer, which is an arm's length transaction, of such mineral from the taxpayer to a person who is not related (within the meaning of section 482) to such taxpayer, or

''(B) is at a location at which the fair market value is readily ascertainable by reason of transactions among unrelated third parties with respect to the same mineral (taking into account source, location, quality, and chemical composition).''.

(c) SPECIAL RULE FOR CERTAIN PETROLEUM TAXES.—Subsection (c) of section 907, as amended by subsection (b), is amended to by adding at the end the following new paragraph:

''(7) OIL AND GAS TAXES.—In the case of any tax imposed by a foreign country which is limited in its application to taxpayers engaged in oil or gas activities—

''(A) the term 'oil and gas extraction taxes' shall include such tax,

''(B) the term 'foreign oil and gas extraction income' shall include any taxable income which is taken into account in determining such tax (or is directly attributable to the activity to which such tax relates), and

''(C) the term 'foreign oil related income' shall not include any taxable income which is treated as foreign oil and gas extraction income under subparagraph (B).''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 907(c)(1), as redesignated by this section, is amended by inserting ''or used by the taxpayer in the activity described in subparagraph (B)'' before the period at the end.

(2) Subparagraph (B) of section 907(c)(2) is amended to read as follows:

''(B) so much of the transportation of such minerals or primary products as is not taken into account under paragraph (1)(B),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 303. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 3.00 percentage points.

TITLE IV—OTHER PROVISIONS

Subtitle A—Studies

SEC. 401. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2008 and 2009.

SEC. 402. COMPREHENSIVE STUDY OF BIOFUELS.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable on United States farmland,

(3) the domestic effects of a dramatic increase in biofuels production on, for example—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops,

(G) exports and imports of grains,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation, and

(6) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The National Academy of Sciences shall submit an initial report of the findings of the report required under subsection (a) to the Congress not later than 3 months after the date of the enactment of this Act, and a final report not later than 6 months after such date of enactment.

Subtitle B—Application of Certain Labor Standards on Projects Financed Under Tax Credit Bonds

SEC. 411. APPLICATION OF CERTAIN LABOR STANDARDS ON PROJECTS FINANCED UNDER TAX CREDIT BONDS.

Subchapter IV of chapter 31 of title 40, United States Code, shall apply to projects financed with the proceeds of any tax credit bond (as defined in section 54A of the Internal Revenue Code of 1986).

The SPEAKER pro tempore. Pursuant to House Resolution 1001, the gentleman from New York (Mr. RANGEL) and the gentleman from Pennsylvania (Mr. ENGLISH) each will control 45 minutes.

The Chair recognizes the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I have asked the nonpartisan Joint Committee on Taxation to make available to the public a technical explanation of the tax provisions of H.R. 5351. The technical explanation expresses the committee's understanding and legislative intent behind this important legislation. This explanation, document JCX–19–08, is currently available on the Joint Committee's Web site.

H.R. 5351 presents a step in the right direction as Congress moves to address the issue of climate change and energy security.

Mr. Speaker, we have an opportunity today to once again visit this important international and certainly national crisis that our country is facing today. RICHARD NEAL, an outstanding member of the Oversight Committee, working with my dear friend, PHIL ENGLISH, was able to explore how the Congress might be more aggressive in dealing with this serious problem.

It is clear that one day our children and grandchildren will be asking us, during this period of time, what were we doing as relates to climate control. What role did we play to avoid our dependency on fossil fuel? How many lives have been lost as a result of our Nation feeling insecure about oil reserves throughout the world? Did we attempt to conserve? Did we protect the Earth? Did we create the jobs? Did we fulfill our moral obligation?

I hate to see that the record is going to say that here we go again, that we have done this before, that the Senate hasn't acted, or that other Members would take the time to talk about

other pieces of legislation instead of devoting all of their attention as to how we can make this issue one that the President can come to the table and join with us and attempt to resolve.

Mr. Speaker, we have an obligation to find renewable sources of energy, to conserve what we have, to test the winds, the waters, solar, to do all that we can to make certain that we meet the challenges that arise on our watch.

And so I reserve the balance of my time, Mr. Speaker, but I do hope that the discussion we have today, that Members realize that the whole world is watching, history is being made, and it is our choice as to whether we have made a positive contribution or whether some Members have preferred to be a political impediment to that progress. But no matter how many times we are rejected by the Senate, our Speaker and leadership are committed to be able to say that on our watch, while we were here, we have done all we could do in order to face and resolve this serious problem.

I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it was Ralph Waldo Emerson who once wrote that a foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines.

Mr. Speaker, our friends on the other side of the aisle have today trumpeted forward an energy bill which they claim will promote America's energy independence. As the chairman of the Ways and Means Committee noted, this is a serious issue. But for those of you who are inclined to actually keep track of these things, this is actually the fourth time that the majority has advanced this particular flawed proposal in one form or another. That to me is a foolish consistency, or just like a broken record, this bill clearly is not playing with the American people.

We fear that it will harm consumers, both individual consumers and companies, and it will also hurt the competitive position of the American economy. At a time when that economy is teetering on the lip of a recession and we are passing through this Chamber stimulus legislation, Washington ought to think twice before we go forward with a bill like this instead of embracing an energy policy that meets the needs of our economy now and that anticipates the challenges of the future.

It is clear today that the majority have not chosen this necessary path. In reality, Mr. Speaker, our friends on the other side of the aisle have presented the House Chamber with a placebo that will ultimately reduce domestic energy production, will punish American energy companies that do what we want them to, and that is invest their profits in exploration here at home, will encourage greater dependence on foreign oil, and will potentially damage America's manufacturing base.

□ 1300

This bill is not a serious solution. It is ''energy policy-lite,'' and it is clearly intended to appeal more to the blogosphere than to market forces. The Democrat solution to America's energy crisis is to single out what they claim are the five largest oil and gas producers for a tax increase.

The fact is, Mr. Speaker, this legislation is not likely to impact oil producers' profits in any way, shape, or form. It is also not limited to the five largest producers, as they claim. The one thing you can be sure that this bill will do is raise prices at the pump for American consumers and create a looming sense of uncertainty which will compound the forces increasing prices today in the marketplace.

Furthermore, it creates disincentives that will erode the supply of domestic natural gas and oil and increase our country's energy imports. While H.R. 5351 not only forces our country to become more dependent on foreign oil, it will also force America's working families to bear the brunt of increased energy costs. The effects of high gas prices will ripple through the economy, increasing prices on everything from electronics to school supplies.

H.R. 5351 is also, I am afraid, an assault against America's manufacturing base. Using nearly one-third of the Nation's energy both as fuel and feedstock, energy production is the very heart of American manufacturing. With such an energy-intensive sector, raising energy prices will make domestic manufacturers less competitive in the world market, forcing more of our good-paying manufacturing jobs to go overseas.

Mr. Speaker, I have long advocated for a comprehensive energy plan that will reduce our dependence on foreign oil and increase Americans' access to clean, affordable, and dependable energy for their cars, their homes, and their businesses. Yet, here again, Mr. Speaker, this bill is moving in the wrong direction. It throws effective incentives for producing renewable energy out the window and replaces them with backward and broken provisions.

In this bill, the wind credit gets a substantial modification that will dramatically reduce its effectiveness for some of its most successful consumers. This will eliminate a critical incentive to increase renewable energy sources, one that has worked.

Mr. Speaker, this version of the Democrats' energy bill is also in an odd way hostile to domestic not only economic interests, but I would argue foreign policy interests. This bill raises taxes on American oil producers while cutting a break for the Venezuelan state-owned oil company, CITGO. In effect, Mr. Speaker, this legislation will take away incentives that have proven to bolster domestic energy production right here at home, while giving more American dollars to, I guess we would call him a tin horn leftist dictator who has threatened to sever Venezuelan energy supplies destined to the United States. Clearly, America's best interests are not in the heart of this plan.

This bill further repeals the domestic manufacturing deduction for domestic oil and gas companies, but allows all other oil and gas companies to receive a 6 percent deduction. This creates a situation whereby foreign-owned companies can claim the U.S. domestic manufacturing deduction, but certain U.S. employers can't.

H.R. 5351 is simply not the answer. It wasn't in any of its three previous incarnations, and it isn't today. This legislation threatens America's investment, threatens Americans' jobs, threatens the American economy, and puts the consumer at a disadvantage.

Mr. Speaker, I urge that we defeat this here today.

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

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

Mr. Speaker, referring to the threat of the national security of the oil producers in Venezuela is a clear example of a failed energy policy in this country, whether it is South America or whether it is the Middle East. But it should be pointed out for the record, as compiled by the Center for American Progress, profits during the Bush administration for oil companies have risen from $30 billion to $103 billion. We don't think it is asking too much for them to assist in partnership to find out whether there is a better way to fuel our energy needs.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), an outstanding Member of the Congress and distinguished member of the Ways and Means Committee.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, as you listen to the minority, it shows the bankruptcy of their approach to energy. They have been in control of this town for all these years, and we have moved backwards. So, instead of coming up now with an alternative of their own, what they do is raise arguments that are so irresponsible. For example, about raising gas prices. The Joint Economic Committee has refuted that.

There isn't a single argument that Mr. ENGLISH raised that can bear any weight of observation. It is absolutely mysterious why, in a time of global warming, what they do on the minority side is come here with a cold shoulder.

This is a responsible bill, a balanced bill. It addresses long-term needs on energy, long-term incentives for renewable energy, solar, wind, biomass, and also tries to give impetus to the use of biofuels like E85, and actually tries to make some progress with the deployment of pumps. Also, in terms of what we use every day, refrigerators, washing machines, there is an incentive here to increase the efficiency and also to do so with American jobs.

So I stand here today wondering, where have you been all of these years

when you controlled this institution and the White House? And that is, I think you have not only been out to lunch, but you have been out to dinner, and you come here today with nothing but attacks that are unwarranted.

Mr. Speaker, I urge that we move this bill once again, and hope the Senate will find the 60 votes and that the President will come to his senses on energy in this country.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself 15 seconds simply to point out to the other gentleman that some of the provisions that he cited were actually originally written into the law during Republican Congresses when we were in the majority and when we were fighting against their opposition to pursue these important conservation measures.

Mr. Speaker, I yield 3 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I don't want to burst anyone's rhetorical bubble here, but this is not a new direction in energy. We ought not oversell this bill. It has some good things we all support, renewable investments and renewables for wind and solar and biomass, hydro and others, which are really good, but 90 percent of this bill is just an extension of what is already in law today.

The only new direction in this bill is that we are outsourcing American energy jobs and raising prices at the pump.

A couple years ago, Congress, worried about too many jobs going overseas, sat down and worked out a new Tax Code that said if you invest, produce, and create jobs here in America, we will give you a lower tax rate than if you do the same overseas. What this bill does is it singles out one American industry, the energy industry, and says no, but not for you. We are going to treat your jobs like foreign jobs. We are going to treat your investments like foreign investments. We are going to treat you as foreign companies, just so we can take your money.

Here we are, almost 2 million American energy jobs at risk, people who have mortgages, have children, are day-to-day doing good work providing us energy, all of a sudden they don't matter anymore. As a result, here we are, facing recession, job losses in America, Michigan, Ohio, and across this country, and we are willing to outsource our American jobs overseas for a political exercise.

The result of this bill, there will be less investment in American energy, there will be less production of American energy, we will have more dependence on foreign oil, and we will have higher fuel prices.

Make no mistake, politicians are shooting at Big Oil, but they are hitting American energy workers and they are hitting families in the pocketbook. Whenever there is no argument left, you will hear this: ExxonMobil is making record profits. You will hear it over and over again.

Well, politicians in Washington ought to hold a mirror up to find out why there are record profits. We have locked off reserves in the gulf and ANWR. We have locked off oil shale. We are killing coal. We are chasing American energy deeper and deeper into costly offshore areas.

More and more of the world's oil reserves are held in unstable governments: Russia, Venezuela, Iran. No wonder prices are so high. The world knows Americans won't take responsibility for its own energy needs, won't explore in stable governments like ourselves, so the American public is paying a political tax at the pump because we won't take responsibility for our own energy needs.

What this Congress has done to lower fuel prices: allowed people to sue OPEC, promoted longer-lasting light bulbs, and, to their credit, directed higher fuel mileage, which is good for everyone but American automakers.

The false choice today is punish American energy, or renewable energy. No. This country needs to do both. Invest in America's traditional energy supply and go after new energy.

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

Mr. Speaker, the gentleman from Texas and the distinguished member of the Ways and Means Committee I think explained why there are such high profits in the oil industry, and if that is the explanation, I assume, if they are looking forward to continuous higher profits as they have been reaping during this administration, that they are in support of this legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the Ways and Means Committee.

Mr. MCDERMOTT. Mr. Speaker, the gentleman from Texas brings tears to my eyes. Big Oil has America over the proverbial barrel. Not only are we paying $100 a barrel for oil and over $3.30 a gallon at the pump, and it will soon be $4.00, not only are oil companies piling up record profits at $10 billion a quarter, but the American people are sending truckloads of taxpayer money to fatten Big Oil's wallet every month.

The legislation before us would stop the madness of American people subsidizing oil companies after they got their Republican friends in the White House and the people's House to give them a windfall they didn't earn, didn't deserve, and don't need.

The legislation before us today will keep America on course to a sustainable renewable energy future. We can dramatically reduce the energy consumption by dramatically increasing energy efficiency, and this bill does that, using tax credits and interest-free financing to partner with the American people to enable them to renovate their homes, to reduce consumption, and to install efficient appliances.

We can dramatically increase the development and deployment of alternative fuels like biodiesel and produce advanced biodiesel fuels with an even lower carbon footprint. And this bill goes in the right direction. We can dramatically increase the development of clean and renewable sources like solar, and this bill does that. Extending the investment tax credit for solar energy production will keep 240 million tons of CO_2 out of the atmosphere. That is like parking 52 million cars.

Today we declare that America will not permit corporate greed to force the American people to choose between food on the table and fuel to heat their house or get to work. Today we declare that America will put Americans ahead of Big Oil. Today we declare that America will power tomorrow with clean, renewable, and sustainable resources. And today we declare we will consume less power tomorrow.

I urge my colleagues to pass this legislation and declare the dawn of a new day in America, when the rising sun not only symbolizes the hope for a new day, but delivers the energy for a tomorrow.

□ 1315

Mr. ENGLISH of Pennsylvania. Mr. Speaker, may I inquire how much time is remaining on both sides.

The SPEAKER pro tempore. The gentleman from Pennsylvania has 35¾ minutes remaining. The gentleman from New York has 35½ minutes remaining.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, it is my privilege to yield 3 minutes to the gentleman from California and a senior member of the Ways and Means committee, Mr. HERGER.

Mr. HERGER. Mr. Speaker, today's bill is eerily reminiscent of legislation we saw back in August, modest renewable energy tax incentives, which I have long supported, mixed with a reformulation of billions of dollars in new taxes on America's predominant energy manufacturers.

Apparently the majority is more interested in scoring political points than in providing anything close to an energy plan. The Democrats even make sure to preserve a carveout that will enable Hugo Chavez's Venezuela state-owned oil company to claim a U.S. tax deduction.

When our constituents ask us to do something about gas prices, they don't want us to raise them. Yet by increasing taxes on U.S. energy manufacturers by more than $17 billion, this bill creates a significant disincentive for domestic production, decreasing our energy security and increasing our over-reliance on uncertain foreign supplies.

Expanding the diversity of our domestic supplies is one step. That will be accomplished over time through tax incentives such as the energy investment and production tax credit for resources like forest, biomass, geothermal and solar energy.

But we can't possibly hope to meet demand by raising taxes and making

U.S. production even more costly. While it may make a nice talking point, taxes won't help our constituents or make energy less costly.

I urge my colleagues to oppose this bill.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Would the gentleman from California be kind enough to specify specifically what the carveout he thinks is in this bill for Hugo Chavez.

Mr. HERGER. With the carveout, I noticed that we are taxing those American companies producing in the United States.

Mr. BLUMENAUER. So there is no carveout for Hugo Chavez.

Mr. HERGER. But it leaves a carveout because it doesn't touch or affect Hugo Chavez.

Mr. BLUMENAUER. Reclaiming my time, it is very clear that the gentleman does not know of any ''carveout'' for Hugo Chavez. He is just talking about the largest five oil companies that under this bill would get an unnecessary tax subsidy and instead would go to emerging technologies that do need the help.

Mr. RANGEL. I would like to yield 3 minutes to an outstanding Member of Congress who has worked so hard on the Ways and Means Committee, Ms. SCHWARTZ of Pennsylvania.

Ms. SCHWARTZ. Mr. Speaker, last week the price of oil surpassed $100 per barrel for the first time ever. American families are hurting from these record prices. Gas prices are up 17 cents in just the last 2 weeks. Since 2001 when President Bush came into office, gas prices have doubled, up to $3.13 a gallon from $1.47 in 2001.

At the same time, oil company profits have tripled, from $30 billion in 2001 to $123 billion in 2007. ExxonMobil alone had a profit of $40 billion, $132 for every American citizen.

It's time our country set a new direction for energy policy by taking advantage of America's greatest resource, our ingenuity and our innovation. This legislation embraces this goal. It accelerates the use of clean domestic renewable energy sources and alternative fuels through long-term extension of production tax credits.

This legislation increases research, development and deployment of clean, renewable energy-efficient technology, and this legislation promotes the use of energy-efficient products and conservation, including a provision for energy-efficient commercial buildings, which I introduced as separate legislation called the Buildings for the 21st Century Act. That's why this bill was endorsed by the 83,000-member American Institute of Architects.

THE AMERICAN INSTITUTE
OF ARCHITECTS,
February 24, 2008.

Hon. NANCY PELOSI,
Speaker of the House, Capitol Building, Washington, DC.
Hon. HARRY REID,
Senate Majority Leader, Capitol Building, Washington, DC.

DEAR SPEAKER PELOSI AND LEADER REID: The American Institute of Architects (AIA) commends you for your leadership in advancing legislation that will put America on the path towards energy independence. While our nation has made great strides in pursuing energy efficiency and developing renewable energy sources, the AIA believes that the federal government can and must do more to bring energy efficient technologies to the marketplace.

One of the most effective strategies to do this is through tax incentives. We therefore strongly support provisions within H.R. 5351, that provide tax incentives to spur the construction of energy efficient buildings and encourage businesses to use renewable sources of energy, specifically solar power.

In order to significantly improve energy efficiency in the United States, we must make a serious commitment to designing and constructing more energy efficient buildings. The building sector is one of the largest consumers of energy in our nation and is responsible for a massive share of the electricity used. Section 233 of H.R. 5351 extends the Energy Efficient Commercial Buildings Tax Deduction. This deduction will provide the necessary incentives to stimulate the design and construction of more energy efficient buildings in the United States. We urge Congress to include an extension of the Energy Efficient Commercial Buildings Tax Deduction in the energy tax package.

This year, Congress has a unique opportunity to pass energy legislation that will set our nation on the path to a secure energy future. To meet this challenge, Congress should pursue policies that will both reduce the amount of energy our nation's buildings consume and increase the use of renewable sources of energy.

Providing tax incentives to achieve these goals is one of the most effective tools Congress can use to achieve these goals. For these reasons the AIA strongly urges Congress to pass H.R. 5351.

Sincerely,

ANDREW L. GOLDBERG,
Senior Director, Federal Affairs.

Cynics say that America isn't ready to embrace an economy that runs on a diversity of clean, American-made energy, but our renewable energy industries are ready to make America more energy independent, more energy efficient and ready to run on safer, cleaner and cheaper energy. This bill before us moves us more quickly and more deliberately towards this goal. It will make us safer, healthier and more economically competitive in the future.

And we pay for this bill. We do so by repealing taxpayer subsidies for the five biggest oil companies, redirecting these revenues towards these renewable sources of energy and energy conservation, creating new jobs in America and spurring new economic development.

I urge all of us who believe in the capacity of American innovation to power American businesses and industries and to make us more energy independent, to build a safer, cleaner future for all of us to support this legislation and to pass it today.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I would first like to yield myself 30 seconds to clear the record.

It has been intimated here that somehow Hugo Chavez's CITGO does not get a special break, and yet the definition in the bill, I think, clearly excludes it. Basically this bill would repeal the special domestic manufacturing deduction for major integrated oil companies, but under the strict definition included, CITGO is not defined as a major integrated oil company since it does not produce crude oil itself. Based on this, CITGO would continue to receive the domestic manufacturing deduction while a number of U.S.-based companies will not.

With that I will retain the balance of my time but yield 3 minutes to a very distinguished member of the Energy and Commerce Committee and ranking member of the Energy and Air Quality Subcommittee, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, by the year 2030, our country is going to need between 40 and 50 percent more energy, and that means we need more nuclear, we need more clean coal, we need more renewable, we need better technology, carbon sequestration and, yes, we do need tax incentives for wind and solar, there is no question about that.

But raising taxes on the oil and gas industry is not the answer. My State of Michigan in answer to our budget woes, in fact, did raise taxes. And a couple of things are happening: people are leaving and so are businesses.

Many of us in this body have been complaining for years that we didn't have new refineries being built and established in this country. We passed the 2005 act and we have seen some changes. What's going to happen if we take those incentives away? We are not going to see new refinery capability again come back to this country.

We need to have incentives in place to help our oil and gas industry. And to take those incentives away, well, they are going to leave. Frankly, I view that as a national security issue.

Countries overseas would love this bill to pass. Countries like India, they can hardly wait for us to raise taxes here so that they will have a better advantage as they build new refineries to send their refined oil to this country.

In fact, right now, 10 percent of the gasoline that comes to this country comes from refineries overseas. That wasn't always the case, but it is today.

So what's going to happen if we raise the taxes? Two things: number one, we will have further incentives to have those companies leave and costs are going to be passed on to the consumer. With gas prices, at least in my district, already averaging about $3.30 a gallon and reports that they are going to go to $4, what's going to happen then? Those costs are going to be passed along. Does anyone really think that this is going to help?

Now most of our renewable sources, wind, hydro, solar, those facilities are, frankly, where there are not often a lot of energy needs. They are not in our big cities. They are not in our suburbs.

I don't know if you can remember, but this last summer, we had a vote that, in fact, was somewhat regional in nature, but it took away, it took a stand on a new transmission line that impacted folks here in the Northeast. I viewed it as a test vote as to whether additional renewables, services, that we do want, would we have the transmission line to actually send that energy to our cities and to our suburbs.

I don't know if you saw yesterday's USA Today, but ''Lines Lacking to Transmit Wind Energy,'' we don't have the sources in it. It takes 5 to 10 years to build these transmission lines, and yet it only takes about 18 months to build the wind and other different devices that we have. But if you don't have the transmission, we can't get that energy to our folks that need it the best.

I'll bet that just about all those that voted to deny that transmission line last summer will be voting for this bill. You can't have it both ways. Let's have a serious discussion that's bipartisan to address the country's energy needs.

Mr. RANGEL. Mr. Speaker, it seems as though a lot of attention is being given to Hugo Chavez and CITGO and, I guess, Castro and maybe Osama bin Laden, but when the final record is established, it would be that we have a lousy energy policy in this country. We just hope you would join with us in trying to protect our great national security.

I would like to yield 3 minutes to RICHARD NEAL from Massachusetts, the subcommittee chairman of oversight, who has done a fantastic job on this subject, and for this your Nation is thankful.

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Let me commend Mr. RANGEL again for his continued leadership on a very important national issue.

Mr. Speaker, this morning's New York Times headlines tell part of the story: ''Gas Prices Soar, Posing a Threat to the Family Budget.'' Gas prices have been soaring for the last 2 years. Last evening's newscast led with, ''What's Happened to Gasoline Prices?''

If you live in the Northeast, Mr. Speaker, you know what's happened to low-income and middle-class families during this winter heating season. They are struggling to pay energy costs that have skyrocketed in the middle of a harsh winter.

The elderly are particularly vulnerable at a time when they are trying to secure medicine, food and other daily necessities. Circumstances similar to this were evident last week when HHS belatedly released $40 million in emergency contingency funds from the Low Income Home Energy Assistance Program, LIHEAP.

By the way, for our Republican friends who might have forgotten, it was Congressman Silvio Conte, a Republican, who helped to inaugurate the LIHEAP program here in Congress that has done so much good for all Americans.

We can and should do more so that struggling people don't have to fear the possibility of going to bed in a cold house. In a Nation that has been blessed with so much, we ought to be able to agree on the necessities of food and medicine and shelter, and, yes, to make sure people don't go to bed in a cold house.

This bill offers important incentives for renewable and efficient energy programs, as well as energy conservation.

We held hearings last year on all of these initiatives. They were met with standing-room-only audiences. People are anxious to explore the advantages of alternative energy resources.

This legislation in front of us today helps to invite a debate and a discussion about where we need to go as a Nation. This important legislation calls attention to the opportunity to promote progressive energy and cost savings for the American family.

Whether it's clean, renewable energy bonds for municipalities, something I am particularly excited about, and my guess is even those who don't like this bill today on the Republican side, they will encourage their municipalities to take advantage of these opportunities should they arise.

It also offers a residential energy-efficient property credit. It offers improved incentives for businesses to deploy wind, solar, geothermal and other promising technologies.

I would think if you were a Member of Congress from Texas, you certainly would like the incentives that are offered here on the basis of wind power.

This legislation will put us on a path to cleaner, greener and stronger families and a stronger America.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, it is now my privilege to yield 2 minutes to a distinguished member of the Energy and Commerce Committee, the gentlelady from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I rise today to oppose this bill. It doesn't produce one bit of energy. It does not generate one kilowatt of electricity. It does not move us toward energy independence. Certainly those are things that need to be a priority when we discuss energy.

Now the price of a barrel of oil, we have talked about that today. It is topping $100, but where was it a year ago? It was at $56 for a barrel of oil.

□ 1330

I like to talk about what that means to my consumers and the impact that has on my constituents in my district. We have seen the price of a gallon of gas go up 75 cents per gallon in the Seventh District of Tennessee over the past year. Let's say a typical mom in Tennessee's Seventh Congressional District fills up her 15-gallon tank once a week. That is $47 per fill-up. Every month she is spending $44 more on that gasoline than she was last February. The difference for the year is $528 more coming out of her pocket to pay the additional energy cost.

Now, there is a bill before us that would tax energy companies and stop new domestic oil and gas production and discourage new investments in refinery capacity. Instead of making America more energy secure, we are seeing things that would drive us to be more dependent on sources from Venezuela, Saudi Arabia, and other nations.

It would be great if we were to have a debate on revolutionizing energy and revolutionary energy legislation. But, in reality, the legislation we are discussing today does not alleviate the strain on the consumers. It would be great if we were talking about energy independence. It would be great if we were talking about increasing refinery capacity and if we were going to look at short-term, mid-range, and long-term solutions to our Nation's energy needs.

I would encourage all to oppose this bill. Let's talk about solving the energy problem.

Mr. RANGEL. Mr. Speaker, when history is reviewed and we see where our Nation is and what bright light we have in not just identifying the problem but providing the solutions, the Speaker has given us all an opportunity to be a part of that great compromise in terms of working with the private sector and working with Republicans and Democrats. And it doesn't make any difference how many setbacks we have, the commitment she made continues. And until we can get a bipartisan ear in the White House, or until the Senate understands that our time has come to face up to the problems in terms of global warming and national security and in terms of the ever-increasing costs of fuel, and to be able to say on our watch we met the challenge and we moved forward, no one voice, no one leader has provided more of an opportunity for us to resolve this serious problem than the Speaker of the House of Representatives. It is indeed my privilege to yield 1 minute to her at this time.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding, for his very generous remarks, and for his tremendous leadership. Once again, he is providing an opportunity for this Congress to come down on the side of America's families instead of a special interest. Once again, he has come down at a place that talks about energy independence and security for our country.

One year ago, actually a little longer, in January of 2007, Mr. RANGEL brought to the floor legislation similar to this. What it did was to repeal the subsidies for Big Oil and to use the funds for research into renewable energy resources

and incentives, tax incentives for that purpose. The bill passed the House overwhelmingly. It again passed as part of our bipartisan energy bill, but it did not survive the Senate because the President threatened to veto the bill if these subsidies to Big Oil were repealed. Imagine that. And so the energy bill, as much of a triumph as it was by having new CAFE standards for the first time in 32 years in the bill, did not have this very important other part, which would be the tax incentive for renewable energy resources.

Again, I thank Chairman RANGEL for his persistence and for bringing this legislation to the floor now to give us this very special opportunity.

When Mr. RANGEL first brought the bill to the floor last January, since then the price of gasoline at the pump has gone up 75 cents; 75 cents since we first took up this legislation. Imagine what that means to a household income. It is 17 cents, the price at the pump has increased 17 cents just in the past 2 weeks. Just yesterday, oil prices reached another new record at more than $101 per barrel. This is at a time when oil companies are making record profits.

Listen to this, my colleagues. Last year, ExxonMobil earned $40.6 billion in profit; $40.6 billion in profit. The largest corporate profit in American history. And yet, the administration refuses to repeal billions of dollars in subsidies to Big Oil.

This bill repeals those subsidies and invests in clean renewable energy that will put us on a path toward energy security and energy independence in a fiscally responsible way, by repealing subsidies to Big Oil, only to Big Oil, already making record profits.

With the Renewable Energy and Energy Conservation Tax Act that we are considering today, we have the opportunity to invest in clean, renewable energy and energy efficiency and grow our economy, creating new jobs, lower energy costs, strengthen national security and reduce global warming.

This legislation, and it is very important because there are so many people across the country who are being innovators, who are being disrupters, who are making change, and this change centering around energy is very, very important, and this legislation is vital to them. This legislation strengthens and extends the production tax credit which will spur deployment of wind, biomass, geothermal, hydropower, tidal, and landfill gas. It extends the solar and fuel cell investment tax credit and offers tax incentives for residential solar, wind, and geothermal technologies. It creates a new production tax credit for cellulosic ethanol and extends the biodiesel production tax credit.

It expands the tax credit for gas stations that install alternative fuel pumps, such as the E85 pumps.

It includes tax incentives to promote greater efficiency for homes and businesses and creates a new tax credit for plug-in hybrid vehicles.

It creates a new category of tax credit bonds to fund local initiatives to promote the deployment of green technologies. I know this has been said before. I reiterate this because this is very, very important and represents real change for our country.

This bill helps create broadly based prosperity with an $18 billion investment in the future. It will spur the production of clean renewable energy resources and provide business with the certainty necessary to make long-term plans to build viable and sustaining markets for these technologies. This is all about answers in the marketplace.

It will ensure that we keep the jobs that were created with the renewable tax credits and create hundreds of thousands more, the next generation of good-paying, green collar jobs that will be right here in America.

Because this legislation is vital for a greener and more prosperous future, it is supported by a broad coalition from business, environmental, and labor communities, from corporations such as Home Depot and Dow Chemical Company, to the Sierra Club, to the United Steelworkers and the National Farmers Union. I have a long list which I will submit for the RECORD, corporate, labor, Florida Power & Light Company. The list goes on and on. MMA Renewable Ventures, National Association of Home Builders, National Association of Industrial and Office Properties, National Association of Realtors, National Electrical Manufacturers, Dupont, Earth Justice, all on the same page. The list goes on and on and on.

This Congress has already taken action to send our Nation in a new direction of energy independence, as I mentioned, by increasing fuel efficiency standards for the first time in 32 years. That was bipartisan legislation signed into law by the President. What is missing are these tax incentives that the distinguished chairman, Mr. RANGEL, is bringing to the floor today.

Energy independence is an economic issue in terms of budgets for America's families and creating new green jobs. It is an urgent national security issue to reduce our dependence on foreign oil. It is an environmental and health issue to reduce global warming and protect the health of our children, and it is a moral issue to care for our planet. We work closely with the evangelical community on these issues because they believe, as do I, that this planet is God's creation and we have a moral responsibility to preserve it.

I urge my colleagues to support the Renewable Energy and Energy Conservation Tax Act of 2008 and, in doing so, take the next step for a green economy, green jobs, and a green future.

FEBRUARY 26, 2008.

DEAR REPRESENTATIVE: As a coalition of businesses, environmental groups, investors, labor, nongovernmental organizations, public health organizations, and utilities we urge you to vote yes on the Renewable Energy and Energy Conservation Tax Act of 2008 (H.R. 5351). The bill would extend federal tax incentives for energy efficiency and renewable energy technologies that have expired or will expire at the end of this year. These incentives must be extended immediately to avoid significant harm to the developing clean energy industries in the United States. The technologies produced by these industries play a vital role in reducing global warming pollution, creating new high-wage jobs in our country, and saving consumers and businesses money on their energy bills.

H.R. 5351 would extend tax incentives for renewable energy production, energy efficiency in commercial buildings, investment in solar electric systems, use of efficient home heating and cooling equipment, production of efficient home appliances, efficiency retrofits to existing homes, and consumer purchases of energy efficient products.

The incentives in H.R. 5351 would remain effective for multiple years, which is essential for the development of the clean energy technology industries. Congress has historically extended the clean energy incentives in two-year increments, which creates a boom-bust cycle for the technologies covered by the incentives. This cycle undermines the efficient development of the clean energy technology industries into mature industries.

Most of the incentives in H.R. 5351 have either expired or will expire at the end of this year. It is critical for the sustained development of the clean energy technology industries that these incentives be continued. A disruption of the incentives would lead to layoffs and a decrease in much needed private capital flowing to these industries. According to a recent study by Navigant Consulting, allowing the renewable energy incentives to expire would lead to about 116,000 jobs being lost in the wind and solar industries from now until the end of 2009.

Although H.R. 5351 was introduced without an extension of the efficient new home tax credit and certain critical changes to the energy efficiency and renewable energy incentives, we look forward to working with you to incorporate the efficient new home credit and these enhancements into the bill later in the legislative process.

America is on the cusp of a new, clean energy economy. The clean energy tax incentives in H.R. 5351 would help our country make the transition to this economy—an economy powered by low-carbon technologies that help solve global warming, reduce energy prices for consumers and create new high-wage jobs. We urge you to vote yes on H.R. 5351.

Sincerely,

Abengoa Solar; Akeena Solar; Alliance to Save Energy; Ameresco; American Institute of Architects; American Council for an Energy Efficient Economy (ACEEE); American Council on Renewable Energy (ACORE); American Rivers; American Wind Energy Association; Applied Materials, Inc.; Apricus Inc.; American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE); Association of Home Appliance Manufacturers (AHAM); Audubon; Ausra, Inc.; Ballard Power Systems; Best Buy Co., Inc.; BrightSource Energy; Building Owners and Managers Association (BOMA) International.

Business Council for Sustainable Energy; California Energy Commission; California Solar Energy Industries Association (CALSEIA); CCIM Institute; Climate Solutions; Conenergy; Constellation Energy; The Dow Chemical Company; DuPont; Earthjustice; Energy

Conversion Devices; Energy Innovations, Inc.; Environment America; Environmental and Energy Study Institute (EESI); Environmental Law & Policy Center (ELPC); EPV Solar; Exelon Corporation; Florida Power & Light Company; Friends Committee on National Legislation (FCNL); Friends of the Earth; Fuel Cell Energy.

Great River Energy; Greenpeace; GridPoint; The Home Depot, Inc.; Hydrogenics; Institute of Real Estate Management; Insulating Concrete Form Association; International Council of Shopping Centers; Johnson Matthey; Lowe's Companies, Inc.; Macy's Inc.; Millennium Cell, Inc.; Mitsubishi Electric & Electronics USA, Inc.; North American Insulation Manufacturers Association (NAIMA); MMA Renewable Ventures, LLC; National Association of Home Builders; National Association of Industrial and Office Properties (NAIOP); National Association of REALTORS; National Electrical Manufacturers Association (NEMA).

National Small Business Association; National Tribal Environmental Council; National Wildlife Federation; Natural Resources Defense Council; New Voice of Business; Northeast Public Power Association; Oerlikon; Owens Corning; PG&E Corporation; Physicians for Social Responsibility; Polyisocyanurate Insulation Manufacturers Association (PIMA); Plug Power, Inc.; PPG Industries; PPM Energy, Inc.; Public Citizen; Q-Cells AG; REgrid Power; The Real Estate Roundtable; ReliOn; Retail Industry Leaders Association.

Sacramento Municipal Utility District (SMUD); Safeway, Inc.; SANYO Energy (U.S.A.) Corporation; SCHOTT Solar, Inc.; Schuco USA LP; Sharp Solar; Sierra Club; SkyFuel Inc.; Solar Energy Industries Association; Solar Integrated; Solar Millennium LLC; Solar Power, Inc.; Solar World; SOLEC-Solar Energy Corporation; Southern Alliance for Clean Energy; Spire Solar, Inc.; SunEdison; SunPower Corporation; Suntech America, Inc.; Target Corporation.

Trane; Trinasolar; Union of Concerned Scientists; United Solar Ovonic; USA Biomass; US Fuel Cell Council; The United Steelworkers (USW); United Technologies Corporation; The Vote Solar Initiative; Wal-Mart Stores, Inc.; Western Organization of Resource Councils (WORC); Western Renewables Group; Whirlpool Corporation; Whole Foods Market, Inc.; Xcel Energy Company; Yahoo! Inc.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 6½ minutes to a distinguished member of the Ways and Means Committee, the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. First, Mr. Speaker, let me talk about a provision in here called New York Liberty Zone Tax Credits. I hope all the Members understand that a precedent is being made right here today.

What this bill does is it gives the New York City government and the New York State government the authority to take the withholding, the Federal tax withholding from their employees and not send the money to the Federal Government as every single other taxpayer in America is made to do, but rather keep that money and spend it on rail infrastructure. This sets up a whole new policy preference and precedent that I think we should be alarmed about.

But I have one question for the distinguished chairman of the Ways and Means Committee on this particular matter, and that is this. In Senate Report 110–228, the director of the Joint Committee on Taxation to the chairman of the Finance Committee says that this provision constitutes a tax earmark given that it only goes to two taxpayers. So in light of the fact that the head of the Joint Committee on Taxation has specified in the Senate that this is a tax earmark, yet the chairman has certified in this bill that there are no tax earmarks contained in this legislation, could the chairman answer me: How does one reconcile the fact that in this bill under the joint tax definition there is a tax earmark, yet the chairman certifies that there are no earmarks in this bill?

I would be happy to yield to the gentleman from New York to answer the question. Just a brief yield, though.

Mr. RANGEL. I really want to thank the gentleman for the way you have raised the question. Rumor had had it that you intended to attack this provision of the bill.

Mr. RYAN of Wisconsin. With all due respect, Mr. Chairman, I am not trying to attack a provision. I am simply trying to get an understanding of what seems like something that is not reconciled.

Mr. RANGEL. I want to thank the gentleman for that, and what I was about to say, that it didn't surprise me that you did not attack it. I said rumor had it, but knowing the gentleman that you are and the concern you do have for sound fiscal policy, I want to first thank the gentleman for the way you raised the question and giving me an opportunity to share this provision with you. And if necessary, I will perhaps give myself additional time if you are not adequately satisfied.

First of all, I think we all agree when 9/11 occurred and the World Trade Center was hit——

Mr. RYAN of Wisconsin. If I could just interject for a second, there are a few more points I would like to make on my time. With all due respect, I would like to keep this brief.

Mr. RANGEL. If you are going to restrict my response, the general explanation for what you ask is in the President's budget. He has supported it in his budget, and the Joint Committee advisory opinion has been superseded by the chairman of the committee, which is me, has been authorized in support of requests by a Republican mayor and a Republican Governor.

Now, the answer to what you want is in the Department of Treasury report, 2008. If you don't want the details, then I yield back to you and I cannot answer any further.

Mr. RYAN of Wisconsin. Reclaiming my time, and with all due respect, I am simply trying to manage my time efficiently here.

Mr. RANGEL. I understand that, but you can't ask serious questions and expect not to get answers.

Mr. RYAN of Wisconsin. Reclaiming my time, the administration does earmarks in their budgets. That it is in the President's budget does not mean this is or is not an earmark.

Mr. RANGEL. It is not an official earmark. And it can't be determined that, and the RECORD would so record that it is not an earmark.

□ 1345

Mr. RYAN of Wisconsin. So am I correct in understanding that irrespective of the fact that the Joint Committee on Taxation defines this as an earmark, that the chairman of the Ways and Means Committee has chosen to supersede that ruling and claim that this is not in his filing in the bill; is that correct?

Mr. RANGEL. Only because the opinion was considered officially and legally as an advisory opinion.

Mr. RYAN of Wisconsin. Okay. So the chairman has decided that that's an incorrect opinion?

Mr. RANGEL. Let me make this abundantly clear. Earmark or no earmark, our country was hit, it was New York City, came to the rescue. Because of the way the bond issue was created, it expired, and the President of the United States believed, in fairness to the community that was hit, on behalf of the people of the United States of America, that there should be an extension of this. So we're not talking about any new earmark. We're talking about an extension of the compassion that this Congress has given my city and my community.

Mr. RYAN of Wisconsin. So the chairman does not believe this is not an earmark, even though it goes to just two tax beneficiaries?

Mr. RANGEL. Let the record establish that the Chair has shared with you, and you can call the Parliamentarian or anyone else you want, this is not considered as an earmark.

Mr. RYAN of Wisconsin. Okay.

Mr. RANGEL. But let me say further that even if it was, I would side with the President of the United States.

Mr. RYAN of Wisconsin. I thank the chairman for yielding. That was enlightening. I think we're just going to agree to disagree on this one. I think that this looks like a tax earmark, and we ought to call it that, regardless of the merits of the policy.

Two other quick points, Mr. Chairman. We've been hearing this rhetoric about tax subsidies to big oil companies. It's almost as if the Republican Congress decided to give a big tax break to just a couple of oil companies. What is this policy we're looking at?

A few years ago, we decided we wanted to do something to stop jobs from being pushed overseas. We wanted to do something to help American manufacturers keep jobs here in America. So

what did we do? We said, if you make or produce something in America, you will pay lower taxes here in America than if you make it overseas. We're going to reward you with lower taxes, all manufacturers, if you make it here in America than if you ship jobs overseas and make it overseas.

And so what is the majority doing? The majority is saying, well, okay, but not for the oil and gas industry. We're going to separate out the oil and gas industry and make them pay these higher overseas tax rates.

This was not a targeted tax benefit to one industry. This was a policy to help bring back manufacturing jobs in America. And so to call this a tax subsidy to just the oil industry, number one, is incorrect. But number two, the effect of this policy will do three things: this is going to raise the price of gasoline, this is going to push more jobs overseas, and most of all it's going to make us more dependent on foreign oil.

We ought to pass an energy policy that makes us less dependent on foreign oil, not more dependent on foreign oil. Unfortunately, that is exactly what this bill does.

The last and final point is this, Mr. Speaker. We are sitting in this bill picking winners and losers in the marketplace. Rather than investing in basic research, rather than investing in the ideas of tomorrow that have yet to be spawned, we are simply saying, today's technology is going to be subsidized; we're going to pick you as a winner and you as a loser, and we are going to do so at the expense of tomorrow's ideas.

It's bad policy. It makes us more dependent on foreign oil. I think we should vote this bill down.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a part of the Democratic leadership in the House, an outstanding member of the Ways and Means Committee, and I welcome his being recognized.

Mr. BECERRA. I thank the chairman for yielding the time.

Let me see if I can get this straight. ExxonMobil, which made over $40 billion in profits recently, the most ever made by any corporation in our country's history, needs a tax break, a tax subsidy. The five largest oil companies which had revenues of $123 billion last year need a tax break so they can have a reason to keep jobs in America.

Today Americans, I know back home in Los Angeles, my constituents are paying over $3.30 a gallon for gasoline at the pump. From those $3.30 a gallon, every gallon of gas that's pumped, the oil companies extract the moneys that gave them these massive profits. Yet now it's not enough that they take the money from our constituents' pockets for gasoline but they have to take it in the taxes that our constituents are paying to the Federal Treasury to give tax subsidies to the largest oil companies in America so that they can be persuaded to keep jobs in America. Something is wrong. That's why this bill is on the floor today.

We're going to take this debate on energy policy in a new and different direction. Think solar. Think wind. Think geothermal. Think hydro power. This bill takes us in a different direction because we think that industries that are saying we want to create clean burning energy, we want to create new jobs and pay great wages is the best way to go.

Today our country is suffering from the highest inflation rates it's seen in almost three decades. Today we see sinking employment numbers, and today we have companies, large corporations that are making vast profits asking for tax breaks. Something is wrong. This bill tries to cure it.

I am proud to join with my constituents, the American Wind Energy Alliance, the Solar Energy Industries Association, the Natural Resources Defense Council, Public Citizen, Pacific Gas and Electric Corporation, Target, Whole Foods, the Real Estate Roundtable, the National Association of Realtors and many more in saying enough is enough. Let's pass this new energy policy legislation.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield to the gentleman from Connecticut (Mr. SHAYS) for a unanimous consent request.

(Mr. SHAYS asked and was given permission to revise and extend his remarks.)

Mr. SHAYS. Mr. Speaker, I rise in support of this very important legislation.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 5351, the Renewable Energy and Energy Conservation Tax Act, which extends Federal tax incentives for energy efficiency and renewable energy technologies that have expired, or will expire, at the end of 2008.

I strongly support promoting increased use of renewable energy and developing renewable energy technologies. Currently, renewable energy sources account for only two percent of our Nation's electricity supply. We need to increase the supply of clean, renewable energy, but we also need to be more energy efficient and slow the growth of demand.

H.R. 5351 would extend tax incentives for wind, geothermal and biomass energy through 2012, and extend the tax incentives for solar electric systems through 2016. The bill also extends credits for consumer purchases of energy efficient products through 2014, and creates a credit for plug-in hybrid vehicles for 2008.

The Production Tax Credit (PTC) helps the United States create thousands of megawatts of new, clean, renewable electricity, and has been a major driver of wind and solar power development.

To fund these tax credits, this bill will repeal some of the tax breaks we give to the oil companies.

I have long advocated repealing some of the tax breaks we give oil companies as "incentives," and voted that way, because our current marketplace provides adequate incentive for oil and gas exploration.

We will never resolve our energy needs because we are not conserving energy . . . we are wasting it. We just continue to consume more and waste more, consume more and waste more, and act like it doesn't matter. H.R. 5351 moves us closer to energy-diverse fuel and independence by incentivizing the industries and technologies that will take us there, and I urge its support.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 4 minutes to a great leader on energy policy who is recognized on both sides of the aisle in this Chamber, the gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I've always believed as a Nation we should wean ourselves from our dependence on fossil fuels and invest in the energy of the future. However, I also believe we must promote the technologies of tomorrow in a way that will benefit, not harm, our constituents and our long-term energy security.

Today, the House is making its fourth attempt this Congress to pass a renewable energy tax package, H.R. 5351. I supported the first attempt last January, H.R. 6, even though I feared it could reduce incentives for domestic production.

Every House package since includes a new or different combination of revenue raisers that target the energy industry and extract billions more than prior versions. If Congress singles out one industry for billions of dollars, you cannot go back for more and expect enough gasoline for our cars and fuel to heat and cool our homes.

Compared to the original H.R. 6, H.R. 5351 includes $17.6 billion in new taxes on the energy industry. That's an increase of over $10 billion in just 1 year. House debates on these measures have been filled with misinformation and unwillingness to review the facts. If Congress took a moment to inject objective analysis in the debate, we could see that the profit margins of energy industries are in line with and, in many cases, below that of other industries.

For every dollar of sales in the third quarter of 2007, the oil and natural gas industry earned 7.6 cents in profit margin, compared to 21.6 cents for the beverage and tobacco industry, 18.8 cents for the pharmaceutical industry, 14.6 cents for the electrical equipment industry, and 14.5 cents for the computer equipment industry.

Again, nationwide, all manufacturing companies, excluding the struggling automotive industry, earned 9.2 cents per dollar of sales, as compared to energy that was 7.6. So there may be great profits in it, but there are also great profits in other corporations.

So are the profits of the energy industry disproportionate with most U.S. industries? Clearly the answer is no. If you evaluate industry tax contributions, we would see that companies are paying more than their fair share and growing the numbers in the coffers of State, Federal and local governments.

In 2006 the effective tax rate for the top energy companies was 37 percent, more than the top corporate tax rate of 35 percent. Between 2004 and 2006, the total current income taxes paid by the 27 top energy companies nearly doubled, nearly doubled in 2 years, growing from $44 billion to $81 billion. So we do have a progressive tax, and it has doubled with the profits.

Recently, the amount that ExxonMobil, a frequent target of criticism, paid in U.S. taxes actually exceeded their U.S. earnings by $18.7 billion. So ExxonMobil is paying a lot of taxes. And I'm not so sure that ExxonMobil or Chevron or ConocoPhillips, or any of the energy industry, if they pay more taxes in this bill, that it will actually not go back to the bottom line that we're already paying at the pump, or to pay to heat and cool our homes.

I wish I could tell you they're going to take it out of their profits, but they're not required to do that. They could just raise prices, and so we'll see even more price increases.

Despite these figures, no industry is as heavily scrutinized as America's oil and natural gas companies. That's probably because most of the production in our country comes from Texas, Louisiana, Mississippi, Alabama and Alaska. Most States don't want it. But they always want their lights to be turned on and their cars to be filled up.

What's most concerning is we continue to move tax packages that target this industry and expect different results.

The Senate has twice failed to reach cloture on these provisions, and the President continues to issue veto threats.

We're debating press releases and not actually legislating. We did legislate last January and we had a tax package that passed this House with only four negative democratic votes. But since then we've had problems with it.

It's time we get serious about our renewable energy and conservation policy. Let's put rhetoric aside for a moment and find a way to move forward on a renewable energy package that can actually become law without jeopardizing our energy security.

Mr. Speaker, I have always believed that as a Nation we should wean ourselves from our dependence on fossil fuels and invest in the energy of the future.

However, I also believe we must promote the technologies of tomorrow in a way that will benefit, not harm, our constituents and our long term energy security.

Today, the House will make its fourth attempt this Congress to pass a renewable energy tax package with H.R. 5351.

I supported the first attempt in January of last year—H.R. 6—even though I feared it could reduce incentives for domestic production.

Every House package since includes a new or different combination of revenue raisers that target the energy industry and extract billions more than prior versions.

If Congress singles out one industry for billions of dollars, you cannot go back for more and expect enough gasoline in our cars and fuel to heat and cool our homes.

Compared to the original H.R. 6, H.R. 5351 includes $17.6 billion in new energy taxes on U.S. companies. That's an increase of over $10 billion in 1 year.

House debates on these measures are filled with misinformation and an unwillingness to review the facts. If Congress took a moment to inject objective analysis into this debate, we would see that the profit margins of energy companies are in line with, and in many cases, below that of other industries.

For every dollar of sales in the third quarter of 2007, the oil and natural gas industry earned 7.6 cents in profit margin. Compare this to the: 21.6 cents earned by the beverage and tobacco industry; 18.8 cents for the pharmaceutical industry; 14.6 cents for the electrical equipment industry; and 14.5 cents for the computer equipment industry.

Nationwide, all manufacturing companies—excluding the struggling automotive industry—earned 9.2 cents per dollar of sales.

So are the profit margins of the energy industry disproportionate from most U.S. industries? Clearly, the answer is "no."

If we evaluate industry tax contributions, we would see that companies are paying more than their fair share and growing the coffers of Federal, State, and local governments.

In 2006 the effective tax rate for the top energy companies was 37 percent, more than the top U.S. corporate income tax rate of 35 percent.

Between 2004 and 2006, the total current income taxes paid by the top 27 energy companies nearly doubled, growing from $44 billion to over $81 billion.

Recently, the amount that ExxonMobil, a frequent target of criticism, paid in U.S. taxes actually exceeded their U.S. earnings by $18.7 billion. That's right. They paid more in U.S. taxes than they earned in the U.S.

Despite these figures, no industry is as heavily scrutinized as America's oil and natural gas companies.

What's most concerning is that we continue to move tax packages that target the energy industry and expect different results.

The Senate has failed twice to reach cloture on these provisions and the President continues to issue veto threats.

This is debating press releases and not legislation. It's time to get serious about our renewable energy and conservation policy.

Let's put rhetoric aside for one moment and find a way forward to support a renewable energy package that can actually become law and won't jeopardize our energy security.

Our Nation and our constituents deserve that opportunity.

Mr. RANGEL. I would like to recognize for 2 minutes the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this debate is not nearly so much about fossil fuels as fossilized thinking. Conceivably there was a time in this country when federal tax policy that was ''of, by and for Big Oil'' meant dependable energy for our families. But now that approach of overreliance is as outdated and ill-conceived as eight-track tapes and President Bush's ''Mission Accomplished'' banner.

Today's legislation would mean more renewable energy production, more solar energy, more wind energy, and provisions that I authored to encourage plug-in hybrid vehicles and geothermal heat pumps. And we don't borrow the money to pay for this renewable energy policy as the spend-and-borrow Republicans always insist. We pay for the measure by asking Big Oil to share just a tiny part of the tax subsidies that they have received for decades with these emerging renewable energy sources.

One of the new tax loopholes that we close in this bill would otherwise have allowed Big Oil to claim a dollar for every gallon that it produced by simply dropping a little dab of grease in petroleum, ironically a provision intended to assist biofuels companies to help us achieve energy independence. And the cost of this modest increase in addressing these unjustifiable tax breaks for Big Oil is so small that I doubt it will even warrant a footnote in the astronomical earnings report of ExxonMobil.

The charge made here today that the price of gas will go up if this bill passes is ludicrous. Does anyone here remember the price of gas going down when the oil companies got this unjustifiable tax break? It didn't go down a dime. And this charge comes from the same crowd that stood idly by while the cost of gas at the pump skyrocketed and did absolutely nothing.

□ 1400

Of course the biggest subsidy of all for our fossilized foreign energy police is the military presence that we must maintain in foreign lands, places as volatile as the petroleum underneath them. We need real change in our energy policy that will bring us closer to a solution for both global warming and global war. I am proud that the City of Austin, Austin Energy, and people throughout Central Texas have taken a leadership role to move us in that direction.

The bill we have today is green. It is a green light to green jobs and a green environment. And the only folks that are seeing red today are those whose padded profits compel them to block the door to progress that this legislation would open.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER) a distinguished member of the Ways and Means Committee.

Mr. WELLER of Illinois. Mr. Speaker, I reluctantly stand in opposition of this legislation. We had an opportunity to develop bipartisan legislation, and I regret that was not achieved today.

Mr. Speaker, I insert into the RECORD this particular advertising for the building trades of the AFL–CIO.

New energy taxes won't create energy . . . but they will destroy jobs.

Reliable, affordable supplies of energy fuel America's economy and support millions of American jobs.

But some in Congress want to put all this in jeopardy with new, higher taxes on energy. History shows such taxes reduce domestic energy production. But they also

threaten to undermine America's economy—and send American jobs overseas.

Americans need energy policies that ensure reliable supplies to create jobs and support our quality of life for generations to come Americans need more energy, not more energy taxes.

And let me quote this ad here. It says, ''Reliable, affordable supplies of energy fuel America's economy and support millions of American jobs.

''But some in Congress want to put all this in jeopardy with new, higher taxes on energy. History shows such taxes reduce domestic energy production. But they also threaten to undermine America's economy, and send American jobs overseas.''

Very simple. Very succinct. The primary reason most Members who oppose this bill stand in opposition, because it raises taxes on domestic manufacturers and domestic jobs. I would like to keep those jobs in America, and this bill will send those jobs elsewhere.

I also want to draw attention to something I find, frankly, kind of alarming in this legislation, and the reason I would encourage my colleagues who are thinking about supporting this legislation to think twice. And that's what has become known as the Venezuela carve-out in this legislation. Now, the Chavez government in Venezuela admittedly is no friend of the United States. We just hear the rhetoric each and every day, and they've made that very clear. But this legislation carves out the PDVSA, the Venezuelan Government-owned oil company, from the tax increases. Now the biggest gasoline retailer in America is the Venezuelan Government-owned oil company, and one of the biggest refineries of America is CITGO, and they're exempt from the tax increases.

Now, who is the Chavez government? The Chavez government is Iran's best friend. The Chavez government started direct flights between Caracas and Tehran, and now Iranian's intelligence and security operatives use that to come into Latin America and the Western Hemisphere. And frankly, it was the Chavez government that sent troops into a Jewish grade school just two years ago and just this past December raided a Jewish community center in Caracas claiming that the community was hiding guns.

And also, just this past week, President Chavez of Venezuela said it is his policy to keep oil at $100 a barrel, that he is going to work with OPEC to keep oil prices high. And this legislation, I can't believe it was done intentionally, but this legislation gives a carve-out to the Venezuelan Government-owned oil company. No friends of ours. I hope my colleagues think twice about supporting this.

I believe we had an opportunity for bipartisanship. Much in this bill are good ideas. Much of it builds on what we passed in 2005 in the energy bill of 2005, which I strongly supported.

My own district, the revisions in the 2005 energy bill that provided incentives for the development of alternative sources of energy, renewable sources of energy, have attracted hundreds of millions of dollars of investment in the 11th Congressional District of Illinois: wind energy, biofuels, ethanol, and biodiesel. And it creates jobs right here at home. There are some good ideas. We need to work on it in a bipartisan way. Unfortunately, this bill does not achieve that goal.

Mr. RANGEL. Mr. Speaker, I guess the RECORD should indicate that our failed energy policy is due to Hugo Chavez.

I would like to yield 2½ minutes to my friend from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, this debate has been quite extraordinary for my friends on the other side of the aisle. They create a picture of great concern: poor, poor oil companies. Oil priced globally at over a hundred dollars a barrel. Prices at the pump approaching record levels, certain to hit record levels at the time the North Dakota farmers have to go to plant their crops. Oil companies reporting record profits. Now, not just record profits relative to their earnings and profits of years past. I mean with ExxonMobil, the biggest profit ever posted by a corporation in history.

And yet, when we look at trying to break this stranglehold on imported oil and build renewable sources of energy so that our economy is not so dangerously dependent upon imported oil, we look to using as a pay-for for these renewable energy incentives a tax provision exploited by oil companies beyond what was ever intended by the Ways and Means Committee. You have the White House threatening veto. You have House Republicans screaming tax increase. I'll tell you, that is an energy policy completely out of gas. We need to move, and move now, to renewable sources.

Take, for example, one, wind power. You know, we are now into a period of time where the wind production tax credit expires at the end of this year. The consequence relative to new products put online is already going to be felt. A recent study by the Solar Energy Industry Association, American Wind Energy Association estimates that if this credit expires, it will cost 6,000 megawatts of new wind energy production, nearly 77,000 jobs, 11.5 billion in economic impact, all in 2009.

This is the group on the other side when they were in the majority that allowed the wind production tax credit to expire three times since 1999. They extended it an additional five times. Now, how in the world can we build a renewable energy system when you have got a tax credit that maybe there isn't there, you can never get your financials right, to make the move this country must make to renewables with wind power playing the major role.

We need to pass this bill and break this lock that oil companies have had on policies coming out of this Chamber.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I'd yield myself 30 seconds to simply point out to the gentleman from North Dakota, who I know is an authentic and sincere advocate of the wind energy credit, that in this bill there is a cap on the wind energy credit which will have the effect of undermining the benefits for many wind energy credit participants. And this is extremely important. By putting a cap on this credit, it will have the effect of discouraging many from participating in the wind energy credit, and for a district like mine that produces windmill technology, this is a real cause for concern.

And with that, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON), who has been a strong advocate on energy policy.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I stand ready to support every renewable form of energy that we can produce. We can't do it fast enough. But a year ago we had $55 oil. Today we have $100 oil, and I'm not going to blame the Democrats like you blamed Mr. Bush. We are all guilty. Congress is the reason we have hundred dollar oil. And I think the Bush administration could have been a lot more aggressive in its energy policies, but the 2005 act had a lot of things in it that your side fought that are reaping benefits today.

But hundred dollar oil is because this Congress has decided we are not going to produce oil and gas anymore, clean natural gas. We are not going to do coal to liquids, coal to gas. We are going to do just renewable.

Let's look at the chart.

At the top, the orange, the buff, the yellow, yellow is nuclear, coal, this is our energy use today, and this is a projection on the right-hand side, on the right-hand side of where it's going to be by 2030 according to the Energy Department.

If we double wind and solar in the next 5 years, it will be less than 3 quarters of 1 percent of our energy use in America. We have to double it. We have to quadruple it before it really makes a measurement difference.

Oil companies make huge profits when they own the rights to oil and Congress locks up the ability to harvest them in America and forces us to go offshore to buy them. We have been gaining 2 percent a year since I have been here. This will be the 12th year. Every year dependence grows 2 percent because Congress has locked up supply. We have to go over there to buy it, foreign unstable countries.

And when you own it and we lock it up and the market goes high and crazy, Wall Street does that. Oil companies don't set the price; Wall Street does. I have been trying to produce clean natural gas. I haven't been able to get a majority for that. Clean and natural gas. I haven't been able to get a majority for that. And that's the one that's vital to the manufacturers of America because it is not a world price, and we have the highest prices in the world.

However, what hope does this bill actually give to young families with home heating costs? Nothing. What hope does this bill bring to poor folks living in rural and urban America who struggle to drive to work, to school, to the doctor's office, to do their shopping? It doesn't do anything. What hope does this bill give to independent truckers who are struggling to pay their fuel oil bill, soon approaching $4, if they try to make a profit with their independent trucks? It doesn't do anything. What does this bill do for rural and suburban seniors who keep their thermostat at 58 degrees last winter and this winter so they can cut their fuel costs? It doesn't do anything.

What does this bill do to prevent the tragedy that happened in my district last year when an elderly gentleman tried to warm, on a sub-zero night, by putting coal in a wood stove and he burned in a fire? This bill would not have saved his life.

Mr. RANGEL. Mr. Speaker, I recognize Mr. PASCRELL for 2 minutes.

(Mr. PASCRELL asked and was given permission to revise and extend his remarks.)

Mr. PASCRELL. Mr. Speaker, I rise in strong support of H.R. 5351, and now we are trying to shift from fear to new policy. That's what this is all about. Chairman RANGEL deserves ample commendation for crafting this wise bill. I can't totally disagree with the gentleman from Pennsylvania that just spoke. So we should want to turn to the next chapter. We should all feel proud that this Congress is, again, showing that we understand the urgency of the situation.

New Jersey gas prices have risen 119 percent since 2001. You cannot tell me that now is not the time to get serious about investing in clean energy, renewable energy, and energy efficiency. You cannot tell me that ending unnecessary subsidies to big oil companies who make record profits is an unfair course of action. No one suggested on this floor that we are going to move from fossil fuel to alternative, and nobody suggested that here. You would think that, though. And when I listen to those arguments, indeed it is long past time we wean ourselves off of foreign energy addiction.

This is a homeland security issue, pure and simple. This bill will help provide for alternative measures for the American consumer at a time when families across our land are hurting.

Put simply, H.R. 5351 reinvests taxpayer subsidies to oil companies already earning record profits into clean renewable energy, creating jobs, making America less dependent on foreign oil, strengthening our national security, and helping to lower energy prices in the long term.

This bill contains incentives to expand production of homegrown fuels including the creation of a new production tax credit for cellulosic ethanol produced in America. It extends tax credits for biodiesel and renewable diesel. Likewise, it provides tax incentives to help homeowners and businesses reduce their energy costs by investing in energy-efficient property. I know businesses throughout my State in New Jersey are eager to lower their energy bills, but the costs at the front end are sometimes too much of a burden. These tax incentives ease that burden.

And I have to make a choice, Mr. Speaker, between the incentives that are provided to the oil companies and the incentives that are provided to those companies who want to produce alternative energy sources.

□ 1415

Mr. ENGLISH of Pennsylvania. Mr. Speaker, may I inquire as to how much time is remaining on each side?

The SPEAKER pro tempore (Mr. GUTIERREZ). The gentleman from Pennsylvania has 11½ minutes. The gentleman from New York has 17½ minutes.

Mr. ENGLISH of Pennsylvania. I wonder if I might invite the gentleman from New York to perhaps proceed.

Mr. RANGEL. I would be glad to. And I would like to ask that the gentleman from Illinois (Mr. EMANUEL) be recognized for 2 minutes.

Mr. EMANUEL. Mr. Speaker, the American people are being asked to pay twice, once at the pump, and once on tax day, in supporting big oil companies. There are record prices at the pump, and now we have record taxpayer subsidies for the big oil companies. As my mother used to say, Such a deal.

ExxonMobil reported earning $40 billion in 2007, the largest corporate profit in American history. At the same time, oil prices topped $100 a barrel for the first time in history, and the New York Times reported this morning that by spring a gallon of gas could cost $4 per gallon. Now I don't think there's anything wrong with record profits. That's not unseemly, in my view. What's unseemly is if the Congress continues to give companies that are making record profits $14 billion in taxpayer subsidies. That is what's unseemly. Not the profits. They make whatever they need to make. I just want to know when the free market principles are going to take over here. At what point do the oil companies, without taxpayer subsidies, go out and enjoy the benefits of a free market? At what point do we stop treating taxpayers as dumb money? That's what I don't understand. I got it when oil was at $15 or $25, energy companies needed help. At $100 a barrel? You've got to enjoy the free market at some point here.

Now here is the problem: We have wedded the country and the taxpayers to a 20th-century energy source rather than investing in 21st-century sources, whether that's wind, solar or thermal. We've got to stop asking the taxpayers to subsidize the past and start asking them to invest in the future. That's exactly what the chairman's legislation does. And it's time that we start to do that.

This would be a hat trick for the United States. Usually there's just winners and losers. If we did this and got this to the President's desk and he had the courage to finally give up on his addiction to Big Oil, we would actually have something that's good for the environment, good for the economy, and good for our foreign policy and our security interests. That is what we're trying to do with this legislation. It is a total hat trick.

Like what we did with the student loans, we stopped subsidizing the big banks and started helping middle-class families. Like we suggested on health care with the HMOs, stop subsidizing the HMOs and start helping the consumers. This legislation begins to end the taxpayer subsidies to Big Oil, and invests in our future by making sure we have energy independence with wind, solar and thermal.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, now it is my privilege to yield 3 minutes to a truly distinguished expert on energy policy that serves on the Ways and Means Committee, the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Speaker, I rise in opposition to this bill. Ninety-six percent of our energy comes from nuclear, oil and coal in this country. Only 4 percent comes from solar and wind. And I am very supportive of creating more energy by wind, creating more energy by using solar panels, but the problem, Mr. Speaker, is that this is not going to solve our problems.

We've heard many Members talk about the price of oil here today. When the price of oil is $100 a barrel, it's because there's not enough oil on the market to meet the demand, largely because we have refused in this country to drill for oil anywhere. We've barred the east coast, the coast of Florida. We even have Cuba now coming in and drilling off the coast of Florida. In California, we don't drill there for oil anymore. And even to go as far as Alaska, the northern slope of Alaska where we have an oil reserve there, we won't even drill for oil in Alaska. So when you talk about having $100 a barrel oil, it's because we refuse to drill for oil, and we rely on oil from other countries to meet our growing demand.

When you look at the problems here that this bill creates, it's taking away tax subsidies to oil companies. But what it does is it only hits the top five oil companies, and you leave out one of the biggest oil companies in the world, and that's the oil company called CITGO which is owned by Hugo Chavez in Venezuela.

If you really wanted to tax the oil companies, you ought to tax all of the oil companies, not just tax our domestic companies that, quite frankly, puts us at a disadvantage to those that produce oil in the Middle East and Venezuela and everywhere else.

And so if we're going to look at real energy policy here, more solar, more

wind, that's all great, but, folks, we're going to rely on oil, nuclear power and coal power in this country for a very long time. I think this Congress has a responsibility to the American people to lower the cost of energy that the American consumer uses, and this bill doesn't do it.

So, with that, Mr. Speaker, I urge my colleagues to vote ''no'' on this bill.

Mr. RANGEL. At this time, I would like to yield 2 minutes to the gentlelady from Nevada (Ms. BERKLEY).

Ms. BERKLEY. I thank the chairman for yielding and for his leadership on this and so many other issues.

Mr. Speaker, as a former utility company attorney, I rise in strong support of this important legislation which will help our Nation and my home State of Nevada to move towards a cleaner, more sustainable energy future.

I am very proud of my State of Nevada. Our legislature has passed a renewable energy portfolio. It mandates that by the year 2015, 20 percent of the power sold to Nevadans must be produced from renewables.

Energy providers in the State of Nevada have built or planned half a dozen major solar power projects in order to meet this requirement. And that's just solar. There is also wind, geothermal, and countless other projects that can and will help lessen our dependence on fossil fuel with the passage of this bill.

This bill provides substantial tax incentives for energy produced from renewable resources, including wind, including solar, geothermal, biomass, many other possibilities. These incentives will provide badly needed assistance to companies that are working hard to diversify our energy resources, improve the economy by creating green jobs, and clean up the air we breathe and our environment.

I believe energy independence is an economic issue, an environmental issue, and a national security imperative.

Mr. Speaker, it is time that our Nation stop depending on corrupt dictators and nations that finance and support terrorists and terrorism around the planet to satisfy our energy needs. We pay exorbitant prices for foreign oil from countries who support and encourage terrorist activities around the world. We must stop funding both sides of this war on terror. By encouraging the development of renewable energy and energy independence, this bill helps move this country in the right direction; $102 for a barrel of oil is reason enough for everybody in this body to support this bill. This package is good for Nevada. It's good for our Nation.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, with the indulgence of the other side, I would like to reserve our time.

Mr. RANGEL. I welcome the opportunity to recognize Mr. VAN HOLLEN from Maryland for 3 minutes.

Mr. VAN HOLLEN. I thank the chairman of the Ways and Means Committee for his leadership on this very important national issue.

The legislation before us today presents a very clear choice: Does the people's House stand with the American consumer or do we stand with big oil companies and the special interests?

With gas prices now more than twice as high as they were the day President Bush took office, the American people can simply not afford a continuation of those failed policies that brought us to this point. They're looking to us to take specific steps towards strengthening our national security by reducing our dependence on foreign oil, cleaning up our environment, and creating millions of good-paying green collar jobs and saving on their costs at the pump.

Now the energy bill that this Congress passed last session was a very important step in the right direction. We improved automobile efficiency standards and provided greater incentives to renewable fuels and new economy-wide efficiency standards, and that will help ease the demand for fossil fuels and spur important energy alternatives.

However, we left a very important piece of that on the table because Senate Republicans and the White House refused to accept a very simple proposition. We want to take the $14 billion in taxpayer subsidies that the Bush administration and the earlier Congress gave the oil and gas companies and we say let's reinvest them in a new energy strategy that focuses on renewable energy and energy efficiency. And now on the other side they say no, we don't want to make that choice. We think the taxpayers, all of us and all the people around this country, should continue to subsidize oil and gas companies that are making record profits rather than making this choice.

Well, that's what this bill is about: let's make a choice. Let's use those resources to invest in over $8 billion in electricity generated from clean, homegrown renewable sources. Let's expand production of homegrown fuels like cellulosic ethanol and renewable biodiesel so that we can reduce our dependence on foreign oil. And let's empower consumers interested in being part of the solution by incentivizing the purchase of energy-efficient appliances and advanced plug-in hybrid vehicles.

There is a whole new energy frontier out there for us to seize upon if only we will make the right choices. And instead of looking backwards and continuing to subsidize companies with the hard-earned dollars of the American people, let's instead invest in an energy future that puts millions of people back to work in green technologies, that advances our national security interests by reducing our reliance on foreign oil, and which addresses major environmental concerns that we all face with respect to climate change.

That is the fundamental question at stake today. Let's make the right choice. Let's make a choice that the people's House can be proud of and support the American consumer and the American people, and not the special interests.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I will just yield myself 1 minute to set the record straight.

The underlying legislation is not going to, as the last speaker suggested, reduce the dependency of the U.S. on foreign oil. In fact, every analyst who has looked at this suggests it will increase the dependency on foreign oil. It certainly in the short run, courtesy of its $17 billion in tax increases on energy production, will increase prices. And that's because the tax increases that are in here are not taxes on profits.

We've heard a lot about oil company profits, but in fact what we are taxing here under their bill is any investment in enhanced production. In other words, any time an oil company takes their profits and invests it in new production and doing what we would expect them to do, we're going to hit them over the head. And this should be a cause for concern because we've heard some rhetoric about how energy costs have gone up, but since they took the majority, gas prices have gone up 30 percent. And under the spot market, a barrel of oil has gone from $55 to $100 a barrel. That is not a favorable trend.

Mr. RANGEL. Mr. Speaker, I would like to recognize the gentlelady from Arizona (Ms. GIFFORDS) for 2 minutes.

Ms. GIFFORDS. Thank you, Chairman RANGEL.

I am proud to be a Member of a congressional body that, first, recognizes the fact that global warming is happening, but is also willing to take action to reduce our dependence on foreign oil and foreign energy.

In our first year, we passed the Energy Independence and Security Act which authorized a number of renewable energy programs. That legislation, I think, was a good first step towards moving us towards energy independence. But what is missing today is the passage of the Renewable Energy and Energy Conservation Tax Act.

I come from the great State of Arizona, a State known for a tremendous amount of sunshine. Just last week, plans were introduced to build the world's largest solar power plant in our back yard. It's going to be big enough to power over 70,000 homes. But a project like this will not be constructed without the solar Investment Tax Credits.

In recent years, the solar industry has been one of the fastest growing industries in the country. It creates high-quality jobs; it provides us with tremendous energy independence; and it addresses global warming. Our Nation cannot afford to have these vital tax incentives sunset like they're set to do in 2008 unless this Congress acts.

□ 1430

For our Nation, for our planet, but, most importantly, for our kids who are

going to inherit this planet that we leave behind, it is critical that we pass this legislation and we urge our colleagues in the Senate to pass this legislation as well.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself 15 seconds simply to note that the Senate has already passed legislation which, unfortunately, has not been brought up by the other side. I attempted to offer that version as an amendment to this legislation, and I'm afraid the Rules Committee did not make it in order.

If we really wanted to move something to the President's desk that would work, the majority had the opportunity to do that and has been quick to fritter it away.

With that, Mr. Speaker, I would like to yield 4 minutes to a gentleman who has been a true leader on energy policy in this Chamber through many sessions, who will be retiring at the end of this session, but today I think we have an opportunity to hear him on energy one more time, the ranking member of the Ways and Means Committee, the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. I thank the gentleman for yielding.

Mr. Speaker, I want to address a couple of issues that have been mentioned here today a number of times.

The first is this issue of subsidies. Several speakers have said we need to end this subsidy to the oil and gas industry. Well, the so-called subsidy that's being ended in this bill is the section 199 provision that applies to all manufacturers in the United States. It was designed to make American manufacturers more competitive and to create jobs here in this country. What this bill does is it excepts from all manufacturers only the oil and gas industry, so it's punitive to the oil and gas industry. It's not removing some special subsidy. It's taking away from only the oil and gas a general deduction for all manufacturers in the United States. So much for these special subsidies that we keep hearing about.

The next thing I would like to talk about is the issue of profits. My good friend, the chairman of the Ways and Means Committee, earlier in this debate said, at the beginning of the Bush administration, profits of the five biggest oil companies in America were $30 billion; at the end of the Bush administration, the profits are $100 billion.

Well, guess what? At the beginning of the Bush administration, the biggest five oil companies in this country, American oil companies, invested in exploration, research, and development, trying to find sources of energy for this country, about $40 billion, more than the profits that they had in that year. And that investment, over the term of the Bush administration, has grown to this last year almost $100 billion. So you can say, ladies and gentlemen, that the profits that have been so denigrated here by some today moved pretty much in parallel with the level of investment of our American companies to find new sources of energy to help us meet our energy needs in this country. That's reality.

All this hocus-pocus about renewable fuels and sun, that's swell, but it is a drop in the bucket of what we need to operate this country today and for the foreseeable future.

So if you want a reasonable, well-balanced energy policy, this bill is certainly not the answer. This bill is part of the answer because it pretty much continues the bill that we passed several years ago when we were in control of this Chamber, but it makes a bad mistake when it punishes. It doesn't remove some special subsidy. It punishes just the oil and gas industry for only American companies. That is wrongheaded. It will result in higher prices at the gasoline pump. It's spiteful and it's wrong. And we ought not to pass this bill and get busy passing a true comprehensive energy policy for this country.

Mr. TANNER. Mr. Speaker, I am pleased to recognize the majority leader for 1 minute.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, there are few Members on this floor whom I respect more than the gentleman who has just spoken. JIM MCCRERY from Louisiana is going to be a loss to this House and to our country. He is a thoughtful, fair, and considerate legislator. He represents his State well. He has represented this House well. And I congratulate him for his service. But people of goodwill can disagree, and I want to make an observation on this punitive measure.

In 2004, the Republicans passed a tax bill. Historically, manufacturers had gotten a tax break to incentivize keeping jobs here and trying to grow jobs in America. The oil companies were not included in that law, as the gentleman knows so well, but the Republicans added oil companies into the category of manufacturers. Now they are being taken out. So he says we added them in and now it would be unfair to take them out. They weren't in originally; we are taking them out.

Mr. Speaker, this important legislation is an explicit recognition that our great Nation must make critical investments today in the development of clean, renewable energy and energy efficiency; energy investments that will strengthen our national, economic, and environmental security for generations to come.

I appreciated Mr. MCCRERY's observation that part of this bill was a good bill. He disagrees with other parts. That's understandable. But we must simply begin to break our addiction to fossil fuels, not because the oil companies are bad. They're not. They produce a product that's absolutely essential and they create jobs, good-paying jobs. So this is not about trying to take it out on the oil companies, but it is to say that fossil fuels are a wasting resource. That is to say, we're going to use it up, it's going to go away, and we need to look to alternatives.

This morning's headline in the New York Times states that the harsh reality is ''Gas Prices Soar, Posing a Threat to Family Budget.'' The fact is the nationwide average for a gallon of regular gasoline was $3.14 this week, an increase of 19 cents in just the last 14 days. Some energy experts fear gas prices could hit $4 a gallon by this spring. Diesel prices are hitting new records daily, and oil hit a record high of $100.88 a barrel on Tuesday.

This, again, is not about the bad oil companies. What this is about is America's dependence on foreign sources of oil and on oil generally. Either it's going away or we will be in the grasp of OPEC, of nations who are not particularly friendly to us: Venezuela; Saudi Arabia sometimes, sometimes not; Iraq; Iran; other oil-producing states that can go away in a second. We are vulnerable, and we need to look to alternatives. That's what this bill seeks to do.

To be clear, this legislation alone will not bring down gas prices. But it is a vital step forward and may bring down gas prices 3 years from now or 10 years from now or 15 years from now. This bill is nothing less than a critical investment in the low carbon economy of the future that will result in the creation of millions of new jobs.

It extends the production tax credit for wind, geothermal, and other renewables to 2011 and renews the investment tax credit for individual homeowners and businesses to maintain incentives for solar energy through the end of 2016. Without the prompt extension of these tax credits, renewable energy project work stoppages could cost 116,000 jobs at a time when we're trying to stimulate the economy.

Furthermore, this bill will spur the commercialization of the next generation of automobiles by establishing a $4,000 credit for the purchase of a plug-in hybrid. Tax credits, tax incentives, are to get something that you need and might not otherwise get unless you get an incentive. I'm going to speak to that with reference to the oil companies in just a second.

It will encourage investments in cleaner fuels, creating economic incentives to invest in biofuels, including biodiesel and cellulosic ethanol. And it will close the so-called ''Hummer'' tax loophole, which encourages taxpayers to buy gas-guzzling SUVs. That makes no sense.

In addition, this legislation will create incentives for the construction of energy-efficient buildings and the retrofitting of existing homes, which will reduce pollution and energy use.

Finally, the energy conservation bonds included in this bill will spur investments in efficiency, create jobs, and reduce carbon emissions.

I would think all of those objectives are objectives that this House, in a bipartisan way, would seek to achieve.

Now, in keeping with this Democratic majority's commitment to fiscal

responsibility, this legislation will not add to the deficit. I will tell you that your previous bills dealing with tax incentives could not make that comment. Rather, the tax incentives contained in the bill are offset by repealing $18 billion in unnecessary tax subsidies over the next 10 years that otherwise will be enjoyed by the largest oil and gas companies in America. Mr. MCCRERY referenced a discussion about that.

Last year alone, the five largest oil companies had a combined profit of $123 billion. God bless them. But it only provokes this question: Do these companies need taxpayer subsidies to look for new product?

I'm a big proponent of the free market system. Supply and demand works. The demand for oil is high. The prices reflect that demand, and they are the highest they have been in history. They don't need any incentive to look for new product. The incentive is the free market system which is buying their product for the highest prices they have ever sold it. So it is foolish to ask the taxpayers to not only pay those high prices at the pump but also to pay additional taxes because the oil companies aren't paying the same kind of level of taxes that they are. Last year alone, as I said, they made the highest profits they have made.

The answer, of course, to my question, do they need incentives to get new product? They do not. They do not. There is not an oil company executive in the world who's going to say let's not look for new oil when their product is getting the highest prices they have gotten in history.

Even President Bush, and I want all my Republican friends to hear this. There aren't very many of them on the floor. There aren't very many Democrats on the floor. But I hope they are watching on television. President Bush, a former oil company executive, said in 2005, and I want you to hear this quote, George Bush, President of the United States, former oil executive, 2005: ''I will tell you, with $55 a barrel oil, we don't need incentives to oil and gas companies to explore.'' I'm sure all of you got that. At $55 a barrel, the President of the United States said we don't need incentives for the companies to explore.

Prices now are almost 100 percent above that dollar figure which the President of the United States said would obviate the need for incentives. With the price of a barrel of oil hovering around $100, do we really believe that this incentive is justified? The President of the United States said no. Hopefully, this Congress today will say no.

This legislation is a thoughtful effort to set our Nation's energy priorities and thereby strengthen our national, economic, and environmental security.

Last year when we passed the Energy Independence and Security Act, the President and Senate Republicans removed a package of economic incentives, including the extension of tax credits for wind and solar energy and biofuels. We must move towards those alternatives. With this bill, we continue the fight for this critical aspect of our energy policy.

I thank the chairman for his leadership on this very important piece of legislation, and I thank the Republican colleagues on the committee as well for working on this product.

We may have differences, but this is a critical issue for the future of our country and for generations yet to come. Vote for this bill.

□ 1445

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I was very impressed by the last speech, and I wish I could be as charitable about the underlying product or about the effort that we are making on the floor today. I do want to congratulate the chairman of the Ways and Means Committee for having given our Select Revenue Subcommittee the opportunity to explore through hearings what our tax policy should be at energy and policy, and I am hopeful that the day will come when those hearings will yield the results that we would hope. I am afraid today is not likely to be that day.

The crisis we are facing is a real one. Mr. Speaker, we are facing a rising global demand for energy of all sorts as the economies of China and India grow. We are seeing the phenomenon of peak oil playing out. Clearly, we are not going to see the growing reserves that we have enjoyed in the past, and increasingly many of the remaining reserves are being mediated by state-owned oil companies with ideological or nationalistic agendas.

Our consumers, both our individual consumers and our corporate consumers, are facing the consequences of high prices, and yet we are imposing on our production artificial restrictions on new production. That is the wrong policy at a time like this. And we are facing aging energy infrastructure, whether it is a power grid that frankly is facing brownouts or refineries that are now at 92 percent of capacity. So if any one of them breaks down, we face a shortage in energy.

These are real problems. And coupled with them is the legitimate concern about externalities, the fact that greenhouse gases from the consumption of fossil fuels are having an uncertain impact on our climate. And yet in the context of all of that, H.R. 5351 is simply not the answer, Mr. Speaker. It wasn't in any of its three previous incarnations, and it is not now. It is bad energy policy. And it is bad tax policy. There are parts of it that represent a continuity with the policies of past Congresses, and I salute the other side for including the extenders. But just like a car with an empty gas tank, this legislation is a nonstarter. It is not going to go anywhere in the Senate. It is not going to get on the President's desk. And today I would ask all of those who join me with these concerns to join in voting against this wrong-headed bill.

I yield back the balance of my time.

Mr. RANGEL. Mr. Speaker, first let me once again thank Mr. ENGLISH for the diligent way that he addresses the problems that are before our committee. His working with RICHARD NEAL makes me proud to be a member and chairman of the Ways and Means Committee. I do hope that at some point that we will be able to get past the barrier of partisanship to deal with a national security issue, a global climate issue, an issue that should challenge all partisanship as we move forward.

It defies common sense to believe that the oil industry that is receiving billions of dollars in profit would even consider the $14 billion that we are talking about. It is almost like grains of sand on the beach. We are asking them to be partners with us, not just for their shareholders, which they know how to take care of, but for their country, to be able to say that our foreign policy should not be directed by where oil is, to be able to say at the end of the day we can tell our kids and grandkids that we tried to protect the atmosphere of this great country, to be able to say that there are alternatives, that we don't have to rely on fossil fuels. We have the genius. We have the creativity. And this bill provides the incentives to see whether we can use the wind, the water, waste, solar, whatever it takes. We have the know-how given the opportunity which this bill will give to deal with it. We can create products that conserve energy. We can increase our surplus in terms of trade by being able to produce products that are far more competitive than what we are doing today. What a great opportunity for us.

And when we talk about potential recession or whatever the President wants to call it, we have to recognize the big role that the increase in the price of oil has played with families who used to consider themselves middle income and now are faced with ever-increasing home fuel costs, automobile costs and all of these things, and to find that we have to give them $159 billion because they don't have the ability to put food on the table or shoes on their kids' feet or to pay their rent or to pay their mortgage. All of this, we can handle these problems if we work together in a bipartisan way. We even go as far as to say in the bill that we don't have all of the answers. We provide tax-exempt bonds for mayors and Governors and people with exciting ideas of how to make greenhouses and increase the efficiency of our commercial buildings as well as our residents.

Why don't we give hope a chance and give the challenge to America a chance, force the Senate to come to meet with us and in a bipartisan way

in the House to be able to say that we are prepared to do these things.

And so I do hope that people would reconsider that did not support H.R. 5351. I do hope and congratulate the leadership and NANCY PELOSI, our Speaker, for never giving up and not giving in just because we face political obstacles. The record is going to indicate which side we were on, and it is abundantly clear, were you on the side of Big Oil or were you on the side of change and wanting to make certain that we met the challenges that we are forced to do.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the bill, H.R. 5351.

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

There was no objection.

Mr. RANGEL. Mr. Speaker, I encourage our membership to support this bill.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 5351, the Renewable Energy and Energy Conservation Tax Act of 2008. I commend the Speaker and the Ways and Means committee for their tireless efforts on behalf of this important legislation.

We are at a crucial point in the United States in the development of our alternative energy economy. We are at a point where, without our support, these industries could either grow and prosper or be sent overseas. This bill represents an important step to ensure that alternative energy technologies like windmills and fuel cells are manufactured in Connecticut, not China and in Indiana, not India.

Tax credits for alternative energy technologies are crucial to these industries across the United States, and particularly in Connecticut. Connecticut has become a leader in the alternative energy field, particularly in the area of fuel cell technology. We have succeeded as a result of investment in research and development, partnerships between the industry and the state and federal government and the ingenuity and talented workforce in the state.

The impact of the fuel cell industry on Connecticut's economy has been powerful. The Connecticut fuel cell industry has created over 2,000 jobs statewide and generates $29 million in tax revenues to the state annually.

The Renewable Energy and Energy Conservation Tax Act of 2008 strengthens and extends the tax credits for investment in fuel cell technology for 8 years, providing much needed certainty to the industry. It also extends the production tax credit for alternative energy technologies like wind, solar and geothermal energy.

In a recent New York Times article, a reporter traveled to small towns in Texas that people had all but given up on because of their faltering economies. These same towns are now experiencing a rebirth because the wind industry is bringing jobs back to their community. This is the impact this important legislation can have on towns throughout the Nation and why I rise today in strong support of H.R. 5351.

Mr. HOLT. Mr. Speaker, I rise today in support of H.R. 5351, the Renewable Energy and Energy Conservation Tax Act of 2008.

For the last 20 years, my colleagues in the scientific community have issued warnings that the release of greenhouse gases is altering the earth's climate in ways that are both expensive and deadly. It is well established that the climate change of recent decades can be attributed to the way we use energy. In fact, the greatest insult to our planet is the way we produce and use energy. This is one of the principle subjects that I have spoken about and worked on since I first ran for Congress, and it is one of the reasons, I believe, that my constituents sent me to Congress.

As an energy scientist, I know how much can be done technically to reduce our dependence on fossil fuels and to slow the rate of climate change. Last year, Congress passed H.R. 6, the Energy Independence and Security Act, historic legislation that took the long overdue first steps toward addressing global climate change and addressing our long term energy needs. Unfortunately, the U.S. Senate removed a provision from the H.R. 6 that would have repealed billions in tax subsidies for oil companies and instead invested in the production of renewable energy. I am pleased that the House is reconsidering these important provisions today in H.R. 5351. If this legislation becomes law it will be a significant second step toward implementing a rational, sustainable national energy policy.

Today, consumers are paying more at the pump than ever before. My constituents in my Central New Jersey district are paying $2.95 at the pump, a 119 percent increase from what they paid in 2001. Gas prices throughout the country over the last two weeks have risen an additional 17 cents, and oil prices have reached a record high at $102 per barrel. While American families transportation and heating costs continue to rise, the five top oil companies posted record profits for 2007, and ExxonMobil posted the largest corporate profit in American history of $40.6 billion. At this time of record profits, oil companies are receiving huge government subsidies. It is past time that we reverse this failed policy which has only benefited big oil companies at the expense of American families and our environment.

The legislation before us today would eliminate the $18 billion in tax breaks that have been awarded to big oil. It will use this money to extend and expand tax incentives for renewable electricity, energy and fuel, as well as for plug-in hybrid cars, and energy efficient homes, buildings, and appliances. Specifically, it would extend existing tax credits for the production of renewable energy, including solar, wind, biomass, geothermal, hydro, landfill gas and trash combustion, as well as adding new incentives for the use and production of renewable energy.

My home state of New Jersey has been a leader in solar production, with over 2,400 solar installations in place and I am told that it has the fastest growing solar market in the United States. The extension of the solar energy tax credit through 2016 will help ensure that the use of solar will continue to proliferate in New Jersey. This will help New Jerseyans reach our goal of having 20 percent of the State's electricity come from renewable sources by 2020.

The renewal of these tax credits will also help to increase our economy by creating hundreds of thousands of jobs. According to a recent study, if the renewable energy tax breaks expire at the end of this year over 116,000 jobs in wind and solar industries would be lost in one year. Today, when the predicted economic growth forecast is an anemic pace of 1.3 to 2 percent and unemployment is likely to climb above percent, we in Congress should do everything we can to ensure job growth and preserve jobs.

Of course, this bill is not enough. If it becomes law it will be an excellent continuation of the work we began last year. Having passed this bill we will be able to continue to consider other alternative energy and climate change legislation, and I am confident that we will. I urge my colleagues to support this legislation.

Ms. HIRONO. Mr. Speaker, I rise in support of H.R. 5351, the Renewable Energy and Energy Conservation Tax Act.

I am proud to be an original cosponsor of this bill, which promotes renewable energy by providing more than $8 billion in long-term tax incentives for electricity produced from renewable sources and encourages greater energy efficiency improvements to homes and commercial buildings.

H.R. 5351 also repeals $18 billion in tax subsidies and loopholes that have for too long benefited the big multi-national oil and gas companies, even as they continue to reap record-breaking profits. While Exxon Mobil raked in $40 billion in earnings last year, American families paid skyrocketing gas prices. In my home State of Hawai'i, where about 90 percent of our energy comes from imported petroleum, residents pay among the Nation's highest prices for electricity and fuel, an average of $3.54 per gallon at the pump. In some parts of the State, the cost for a gallon of regular gas has risen to nearly $4.00. Consumers in Hawaii and across the Nation should not be burdened by excessively high energy costs while also facing a growing credit and housing crisis.

We cannot continue to rely upon Big Oil and offshore oil producers to supply our energy needs at the expense of consumers and the environment. This bill contains long-term tax incentives to achieve energy independence by expanding production of renewable homegrown fuels and electricity in addition to extending tax credits for solar energy, fuel cell investment, and residential energy efficient property.

I believe that H.R. 5351 will do much to put us on a path toward energy independence, create new jobs as we invest in renewable energy production, and help tight global warming. I urge my colleagues to support this measure.

Mr. STARK. Mr. Speaker, I rise today to join with my colleagues to once again support legislation that would take a modest first step towards a rational energy policy. By ''rational,'' I mean that this bill employs the revolutionary concept that legislation should be crafted with the American people in mind, rather than huge multinational oil companies. By ''modest,'' I mean that we have much more work to do to confront global warming and wean our Nation off our addiction to fossil fuels.

The headlines tell a somber story of an economy on the brink. Earlier today, oil reached an all-time high of $102 a barrel. The International Herald Tribune reported that we can expect to see gas cost more than $4 a

gallon this spring. And the Washington Post this morning quoted an economist who announced that ''We're in stagflation, and it's going to get worse.''

Not everyone is singing the blues, however. Earlier this month, the New York Times reported that Exxon Mobil once again set the record for the highest profits ever recorded by a single company, with a net income of $40.6 billion. As reported by the Times, Exxon made $1,287 of profit per second in 2007. Through loopholes in our tax code, taxpayers subsidized much of that profit.

I support the tax portion of this package that ends the over $16 billion in tax breaks for companies like Exxon-Mobil. Today's bill also closes a ridiculous loophole that allows business owners to claim $25,000 deductions for each gaz-guzzling Hummer they purchase. The savings generated are then invested in developing clean energy.

The bill before us today makes important progress and I once again urge my colleagues to support it. Tinkering with the tax code, however, will only get us so far. We must be prepared to take bold action to combat global warming by engaging with the rest of the world and adopting either a progressive carbon tax or a robust cap and trade policy.

Mr. PEARCE. Mr. Speaker, let it be clear, an overwhelming majority of the members of this House, including this member, strongly support extending the Wind and Solar tax credits. These credits will help begin new investments to create new jobs, establish new industries in this country and eventually create more energy for America.

However, in order to pay for these new investments, this bill will kill thousands of current manufacturing jobs by raising taxes and giving foreign companies a competitive advantage.

Are we willing to sacrifice jobs Americans have right now for the promise or opportunity for future jobs? I would say that we don't have to make that choice. Yet, the Majority clearly believes that is the only choice before us.

Instead of the massive new tax increases in this bill, we could open up development 44 miles off the coast of Florida beside the Chinese companies working with the Cuban government to drill 46 miles off the coast of Florida.

We could open up new opportunities off the coast of California where new rigs could drill for oil and serve as new platforms for generating renewable wind and tidal energy.

We could lease more areas in Alaska, where a sale last month generated $2.6 billion in revenues for America in lease sales and will generate tens of billions in royalties in the years to come.

If our goal is to reduce our dependence on foreign energy, this bill fails to accomplish that. I would rhetorically ask the Chairman how much of a tax increase in this bill is on oil companies based in Venezuela or Iran? The answer is none. How much of the tax increases in this bill fall on American companies working in Artesia or Farmington, New Mexico? One hundred percent.

We don't have to choose promoting new industries by destroying old industries. This is a case where we could have it all, new energy development and more energy development, unfortunately the Speaker wont let us make that choice.

Mr. MCKEON. Mr. Speaker, I rise in opposition to H.R. 5351, the latest in a string of flawed energy proposals that will drive up prices for consumers while rewarding special interests.

As Senior Republican on the Education and Labor Committee, I oppose not only the bill's unprecedented energy tax hike, but also its inclusion of bureaucratic mandates that will drive up costs for taxpayers and stifle job creation.

This bill furthers the majority's aggressive expansion of Davis-Bacon wage mandates, a Depression-era policy that saddles federal projects with complicated and highly inaccurate prevailing wage requirements.

Davis-Bacon wages can inflate project costs by as much as 15 percent—costs that get passed on to taxpayers. They also force private companies to do hundreds of millions of dollars of excess administrative work each year, squandering resources that would be better spent creating jobs and spurring innovation.

H.R. 5351 creates and expands bond authority for energy conservation and clean renewable energy. Unfortunately, these bond programs are prone to waste, fraud, and abuse because of a lack of clear oversight. Moreover, projects funded through these bonds would be subject to Davis-Bacon wage mandates.

The notion of a one-size-fits-all federal wage mandate is bad enough, but the specifics of the Davis-Bacon rules are even worse. Because of flawed wage calculations, use of Davis-Bacon wages can drive up wages on one project, while shortchanging workers on another.

The costly and time-consuming requirements of Davis-Bacon bias government contracting against small businesses that are often minority- or female-owned—businesses that simply do not have the resources to comply. As a result, large, unionized companies are more often awarded government contracts—even for small projects.

We need energy independence and lower fuel costs. This bill imposes energy tax hikes that will drive up costs for consumers. We need to eliminate federal red tape to promote job creation. This bill expands the bureaucracy by layering costly Davis-Bacon wage mandates on bond programs already prone to waste, fraud, and abuse.

For these and many other reasons, Mr. Speaker, I cannot support this energy tax increase, and I urge my colleagues to join me voting ''no.''

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

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1001, the bill is considered read and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HOEKSTRA. Yes, I am in its current form.

Mr. RANGEL. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Hoekstra moves to recommit the bill, H.R. 5351, to the Committee on Ways and Means, with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

Congress finds the following:

(1) The energy security of the United States is tied directly to the national security of the United States, the stability of the United States economy, and the stability of key oil producing nations.

(2) Radical jihadists who attacked the United States on September 11, 2001, continue planning to attack the United States and its citizens. If successful, such attacks would directly impact the energy security of the United States. Radical jihadists also seek to replace the governments of key oil producing nations with a caliphate.

(3) The Protect America Act of 2007, which provided key tools to detect and prevent potential terrorist attacks in foreign countries and within the United States expired at midnight, February 17, 2007.

(4) Without those key tools, the capability of the United States intelligence community to detect and prevent potential attacks has begun to substantially degrade, placing at risk the national security of the United States and the energy security of the United States.

(5) Consistent with a bipartisan consensus, Congress must take immediate action to adopt legislation to provide the intelligence community with strong and effective tools to ensure the national security and the energy security of the United States.

SEC. 2. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008'' or the ''FISA Amendments Act of 2008''.

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

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

''TITLE VII—ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES

''SEC. 701. LIMITATION ON DEFINITION OF ELECTRONIC SURVEILLANCE.

''Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance that is targeted in accordance with this title at a person reasonably believed to be located outside the United States.

''SEC. 702. DEFINITIONS.

''(a) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'contents', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101, except as specifically provided in this title.

''(b) ADDITIONAL DEFINITIONS.—

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(3) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(B) a provider of electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

''(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(E) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), or (D).

''(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''SEC. 703. PROCEDURES FOR TARGETING CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.

''(a) AUTHORIZATION.—Notwithstanding any other law, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States, except in accordance with title I or title III;

''(3) may not intentionally target a United States person reasonably believed to be located outside the United States, except in accordance with sections 704, 705, or 706;

''(4) shall not intentionally acquire any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States; and

''(5) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (f); and

''(2) the targeting and minimization procedures required pursuant to subsections (d) and (e).

''(d) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States and does not result in the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (h).

''(e) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt minimization procedures that meet the definition of minimization procedures under section 101(h) or section 301(4) for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (h).

''(f) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 7 days after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will be submitted in not more than 5 days for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (h);

''(ii) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) does not result in the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States, and that such procedures have been approved by, or will be submitted in not more than 5 days for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (h);

''(iii) the procedures referred to in clauses (i) and (ii) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States or the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of acquisition to be located in the United States;

''(iv) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(v) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h) or section 301(4); and

''(II) have been approved by, or will be submitted in not more than 5 days for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (h);

''(vi) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vii) the acquisition does not constitute electronic surveillance, as limited by section 701; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (h).

''(g) DIRECTIVES AND JUDICIAL REVIEW OF DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court, which shall have jurisdiction to review such a petition.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section, or is otherwise unlawful.

''(D) PROCEDURES FOR INITIAL REVIEW.—A judge shall conduct an initial review not later than 5 days after being assigned a petition described in subparagraph (C). If the judge determines that the petition consists of claims, defenses, or other legal contentions that are not warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law, the judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition and order the recipient to comply with the directive or any part of it. Upon making such a determination or promptly thereafter, the judge shall provide a written statement for the record of the reasons for a determination under this subparagraph.

''(E) PROCEDURES FOR PLENARY REVIEW.—If a judge determines that a petition described in subparagraph (C) requires plenary review, the judge shall affirm, modify, or set aside the directive that is the subject of that petition not later than 30 days after being assigned the petition, unless the judge, by order for reasons stated, extends that time as necessary to comport with the due process clause of the fifth amendment to the Constitution of the United States. Unless the judge sets aside the directive, the judge shall immediately affirm or affirm with modifications the directive, and order the recipient to comply with the directive in its entirety or as modified. The judge shall provide a written statement for the records of the reasons for a determination under this subparagraph.

''(F) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(G) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court, which shall have jurisdiction to review such a petition.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition filed under subparagraph (A) shall issue an order requiring the electronic communication service provider to comply with the directive or any part of it, as issued or as modified, if the judge finds that the directive meets the requirements of this section, and is otherwise lawful.

''(D) PROCEDURES FOR REVIEW.—The judge shall render a determination not later than 30 days after being assigned a petition filed under subparagraph (A), unless the judge, by order for reasons stated, extends that time if necessary to comport with the due process clause of the fifth amendment to the Constitution of the United States. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(E) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(F) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5). The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(h) JUDICIAL REVIEW OF CERTIFICATIONS AND PROCEDURES.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (c) and the targeting and minimization procedures adopted pursuant to subsections (d) and (e).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (f) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (d) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States and does not result in the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (e) to assess whether such procedures meet the definition of minimization procedures under section 101(h) or section 301(4).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (f) contains all of the required elements and that the targeting and minimization procedures required by subsections (d) and (e) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—If the Court finds that a certification required by subsection (f) does not contain all of the required elements, or that the procedures required by subsections (d) and (e) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(i) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(ii) cease the acquisition authorized under subsection (a).

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) CONTINUATION OF ACQUISITION PENDING REHEARING OR APPEAL.—Any acquisitions affected by an order under paragraph (5)(B) may continue—

''(i) during the pendency of any rehearing of the order by the Court en banc; and

''(ii) if the Government appeals an order under this section, until the Court of Review enters an order under subparagraph (C).

''(C) IMPLEMENTATION PENDING APPEAL.—Not later than 60 days after the filing of an appeal of an order under paragraph (5)(B) directing the correction of a deficiency, the Court of Review shall determine, and enter a corresponding order regarding, whether all or any part of the correction order, as issued

or modified, shall be implemented during the pendency of the appeal.

''(D) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) EXPEDITED JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(j) MAINTENANCE AND SECURITY OF RECORDS AND PROCEEDINGS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(k) ASSESSMENTS AND REVIEWS.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (e) and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a) with respect to their department, agency, or element—

''(A) are authorized to review the compliance with the targeting and minimization procedures required by subsections (d) and (e);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and, to the extent possible, whether their communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting;

''(iii) the number of targets that were later determined to be located in the United States and, to the extent possible, whether their communications were reviewed; and

''(iv) a description of any procedures developed by the head of an element of the intelligence community and approved by the Director of National Intelligence to assess, in a manner consistent with national security, operational requirements and the privacy interests of United States persons, the extent to which the acquisitions authorized under subsection (a) acquire the communications of United States persons, as well as the results of any such assessment.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to—

''(i) the Foreign Intelligence Surveillance Court;

''(ii) the Attorney General;

''(iii) the Director of National Intelligence; and

''(iv) the congressional intelligence committees.

''SEC. 704. CERTAIN ACQUISITIONS INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.

''(a) JURISDICTION OF THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—

''(1) IN GENERAL.—The Foreign Intelligence Surveillance Court shall have jurisdiction to enter an order approving the targeting of a United States person reasonably believed to be located outside the United States to acquire foreign intelligence information, if such acquisition constitutes electronic surveillance (as defined in section 101(f), regardless of the limitation of section 701) or the acquisition of stored electronic communications or stored electronic data that requires an order under this Act, and such acquisition is conducted within the United States.

''(2) LIMITATION.—In the event that a United States person targeted under this subsection is reasonably believed to be located in the United States during the pendency of an order issued pursuant to subsection (c), such acquisition shall cease until authority, other than under this section, is obtained pursuant to this Act or the targeted United States person is again reasonably believed to be located outside the United States during the pendency of an order issued pursuant to subsection (c).

''(b) APPLICATION.—

''(1) IN GENERAL.—Each application for an order under this section shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under subsection (a)(1). Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements of such application, as set forth in this section, and shall include—

''(A) the identity of the Federal officer making the application;

''(B) the identity, if known, or a description of the United States person who is the target of the acquisition;

''(C) a statement of the facts and circumstances relied upon to justify the applicant's belief that the United States person who is the target of the acquisition is—

''(i) a person reasonably believed to be located outside the United States; and

''(ii) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(D) a statement of the proposed minimization procedures that meet the definition of minimization procedures under section 101(h) or section 301(4);

''(E) a description of the nature of the information sought and the type of communications or activities to be subjected to acquisition;

''(F) a certification made by the Attorney General or an official specified in section 104(a)(6) that—

''(i) the certifying official deems the information sought to be foreign intelligence information;

''(ii) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(iii) such information cannot reasonably be obtained by normal investigative techniques;

''(iv) designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

''(v) includes a statement of the basis for the certification that—

''(I) the information sought is the type of foreign intelligence information designated; and

''(II) such information cannot reasonably be obtained by normal investigative techniques;

''(G) a summary statement of the means by which the acquisition will be conducted and whether physical entry is required to effect the acquisition;

''(H) the identity of any electronic communication service provider necessary to effect the acquisition, provided, however, that the application is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under this section will be directed or conducted;

''(I) a statement of the facts concerning any previous applications that have been made to any judge of the Foreign Intelligence Surveillance Court involving the United States person specified in the application and the action taken on each previous application; and

''(J) a statement of the period of time for which the acquisition is required to be maintained, provided that such period of time shall not exceed 90 days per application.

''(2) OTHER REQUIREMENTS OF THE ATTORNEY GENERAL.—The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

''(3) OTHER REQUIREMENTS OF THE JUDGE.—The judge may require the applicant to furnish such other information as may be necessary to make the findings required by subsection (c)(1).

''(c) ORDER.—

''(1) FINDINGS.—Upon an application made pursuant to subsection (b), the Foreign Intelligence Surveillance Court shall enter an ex parte order as requested or as modified approving the acquisition if the Court finds that—

''(A) the application has been made by a Federal officer and approved by the Attorney General;

''(B) on the basis of the facts submitted by the applicant, for the United States person who is the target of the acquisition, there is probable cause to believe that the target is—

''(i) a person reasonably believed to be located outside the United States; and

''(ii) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(C) the proposed minimization procedures meet the definition of minimization procedures under section 101(h) or section 301(4); and

''(D) the application which has been filed contains all statements and certifications required by subsection (b) and the certification or certifications are not clearly erroneous on the basis of the statement made under subsection (b)(1)(F)(v) and any other information furnished under subsection (b)(3).

''(2) PROBABLE CAUSE.—In determining whether or not probable cause exists for purposes of an order under paragraph (1), a judge having jurisdiction under subsection (a)(1) may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target. However, no United States person may be considered a foreign power, agent of a foreign power, or officer or employee of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

''(3) REVIEW.—

''(A) LIMITATION ON REVIEW.—Review by a judge having jurisdiction under subsection (a)(1) shall be limited to that required to make the findings described in paragraph (1).

''(B) REVIEW OF PROBABLE CAUSE.—If the judge determines that the facts submitted under subsection (b) are insufficient to establish probable cause to issue an order under paragraph (1), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause pursuant to subsection (f).

''(C) REVIEW OF MINIMIZATION PROCEDURES.—If the judge determines that the proposed minimization procedures required under paragraph (1)(C) do not meet the definition of minimization procedures under section 101(h) or section 301(4), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause pursuant to subsection (f).

''(D) REVIEW OF CERTIFICATION.—If the judge determines that an application required by subsection (b) does not contain all of the required elements, or that the certification or certifications are clearly erroneous on the basis of the statement made under subsection (b)(1)(F)(v) and any other information furnished under subsection (b)(3), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause pursuant to subsection (f).

''(4) SPECIFICATIONS.—An order approving an acquisition under this subsection shall specify—

''(A) the identity, if known, or a description of the United States person who is the target of the acquisition identified or described in the application pursuant to subsection (b)(1)(B);

''(B) if provided in the application pursuant to subsection (b)(1)(H), the nature and location of each of the facilities or places at which the acquisition will be directed;

''(C) the nature of the information sought to be acquired and the type of communications or activities to be subjected to acquisition;

''(D) the means by which the acquisition will be conducted and whether physical entry is required to effect the acquisition; and

''(E) the period of time during which the acquisition is approved.

''(5) DIRECTIONS.—An order approving acquisitions under this subsection shall direct—

''(A) that the minimization procedures be followed;

''(B) an electronic communication service provider to provide to the Government forthwith all information, facilities, or assistance necessary to accomplish the acquisition authorized under this subsection in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target;

''(C) an electronic communication service provider to maintain under security procedures approved by the Attorney General any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain; and

''(D) that the Government compensate, at the prevailing rate, such electronic communication service provider for providing such information, facilities, or assistance.

''(6) DURATION.—An order approved under this paragraph shall be effective for a period not to exceed 90 days and such order may be renewed for additional 90-day periods upon submission of renewal applications meeting the requirements of subsection (b).

''(7) COMPLIANCE.—At or prior to the end of the period of time for which an acquisition is approved by an order or extension under this section, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

''(d) EMERGENCY AUTHORIZATION.—

''(1) AUTHORITY FOR EMERGENCY AUTHORIZATION.—Notwithstanding any other provision of this Act, if the Attorney General reasonably determines that—

''(A) an emergency situation exists with respect to the acquisition of foreign intelligence information for which an order may be obtained under subsection (c) before an order authorizing such acquisition can with due diligence be obtained, and

''(B) the factual basis for issuance of an order under this subsection to approve such acquisition exists,

the Attorney General may authorize the emergency acquisition if a judge having jurisdiction under subsection (a)(1) is informed by the Attorney General, or a designee of the Attorney General, at the time of such authorization that the decision has been made to conduct such acquisition and if an application in accordance with this subsection is made to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 7 days after the Attorney General authorizes such acquisition.

''(2) MINIMIZATION PROCEDURES.—If the Attorney General authorizes such emergency acquisition, the Attorney General shall require that the minimization procedures required by this section for the issuance of a judicial order be followed.

''(3) TERMINATION OF EMERGENCY AUTHORIZATION.—In the absence of a judicial order approving such acquisition, the acquisition shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

''(4) USE OF INFORMATION.—In the event that such application for approval is denied, or in any other case where the acquisition is terminated and no order is issued approving the acquisition, no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person during the pendency of the 7-day emergency acquisition period, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(e) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with an order or request for emergency assistance issued pursuant to subsections (c) or (d).

''(f) APPEAL.—

''(1) APPEAL TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—The Government may file an appeal with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subsection (c). The Court of Review shall have jurisdiction to consider such appeal and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(2) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under paragraph (1). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''SEC. 705. OTHER ACQUISITIONS TARGETING UNITED STATES PERSONS OUTSIDE THE UNITED STATES.

''(a) JURISDICTION AND SCOPE.—

''(1) JURISDICTION.—The Foreign Intelligence Surveillance Court shall have jurisdiction to enter an order pursuant to subsection (c).

''(2) SCOPE.—No element of the intelligence community may intentionally target, for the purpose of acquiring foreign intelligence information, a United States person reasonably believed to be located outside the United States under circumstances in which the targeted United States person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes, unless a judge of the Foreign Intelligence Surveillance Court has entered an order or the Attorney General has authorized an emergency acquisition pursuant to subsections (c) or (d) or any other provision of this Act.

''(3) LIMITATIONS.—

''(A) MOVING OR MISIDENTIFIED TARGETS.—In the event that the targeted United States person is reasonably believed to be in the United States during the pendency of an order issued pursuant to subsection (c), such acquisition shall cease until authority is obtained pursuant to this Act or the targeted United States person is again reasonably believed to be located outside the United

States during the pendency of an order issued pursuant to subsection (c).

''(B) APPLICABILITY.—If the acquisition is to be conducted inside the United States and could be authorized under section 704, the procedures of section 704 shall apply, unless an order or emergency acquisition authority has been obtained under a provision of this Act other than under this section.

''(b) APPLICATION.—Each application for an order under this section shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under subsection (a)(1). Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements of such application as set forth in this section and shall include—

''(1) the identity, if known, or a description of the specific United States person who is the target of the acquisition;

''(2) a statement of the facts and circumstances relied upon to justify the applicant's belief that the United States person who is the target of the acquisition is—

''(A) a person reasonably believed to be located outside the United States; and

''(B) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(3) a statement of the proposed minimization procedures that meet the definition of minimization procedures under section 101(h) or section 301(4);

''(4) a certification made by the Attorney General, an official specified in section 104(a)(6), or the head of an element of the intelligence community that—

''(A) the certifying official deems the information sought to be foreign intelligence information; and

''(B) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(5) a statement of the facts concerning any previous applications that have been made to any judge of the Foreign Intelligence Surveillance Court involving the United States person specified in the application and the action taken on each previous application; and

''(6) a statement of the period of time for which the acquisition is required to be maintained, provided that such period of time shall not exceed 90 days per application.

''(c) ORDER.—

''(1) FINDINGS.—If, upon an application made pursuant to subsection (b), a judge having jurisdiction under subsection (a) finds that—

''(A) on the basis of the facts submitted by the applicant, for the United States person who is the target of the acquisition, there is probable cause to believe that the target is—

''(i) a person reasonably believed to be located outside the United States; and

''(ii) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(B) the proposed minimization procedures, with respect to their dissemination provisions, meet the definition of minimization procedures under section 101(h) or section 301(4); and

''(C) the application which has been filed contains all statements and certifications required by subsection (b) and the certification provided under subsection (b)(4) is not clearly erroneous on the basis of the information furnished under subsection (b),

the Court shall issue an ex parte order so stating.

''(2) PROBABLE CAUSE.—In determining whether or not probable cause exists for purposes of an order under paragraph (1)(A), a judge having jurisdiction under subsection (a)(1) may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target. However, no United States person may be considered a foreign power, agent of a foreign power, or officer or employee of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

''(3) REVIEW.—

''(A) LIMITATIONS ON REVIEW.—Review by a judge having jurisdiction under subsection (a)(1) shall be limited to that required to make the findings described in paragraph (1). The judge shall not have jurisdiction to review the means by which an acquisition under this section may be conducted.

''(B) REVIEW OF PROBABLE CAUSE.—If the judge determines that the facts submitted under subsection (b) are insufficient to establish probable cause to issue an order under this subsection, the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause pursuant to subsection (e).

''(C) REVIEW OF MINIMIZATION PROCEDURES.—If the judge determines that the minimization procedures applicable to dissemination of information obtained through an acquisition under this subsection do not meet the definition of minimization procedures under section 101(h) or section 301(4), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause pursuant to subsection (e).

''(D) SCOPE OF REVIEW OF CERTIFICATION.—If the judge determines that the certification provided under subsection (b)(4) is clearly erroneous on the basis of the information furnished under subsection (b), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subparagraph pursuant to subsection (e).

''(4) DURATION.—An order under this paragraph shall be effective for a period not to exceed 90 days and such order may be renewed for additional 90-day periods upon submission of renewal applications meeting the requirements of subsection (b).

''(5) COMPLIANCE.—At or prior to the end of the period of time for which an order or extension is granted under this section, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was disseminated, provided that the judge may not inquire into the circumstances relating to the conduct of the acquisition.

''(d) EMERGENCY AUTHORIZATION.—

''(1) AUTHORITY FOR EMERGENCY AUTHORIZATION.—Notwithstanding any other provision in this subsection, if the Attorney General reasonably determines that—

''(A) an emergency situation exists with respect to the acquisition of foreign intelligence information for which an order may be obtained under subsection (c) before an order under that subsection may, with due diligence, be obtained, and

''(B) the factual basis for issuance of an order under this section exists,

the Attorney General may authorize the emergency acquisition if a judge having jurisdiction under subsection (a)(1) is informed by the Attorney General or a designee of the Attorney General at the time of such authorization that the decision has been made to conduct such acquisition and if an application in accordance with this subsection is made to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 7 days after the Attorney General authorizes such acquisition.

''(2) MINIMIZATION PROCEDURES.—If the Attorney General authorizes such emergency acquisition, the Attorney General shall require that the minimization procedures required by this section be followed.

''(3) TERMINATION OF EMERGENCY AUTHORIZATION.—In the absence of an order under subsection (c), the acquisition shall terminate when the information sought is obtained, if the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

''(4) USE OF INFORMATION.—In the event that such application is denied, or in any other case where the acquisition is terminated and no order is issued approving the acquisition, no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person during the pendency of the 7-day emergency acquisition period, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(e) APPEAL.—

''(1) APPEAL TO THE COURT OF REVIEW.—The Government may file an appeal with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subsection (c). The Court of Review shall have jurisdiction to consider such appeal and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(2) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under paragraph (1). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''SEC. 706. JOINT APPLICATIONS AND CONCURRENT AUTHORIZATIONS.

''(a) JOINT APPLICATIONS AND ORDERS.—If an acquisition targeting a United States person under section 704 or section 705 is proposed to be conducted both inside and outside the United States, a judge having jurisdiction under section 704(a)(1) or section 705(a)(1) may issue simultaneously, upon the request of the Government in a joint application complying with the requirements of section 704(b) or section 705(b), orders under section 704(c) or section 705(c), as applicable.

''(b) CONCURRENT AUTHORIZATION.—If an order authorizing electronic surveillance or physical search has been obtained under section 105 or section 304 and that order is still in effect, the Attorney General may authorize, without an order under section 704 or section 705, an acquisition of foreign intelligence information targeting that United States person while such person is reasonably believed to be located outside the United States.

''SEC. 707. USE OF INFORMATION ACQUIRED UNDER TITLE VII.

''(a) INFORMATION ACQUIRED UNDER SECTION 703.—Information acquired from an acquisition conducted under section 703 shall be

deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.

''(b) INFORMATION ACQUIRED UNDER SECTION 704.—Information acquired from an acquisition conducted under section 704 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106.

''SEC. 708. CONGRESSIONAL OVERSIGHT.

''(a) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this title.

''(b) CONTENT.—Each report made under subparagraph (a) shall include—

''(1) with respect to section 703—

''(A) any certifications made under subsection 703(f) during the reporting period;

''(B) any directives issued under subsection 703(g) during the reporting period;

''(C) a description of the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this section;

''(D) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of section 703(g);

''(E) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection 703(a);

''(F) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection 703(g), including—

''(i) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (d) and (e) of section 703; and

''(ii) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection 703(g); and

''(G) any procedures implementing this section;

''(2) with respect to section 704—

''(A) the total number of applications made for orders under section 704(b);

''(B) the total number of such orders either granted, modified, or denied; and

''(C) the total number of emergency acquisitions authorized by the Attorney General under section 704(d) and the total number of subsequent orders approving or denying such acquisitions; and

''(3) with respect to section 705—

''(A) the total number of applications made for orders under 705(b);

''(B) the total number of such orders either granted, modified, or denied; and

''(C) the total number of emergency acquisitions authorized by the Attorney General under subsection 705(d) and the total number of subsequent orders approving or denying such applications.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et. seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Limitation on definition of electronic surveillance.

''Sec. 702. Definitions.

''Sec. 703. Procedures for targeting certain persons outside the United States other than United States persons.

''Sec. 704. Certain acquisitions inside the United States of United States persons outside the United States.

''Sec. 705. Other acquisitions targeting United States persons outside the United States.

''Sec. 706. Joint applications and concurrent authorizations.

''Sec. 707. Use of information acquired under title VII.

''Sec. 708. Congressional oversight.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—

(A) SECTION 2232.—Section 2232(e) of title 18, United States Code, is amended by inserting ''(as defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978, regardless of the limitation of section 701 of that Act)'' after ''electronic surveillance''.

(B) SECTION 2511.—Section 2511(2)(a)(ii)(A) of title 18, United States Code, is amended by inserting ''or a court order pursuant to section 705 of the Foreign Intelligence Surveillance Act of 1978'' after ''assistance''.

(2) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(A) SECTION 109.—Section 109 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809) is amended by adding at the end the following:

''(e) DEFINITION.—For the purpose of this section, the term 'electronic surveillance' means electronic surveillance as defined in section 101(f) of this Act regardless of the limitation of section 701 of this Act.''.

(B) SECTION 110.—Section 110 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1810) is amended by—

(i) adding an ''(a)'' before ''CIVIL ACTION'',

(ii) redesignating subsections (a) through (c) as paragraphs (1) through (3), respectively; and

(iii) adding at the end the following:

''(b) DEFINITION.—For the purpose of this section, the term 'electronic surveillance' means electronic surveillance as defined in section 101(f) of this Act regardless of the limitation of section 701 of this Act.''.

(C) SECTION 601.—Section 601(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871(a)(1)) is amended by striking subparagraphs (C) and (D) and inserting the following:

''(C) pen registers under section 402;

''(D) access to records under section 501;

''(E) acquisitions under section 704; and

''(F) acquisitions under section 705;''.

(d) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2), (b), and (c) shall cease to have effect on December 31, 2013.

(2) CONTINUING APPLICABILITY.—Section 703(g)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 703(g) of that Act (as so amended) for information, facilities, or assistance provided during the period such directive was or is in effect. Section 704(e) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to an order or request for emergency assistance under that section. The use of information acquired by an acquisition conducted under section 703 of that Act (as so amended) shall continue to be governed by the provisions of section 707 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF DOMESTIC COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF DOMESTIC COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. The procedures of chapters 119, 121, and 206 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance (as defined in section 101(f), regardless of the limitation of section 701) and the interception of domestic wire, oral, or electronic communications may be conducted.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of domestic communications may be conducted.''.

(c) CONFORMING AMENDMENTS.—Section 2511(2) of title 18, United States Code, is amended in paragraph (f), by striking '', as defined in section 101 of such Act,'' and inserting ''(as defined in section 101(f) of such Act regardless of the limitation of section 701 of such Act)''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMIANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following:

''(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

''(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

''(2) a copy of any such decision, order, or opinion, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2008 and not previously submitted in a report under subsection (a).

''(d) PROTECTION OF NATIONAL SECURITY.—The Attorney General, in consultation with the Director of National Intelligence, may authorize redactions of materials described in subsection (c) that are provided to the committees of Congress referred to in subsection (a), if such redactions are necessary to protect the national security of the

United States and are limited to sensitive sources and methods information or the identities of targets.''.

(c) DEFINITIONS.—Such section 601, as amended by subsections (a) and (b), is further amended by adding at the end the following:

''(e) DEFINITIONS.—In this section:

''(1) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The term ''Foreign Intelligence Surveillance Court'' means the court established by section 103(a).

''(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The term 'Foreign Intelligence Surveillance Court of Review' means the court established by section 103(b).''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if designated by the President as a certifying official—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) reasonably determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) resonably determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 7 days after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if designated by the President as a certifying official—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General reasonably—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 7 days after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such physical search shall subsequently be used or

disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''7 days''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''7 days''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 703(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

(d) AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803), as amended by this Act, is amended by adding at the end the following:

''(h)(1) Nothing in this Act shall be considered to reduce or contravene the inherent authority of the Foreign Intelligence Surveillance Court to determine, or enforce, compliance with an order or a rule of such Court or with a procedure approved by such Court.

''(2) In this subsection, the terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by subsection (a).''.

SEC. 110. WEAPONS OF MASS DESTRUCTION.

(a) DEFINITIONS.—

(1) FOREIGN POWER.—Subsection (a)(4) of section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)(4)) is amended by inserting '', the international proliferation of weapons of mass destruction,'' after ''international terrorism''.

(2) AGENT OF A FOREIGN POWER.—Subsection (b)(1) of such section 101 is amended—

(A) in subparagraph (B), by striking ''or'' at the end

(B) in subparagraph (C), by striking ''or'' at the end; and

(C) by adding at the end the following new subparagraphs:

''(D) engages in the international proliferation of weapons of mass destruction, or activities in preparation therefor; or

''(E) engages in the international proliferation of weapons of mass destruction, or activities in preparation therefor, for or on behalf of a foreign power; or''.

(3) FOREIGN INTELLIGENCE INFORMATION.—Subsection (e)(1)(B) of such section 101 is amended by striking ''sabotage or international terrorism'' and inserting ''sabotage, international terrorism, or the international proliferation of weapons of mass destruction''.

(4) WEAPON OF MASS DESTRUCTION.—Such section 101 is amended by inserting after subsection (o) the following:

''(p) 'Weapon of mass destruction' means—

''(1) any destructive device described in section 921(a)(4)(A) of title 18, United States Code, that is intended or has the capability to cause death or serious bodily injury to a significant number of people;

''(2) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

''(3) any weapon involving a biological agent, toxin, or vector (as such terms are defined in section 178 of title 18, United States Code); or

''(4) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.''.

(b) USE OF INFORMATION.—

(1) IN GENERAL.—Section 106(k)(1)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(k)(1)(B)) is amended by striking ''sabotage or international terrorism'' and inserting ''sabotage, international terrorism, or the international proliferation of weapons of mass destruction''.

(2) PHYSICAL SEARCHES.—Section 305(k)(1)(B) of such Act (50 U.S.C. 1825(k)(1)(B)) is amended by striking ''sabotage or international terrorism'' and inserting ''sabotage, international terrorism, or the international proliferation of weapons of mass destruction''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 301(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1821(1)) is amended by inserting ''weapon of mass destruction',' after ''person',''.

SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 703''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 703''.

TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

SEC. 201. DEFINITIONS.

In this title:

(1) ASSISTANCE.—The term ''assistance'' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

(2) CONTENTS.—The term ''contents'' has the meaning given that term in section 101(n) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(n)).

(3) COVERED CIVIL ACTION.—The term ''covered civil action'' means a civil action filed in a Federal or State court that—

(A) alleges that an electronic communication service provider furnished assistance to an element of the intelligence community; and

(B) seeks monetary or other relief from the electronic communication service provider related to the provision of such assistance.

(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term ''electronic communication service provider'' means—

(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(B) a provider of an electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 202. LIMITATIONS ON CIVIL ACTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a covered civil action

shall not lie or be maintained in a Federal or State court, and shall be promptly dismissed, if the Attorney General certifies to the court that—

(A) the assistance alleged to have been provided by the electronic communication service provider was—

(i) in connection with an intelligence activity involving communications that was—

(I) authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007; and

(II) designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States; and

(ii) described in a written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider indicating that the activity was—

(I) authorized by the President; and

(II) determined to be lawful; or

(B) the electronic communication service provider did not provide the alleged assistance.

(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

(b) REVIEW OF CERTIFICATIONS.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

(1) review such certification in camera and ex parte; and

(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

(c) NONDELEGATION.—The authority and duties of the Attorney General under this section shall be performed by the Attorney General (or Acting Attorney General) or a designee in a position not lower than the Deputy Attorney General.

(d) CIVIL ACTIONS IN STATE COURT.—A covered civil action that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

(f) EFFECTIVE DATE AND APPLICATION.—This section shall apply to any covered civil action that is pending on or filed after the date of enactment of this Act.

SEC. 203. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 101, is further amended by adding after title VII the following new title:

"TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

"SEC. 801. DEFINITIONS.

"In this title:

"(1) ASSISTANCE.—The term 'assistance' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

"(2) ATTORNEY GENERAL.—The term 'Attorney General' has the meaning give that term in section 101(g).

"(3) CONTENTS.—The term 'contents' has the meaning given that term in section 101(n).

"(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

"(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

"(B) a provider of electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

"(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

"(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

"(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

"(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

"(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community as specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"(6) PERSON.—The term 'person' means—

"(A) an electronic communication service provider; or

"(B) a landlord, custodian, or other person who may be authorized or required to furnish assistance pursuant to—

"(i) an order of the court established under section 103(a) directing such assistance;

"(ii) a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code; or

"(iii) a directive under section 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2008 or 703(h).

"(7) STATE.—The term 'State' means any State, political subdivision of a State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States, and includes any officer, public utility commission, or other body authorized to regulate an electronic communication service provider.

"SEC. 802. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES.

"(a) REQUIREMENT FOR CERTIFICATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, no civil action may lie or be maintained in a Federal or State court against any person for providing assistance to an element of the intelligence community, and shall be promptly dismissed, if the Attorney General certifies to the court that—

"(A) any assistance by that person was provided pursuant to an order of the court established under section 103(a) directing such assistance;

"(B) any assistance by that person was provided pursuant to a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code;

"(C) any assistance by that person was provided pursuant to a directive under sections 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2008, or 703(h) directing such assistance; or

"(D) the person did not provide the alleged assistance.

"(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

"(b) LIMITATIONS ON DISCLOSURE.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

"(1) review such certification in camera and ex parte; and

"(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

"(c) REMOVAL.—A civil action against a person for providing assistance to an element of the intelligence community that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

"(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

"(e) APPLICABILITY.—This section shall apply to a civil action pending on or filed after the date of enactment of the FISA Amendments Act of 2008.".

SEC. 204. PREEMPTION OF STATE INVESTIGATIONS.

Title VIII of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.), as added by section 203 of this Act, is amended by adding at the end the following new section:

"SEC. 803. PREEMPTION.

"(a) IN GENERAL.—No State shall have authority to—

"(1) conduct an investigation into an electronic communication service provider's alleged assistance to an element of the intelligence community;

"(2) require through regulation or any other means the disclosure of information about an electronic communication service provider's alleged assistance to an element of the intelligence community;

"(3) impose any administrative sanction on an electronic communication service provider for assistance to an element of the intelligence community; or

"(4) commence or maintain a civil action or other proceeding to enforce a requirement that an electronic communication service provider disclose information concerning alleged assistance to an element of the intelligence community.

"(b) SUITS BY THE UNITED STATES.—The United States may bring suit to enforce the provisions of this section.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action brought by the United States to enforce the provisions of this section.

"(d) APPLICATION.—This section shall apply to any investigation, action, or proceeding that is pending on or filed after the date of enactment of the FISA Amendments Act of 2008.".

SEC. 205. TECHNICAL AMENDMENTS.

The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 101(b), is further amended by adding at the end the following:

"TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

"Sec. 801. Definitions.

"Sec. 802. Procedures for implementing statutory defenses.

"Sec. 803. Preemption.".

TITLE III—OTHER PROVISIONS

SEC. 301. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is

held invalid, the validity of the remainder of the Act, any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 302. EFFECTIVE DATE; REPEAL; TRANSITION PROCEDURES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in subsection (c), sections 105A, 105B, and 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a, 1805b, and 1805c) are repealed.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C.

(c) TRANSITIONS PROCEDURES.—

(1) PROTECTION FROM LIABILITY.—Notwithstanding subsection (b)(1), subsection (l) of section 105B of the Foreign Intelligence Surveillance Act of 1978 shall remain in effect with respect to any directives issued pursuant to such section 105B for information, facilities, or assistance provided during the period such directive was or is in effect.

(2) ORDERS IN EFFECT.—

(A) ORDERS IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(i) any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 or section 6(b) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556) shall remain in effect until the date of expiration of such order; and

(ii) at the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall reauthorize such order if the facts and circumstances continue to justify issuance of such order under the provisions of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, 109, and 110 of this Act.

(B) ORDERS IN EFFECT ON DECEMBER 31, 2013.—Any order issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2013, shall continue in effect until the date of the expiration of such order. Any such order shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(3) AUTHORIZATIONS AND DIRECTIVES IN EFFECT.—

(A) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978, any authorization or directive in effect on the date of the enactment of this Act issued pursuant to the Protect America Act of 2007, or any amendment made by that Act, shall remain in effect until the date of expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Protect America Act of 2007 (121 Stat. 552), and the amendment made by that Act, and, except as provided in paragraph (4) of this subsection, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)), as construed in accordance with section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a)).

(B) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DECEMBER 31, 2013.—Any authorization or directive issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2013, shall continue in effect until the date of the expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended, and, except as provided in section 707 of the Foreign Intelligence Surveillance Act of 1978, as so amended, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978, to the extent that such section 101(f) is limited by section 701 of the Foreign Intelligence Surveillance Act of 1978, as so amended).

(4) USE OF INFORMATION ACQUIRED UNDER PROTECT AMERICA ACT.—Information acquired from an acquisition conducted under the Protect America Act of 2007, and the amendments made by that Act, shall be deemed to be information acquired from an electronic surveillance pursuant to title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of section 106 of that Act (50 U.S.C. 1806), except for purposes of subsection (j) of such section.

(5) NEW ORDERS.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(A) the government may file an application for an order under the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, 109, and 110 of this Act; and

(B) the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall enter an order granting such an application if the application meets the requirements of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, 109, and 110 of this Act.

(6) EXTANT AUTHORIZATIONS.—At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act.

(7) APPLICABLE PROVISIONS.—Any surveillance conducted pursuant to an order entered pursuant to this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, 109, and 110 of this Act.

(8) TRANSITION PROCEDURES CONCERNING THE TARGETING OF UNITED STATES PERSONS OVERSEAS.—Any authorization in effect on the date of enactment of this Act under section 2.5 of Executive Order 12333 to intentionally target a United States person reasonably believed to be located outside the United States shall remain in effect, and shall constitute a sufficient basis for conducting such an acquisition targeting a United States person located outside the United States until the earlier of—

(A) the date that authorization expires; or

(B) the date that is 90 days after the date of the enactment of this Act.

Mr. RANGEL (during the reading). Mr. Speaker, I move unanimous consent for the suspension of the reading of the motion.

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

Mr. HOEKSTRA. I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue reading.

Mr. RANGEL. I have a point of order at the desk and I insist on my point of order.

The SPEAKER pro tempore. The Clerk will continue to read the motion to recommit.

Mr. HOEKSTRA (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered read.

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

There was no objection.

POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I make a point of order that the motion to recommit is not germane to the underlying bill, and I insist on my point of order.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

Mr. HOEKSTRA. Mr. Speaker, I would like to be heard.

Mr. Speaker, as the distinguished chairman talked about in his closing remarks, and as the majority leader discussed in his closing remarks, the energy security of the United States is directly tied to the national security of the United States.

It is beyond me to understand how the proponents of this bill can claim that the legislation before us this afternoon protects the energy independence and energy security of the United States when our critical foreign intelligence capabilities, designed specifically to protect the national security of the United States, continue to degrade. This, of course, happened 11 days ago with the expiration of the Protect America Act.

Again the proponents of the bill say the energy security of the United States is directly tied to the national security of the United States. And that is why this motion to recommit should be considered in order.

The national security of the United States is directly tied to the effectiveness of the tools that we give to the intelligence community. The same radical jihadist groups who attacked the United States on September 11, 2001 are continuing their plans to attack the United States and its citizens. You don't have to take my word for it. Read the declassified excerpts of the National Intelligence Estimate released by Director McConnell.

The majority leader and others who are proponents of this bill have pointed out America's vulnerability on energy issues.

Mr. RANGEL. Mr. Speaker, I object. The proponent is not dealing with the question of the point of order but is dealing with another subject matter.

Mr. HOEKSTRA. I would like to continue.

The SPEAKER pro tempore. The gentleman from Michigan must confine his remarks to the point of order.

Mr. HOEKSTRA. Thank you. That is exactly what I am talking about. I thank my colleague for pointing that out.

And as we have said, your words were that this is a national security issue and it is imperative that we deal with it. The majority leader's words, we are talking about the threats to our oil supply and our energy supply, whether it was from Venezuela, whether it was from the Middle East or other parts of the world. We significantly enhance and increase our vulnerability on an energy standpoint when we let the tools of the intelligence community erode and when we no longer have good insight into what radical jihadists may be doing in Pakistan or what they may be doing in the Middle East or what they may be doing in South America when specifically these are the home bases of radical jihadists. You also have to take a look specifically at radical jihadists and take a look at where they are saying they want to act. They want to destabilize many of the governments that provide us with the oil and energy supplies that this country is so dependent on.

The SPEAKER pro tempore. The gentleman from Michigan will suspend.

Mr. RANGEL. The proponent's speech is not related to the parliamentary question of the relevancy to the point of order.

The SPEAKER pro tempore. The Chair will hear the gentleman on the point of order, but his remarks must be confined to the question of the point of order and may not dwell on the underlying substantive issue.

Mr. HOEKSTRA. Thank you.

Again, getting back to the point, the chairman has talked about energy security being tied to national security. This motion to recommit will do more to secure our energy independence and will do more to protect our energy security and national security than many of the other provisions in the bill because it specifically gives the tools to our intelligence community to protect not only our domestic sources of energy, but also enables us to protect the sources of energy that come from overseas.

□ 1500

Mr. RANGEL. Mr. Speaker, it is abundantly clear that the rules of the House are being abused for purposes of calling attention to another piece of legislation, and I insist on my point of order.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

Mr. RANGEL. I would like to be heard in opposition.

The SPEAKER pro tempore. The gentleman from New York is recognized.

Mr. RANGEL. Mr. Speaker, I have all the respect for the proponent of the motion to recommit on the subject matter that he is trying to bring to the attention of this House, but the RECORD has got to indicate that as this great Nation and this House try to deal with the serious problem of global warming, of loss of jobs, of national security, of a variety of things that we should be focused on, that if the rule should be used constantly throughout this debate for a purpose other than the reason why this bill is before this House, it not only violates the parliamentary rules, but the spirit in which we should be looking at this energy bill. So I insist on my point of order.

The SPEAKER pro tempore. If no other Member wishes to be heard, the Chair is prepared to rule.

The Chair will rely on the precedent of February 26, 2008. The instructions in the motion to recommit address a totally unrelated measure within the jurisdiction of committees not represented in the underlying bill. The instructions are therefore nongermane and the point of order is sustained. The motion is not in order.

Mr. HOEKSTRA. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I move to table the appeal.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOEKSTRA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 191, not voting 15, as follows:

[Roll No. 82]

YEAS—222

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Towns
Tsongas
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Wu
Wynn
Yarmuth

NAYS—191

Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays

Shimkus	Terry	Weldon (FL)
Shuster	Thornberry	Weller
Simpson	Tiahrt	Westmoreland
Smith (NE)	Tiberi	Whitfield (KY)
Smith (NJ)	Turner	Wilson (NM)
Smith (TX)	Upton	Wilson (SC)
Souder	Walberg	Wittman (VA)
Stearns	Walden (OR)	Wolf
Sullivan	Walsh (NY)	Young (AK)
Tancredo	Wamp	Young (FL)

NOT VOTING—15

Aderholt	Goodlatte	Ryan (WI)
Brown-Waite, Ginny	Jones (OH)	Stark
Delahunt	Keller	Tierney
Diaz-Balart, M.	Lungren, Daniel E.	Udall (CO)
Ferguson	Reyes	Woolsey

□ 1527

Messrs. DAVIS of Alabama, OLVER and MARKEY changed their vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO RECOMMIT OFFERED BY MR. ENGLISH OF PENNSYLVANIA

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ENGLISH of Pennsylvania. I am in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. English of Pennsylvania moves to recommit the bill H.R. 5351 to the Committee on Ways and Means with instructions to report the same back to the House promptly with the following amendments:

Strike subsection (b) of section 101 (relating to modification of credit phaseout).

Strike section 203 (relating to modification of limitation on automobile depreciation).

Strike subsection (c) of section 211 (relating to coproduction of renewable diesel with petroleum feedstock).

Strike section 212 (relating to clarification that credits for fuel are designed to provide an incentive for United States production).

Strike section 221 (relating to extension of transportation fringe benefit to bicycle commuters).

Strike section 222 (relating to restructuring of New York Liberty Zone tax credits).

Strike section 231 (relating to qualified energy conservation bonds).

Strike title III (relating to revenue provisions).

At the end of the bill, add the following new title:

TITLE V—REPEAL OF SUNSET ON MARRIAGE PENALTY RELIEF AND MODIFICATIONS TO CHILD TAX CREDIT

SEC. 501. REPEAL OF SUNSET ON MARRIAGE PENALTY RELIEF AND MODIFICATIONS TO CHILD TAX CREDIT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to—

(1) sections 301, 302, and 303 of such Act (relating to marriage penalty relief), and

(2) section 201 of such Act (relating to modifications to child tax credit).

Mr. ENGLISH of Pennsylvania (during the reading). Mr. Speaker, I would seek unanimous consent to have the motion considered as read.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes.

□ 1530

Mr. ENGLISH of Pennsylvania. Mr. Speaker, when the Democrats took control of this body, prices at the pump were about 30 percent lower. The price on the spot market for a barrel of oil was $55, not $100 the way it was last week. They promised to address the energy crisis that has plagued the economic stability of this country and seek lower prices at the pump for American consumers.

Unfortunately, the bill that stands before us today fails to accomplish this goal and fails to meet the needs of the American people. By taking away the very tax incentives that helped promote oil and gas exploration here at home, this bill diminishes domestic companies' opportunity and incentive to produce gasoline. This in turn will raise energy costs for cash-strapped consumers.

While the majority party has come to believe that handing out new tax credits and new bonding authority to Governors and mayors is a coherent energy policy, there are many of us in this Chamber who are a little skeptical on that point.

These dulcet-sounding bond programs lack effective safeguards to ensure that the money from the newly created liberal slush fund would go toward environmentally sound projects that will promote or improve energy independence in America.

This Rube Goldberg device can't be seriously expected to help the average American cope with today's high energy prices. What's more, these things certainly do nothing to help consumers cope with tomorrow's higher energy prices that the tax increases incorporated into this bill will certainly generate.

This legislation will not help Americans who carpool to work and will not help working moms driving their children to school. It will not bring down home heating costs for families struggling to make ends meet during this winter season, and it will not lower the cost of fertilizer for farmers.

Mr. Speaker, our motion to recommit will help ease the burden of economic hardship for many of these working families. This motion will strike all of the tax increases from the bill at the time when the economy needs more innovative solutions rather than simply stacking tax increase upon tax increase with no help for working families. It will strike the massive haircut that this bill gives to the most effective renewable energy policy in this code, the wind credit. The bill risks undermining the success of the wind credit, which has been the most promising source of alternative energy. This motion to recommit restores it to its full value.

This motion also rids the underlying bill of the egregiously wasteful bond program that, in our view, is nothing more than a waste of taxpayer dollars with no real potential oversight.

We also eliminate something that I know is dear to some of my friends on the other side of the aisle, and that is the tax incentive for people who ride their bikes to work, and I am sure I will hear about this from my paperboy.

This motion represents a much more rational approach for moving American energy policy forward. As we all know, the pro-growth tax policies enacted by Republican Congresses have been a source of fertility in the American economy, helping tens of millions of taxpayers; and for that matter, millions who don't pay taxes but receive refundable tax credits from the IRS every year.

While Washington Democrats have continued to demonize tax cuts for only helping the rich, the facts speak for themselves.

This motion to recommit preserves two critical pro-growth policies and prevents tax increases for many working Americans.

First, it would prevent the current $1,000 child tax credit from being slashed in half in 2011 through Democrat inaction.

Second, it would prevent a substantial increase in the marriage tax penalty which is set to occur in 2011. According to the Treasury Department, allowing these tax incentives to sunset will force more than 6 million additional taxpayers to become subject to the individual income tax, and 116 million families will have an average tax increase of more than $1,800.

Sunsetting the $1,000 child tax credit and keeping the marriage tax penalty on the books will, without a doubt, subject millions of families to being hit with serious tax increases.

What does the majority's inaction on these tax reforms mean? It means higher taxes on low-income families with children and higher taxes on married couples. What does passing the energy bill in front of us mean? It means higher energy prices across the board and greater dependence on foreign oil. What does passing the motion to recommit mean? It means preventing tax increases.

Mr. Speaker, I urge all of my colleagues to vote in favor of the motion to recommit and against this badly flawed underlying bill.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Before I speak, may I have a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. RANGEL. Notwithstanding the rhetoric of the sponsor, does this motion to recommit kill the underlying bill?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

Mr. RANGEL. I am asking what would be the impact if this were to pass. Would it kill the bill?

The SPEAKER pro tempore. As the Chair reaffirmed on November 15, 2007, at some subsequent time, the committee could meet and report the bill back to the House.

Mr. RANGEL. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes.

Mr. RANGEL. Mr. Speaker, I oppose the motion, and I am a little embarrassed about an issue that came up during the debate on this bill as related to the unity and the support for my great city, New York. I oppose the motion for many reasons, but the prime one is that this actually kills the bill and prevents us from taking a vote, but I don't think that they seriously would want us to consider the provisions here that they have in the motion.

But having said that, I am embarrassed that one of the issues that is in the motion to recommit is that they not allow the City of New York, with the support of the President of the United States, and have it included in the President's budget, the opportunity to utilize tax-exempt bonds, bonds that were given for the specific purpose of assisting us in recovering from that tragic terrorist attack on September 11.

After study by the administration and conversations which they had with the Republican and Democrat mayor and Governor of our great State, they reached the conclusion that the fair and equitable thing, because of the impediment under which the original tax-exempt bond issue was written, that it was inaccurately written and it would expire if this provision wasn't there. Someone on the other side called it an earmark. Well, if it is an earmark, it is a compassionate earmark that is supported by the President of the United States and the Secretary of the Treasury.

I just ask you, in case somebody of good conscience would ask, Why would you do a thing like that in a motion to recommit? to give you the opportunity to say, I just didn't know that it was in there.

So for all of those reasons, I ask that we defeat the motion to recommit, Mr. Speaker.

PARLIAMENTARY INQUIRIES

Mr. WESTMORELAND. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. WESTMORELAND. Mr. Speaker, is it not true that if indeed this motion passed, the bill could be reported back from the respective committee from which it came and that the bill could be reported back as soon as tomorrow?

The SPEAKER pro tempore. The Chair will answer the gentleman that it can be done at some subsequent time.

Mr. RANGEL. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. RANGEL. If it was reported back, would it comply with the PAYGO rules of the House of Representatives, Mr. Speaker?

The SPEAKER pro tempore. That would call for an advisory opinion.

Mr. FRANK of Massachusetts. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Massachusetts may state his parliamentary inquiry.

Mr. FRANK of Massachusetts. If the bill were to go back to committee and be reported out, would it have to go to the Rules Committee and would other rules that require layovers before the House can act apply?

The SPEAKER pro tempore. As the Chair stated on November 15, 2007, an order of recommittal does not necessarily waive any rules, but the Chair can not render an advisory opinion on what points of order might lie.

Mr. FRANK of Massachusetts. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. When you say this does not waive any rules, would that include the rule of the House that requires this to go to the Rules Committee with all of the appropriate times? Is that one of the rules that would not be waived?

The SPEAKER pro tempore. Ordinary procedures will adhere.

Mr. WESTMORELAND. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WESTMORELAND. Isn't it true that the majority can make the rules up as they go?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 197, nays 222, not voting 9, as follows:

[Roll No. 83]

YEAS—197

Akin	Bartlett (MD)	Blunt
Alexander	Barton (TX)	Boehner
Altmire	Biggert	Bonner
Bachmann	Bilbray	Bono Mack
Bachus	Bilirakis	Boozman
Barrett (SC)	Bishop (UT)	Boustany
Barrow	Blackburn	Brady (TX)
Broun (GA)	Hensarling	Petri
Brown (SC)	Herger	Pickering
Buchanan	Hobson	Pitts
Burgess	Hoekstra	Platts
Burton (IN)	Hulshof	Poe
Buyer	Hunter	Porter
Calvert	Inglis (SC)	Price (GA)
Camp (MI)	Issa	Pryce (OH)
Campbell (CA)	Johnson (IL)	Putnam
Cannon	Johnson, Sam	Radanovich
Cantor	Jones (NC)	Regula
Capito	Jordan	Rehberg
Carter	King (IA)	Reichert
Chabot	King (NY)	Renzi
Coble	Kingston	Reynolds
Cole (OK)	Kirk	Rogers (AL)
Conaway	Kline (MN)	Rogers (KY)
Crenshaw	Knollenberg	Rogers (MI)
Cubin	Kuhl (NY)	Rohrabacher
Culberson	LaHood	Ros-Lehtinen
Davis (KY)	Lamborn	Roskam
Davis, David	Lampson	Royce
Davis, Tom	Latham	Ryan (WI)
Deal (GA)	LaTourette	Sali
Dent	Latta	Saxton
Diaz-Balart, L.	Lewis (CA)	Schmidt
Donnelly	Lewis (KY)	Sensenbrenner
Doolittle	Linder	Sessions
Drake	LoBiondo	Shadegg
Dreier	Lucas	Shimkus
Duncan	Mack	Shuster
Ehlers	Manzullo	Simpson
Emerson	Marchant	Smith (NE)
English (PA)	Marshall	Smith (NJ)
Everett	Matheson	Smith (TX)
Fallin	McCarthy (CA)	Souder
Feeney	McCaul (TX)	Stearns
Flake	McCotter	Sullivan
Forbes	McCrery	Tancredo
Fortenberry	McHenry	Terry
Fossella	McHugh	Thornberry
Foxx	McIntyre	Tiahrt
Franks (AZ)	McKeon	Tiberi
Frelinghuysen	McMorris Rodgers	Turner
Gallegly	Mica	Upton
Garrett (NJ)	Miller (FL)	Walberg
Gerlach	Miller (MI)	Walden (OR)
Giffords	Miller, Gary	Walsh (NY)
Gilchrest	Moran (KS)	Wamp
Gingrey	Murphy, Tim	Weldon (FL)
Gohmert	Musgrave	Weller
Goode	Myrick	Westmoreland
Goodlatte	Neugebauer	Whitfield (KY)
Granger	Nunes	Wilson (NM)
Graves	Paul	Wilson (SC)
Hall (TX)	Pearce	Wittman (VA)
Hastings (WA)	Pence	Wolf
Hayes	Peterson (PA)	Young (AK)
Heller		Young (FL)

NAYS—222

Abercrombie	Conyers	Gutierrez
Ackerman	Cooper	Hall (NY)
Allen	Costa	Hare
Andrews	Costello	Harman
Arcuri	Courtney	Hastings (FL)
Baca	Cramer	Herseth Sandlin
Baird	Crowley	Higgins
Baldwin	Cuellar	Hill
Bean	Cummings	Hinchey
Becerra	Davis (AL)	Hinojosa
Berkley	Davis (CA)	Hirono
Berman	Davis (IL)	Hodes
Berry	Davis, Lincoln	Holden
Bishop (GA)	DeFazio	Holt
Bishop (NY)	DeGette	Honda
Blumenauer	Delahunt	Hooley
Boren	DeLauro	Hoyer
Boswell	Dicks	Inslee
Boucher	Dingell	Israel
Boyd (FL)	Doggett	Jackson (IL)
Boyda (KS)	Doyle	Jackson-Lee (TX)
Brady (PA)	Edwards	Jefferson
Braley (IA)	Ellison	Johnson (GA)
Brown, Corrine	Ellsworth	Johnson, E. B.
Butterfield	Emanuel	Kagen
Capps	Engel	Kanjorski
Capuano	Eshoo	Kaptur
Cardoza	Etheridge	Kennedy
Carnahan	Farr	Kildee
Carney	Fattah	Kilpatrick
Castle	Filner	Kind
Castor	Frank (MA)	Klein (FL)
Chandler	Gillibrand	Kucinich
Clarke	Gonzalez	Langevin
Clay	Gordon	Larsen (WA)
Cleaver	Green, Al	Larson (CT)
Clyburn	Green, Gene	Lee
Cohen	Grijalva	

Levin	Ortiz	Skelton
Lewis (GA)	Pallone	Slaughter
Lipinski	Pascrell	Smith (WA)
Loebsack	Pastor	Snyder
Lofgren, Zoe	Payne	Solis
Lowey	Perlmutter	Space
Lynch	Peterson (MN)	Spratt
Mahoney (FL)	Pomeroy	Stark
Maloney (NY)	Price (NC)	Stupak
Markey	Rahall	Sutton
Matsui	Ramstad	Tanner
McCarthy (NY)	Rangel	Tauscher
McCollum (MN)	Richardson	Taylor
McDermott	Rodriguez	Thompson (CA)
McGovern	Ross	Thompson (MS)
McNerney	Rothman	Tierney
McNulty	Roybal-Allard	Towns
Meek (FL)	Ruppersberger	Tsongas
Meeks (NY)	Rush	Udall (CO)
Melancon	Ryan (OH)	Udall (NM)
Michaud	Salazar	Van Hollen
Miller (NC)	Sánchez, Linda T.	Velázquez
Miller, George	Sanchez, Loretta	Visclosky
Mitchell	Sarbanes	Walz (MN)
Mollohan	Schakowsky	Wasserman Schultz
Moore (KS)	Schiff	Waters
Moore (WI)	Schwartz	Watson
Moran (VA)	Scott (GA)	Watt
Murphy (CT)	Scott (VA)	Waxman
Murphy, Patrick	Serrano	Weiner
Murtha	Sestak	Welch (VT)
Nadler	Shays	Wexler
Napolitano	Shea-Porter	Wilson (OH)
Neal (MA)	Sherman	Wu
Oberstar	Shuler	Wynn
Obey	Sires	Yarmuth
Olver		

NOT VOTING—9

Aderholt	Ferguson	Lungren, Daniel E.
Brown-Waite, Ginny	Jones (OH)	Reyes
Diaz-Balart, M.	Keller	Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised this is the 2-minute warning.

□ 1604

Messrs. MCDERMOTT, CARDOZA and LARSON of Connecticut changed their vote from ''yea'' to ''nay.''

So the motion was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

Mr. HOYER asked and was given permission to address the House for 1 minute.

Mr. HOYER. Mr. Speaker, as all of us know, we have been considering for a number of years now the question of how we ensure that we have ethical conduct in this body, but more importantly, how we give confidence to the American people that we are handling their business in a fashion which they can trust and be proud of. It is a difficult effort.

We had scheduled for tomorrow a rule which would have established a process of access and oversight that many believe would be an improvement. The committee that was set up was chaired by Mr. CAPUANO, and Mr. SMITH, LAMAR SMITH, was his ranking member or cochair.

Mr. SMITH just an hour ago or so, or 2 hours ago, brought a new proposal, which we had not seen, to the Rules Committee. We have asked Mr. CAPUANO about that proposal. He has indicated that he wants an opportunity to review it because he had not seen it before.

In light of that, I have had discussions with the other side of the aisle with reference to a procedure in which we would not consider the rule that was proposed, the rules change that was proposed, tomorrow. We do expect to consider it soon, but not tomorrow.

Tomorrow, and I will be asking at the end of this for unanimous consent, I have discussed with Mr. BOEHNER and Mr. BLUNT doing the seven suspension bills. There are eight suspension bills scheduled for today. One of them is the Andean bill, which I think is not of any controversy, the 10-month extension on that bill. I will be asking for unanimous consent, therefore, for tomorrow to be a suspension day.

This will give Mr. CAPUANO and Mr. SMITH the opportunity to discuss a new proposal which has been put on the table just this afternoon, and they will discuss that.

I know that Mr. BOEHNER and Ms. PELOSI, the Speaker, have had discussions. I presume those discussions will continue.

So my expectation is tomorrow, after the unanimous consent, we will conclude this bill. We will then have no further business. We will have the Andean suspension bill. After the conclusion of the Andean suspension bill, we will have no further business for today that Members would be voting on. And then we would, tomorrow, consider the seven suspension bills, and my presumption is it will be a relatively early day tomorrow, Thursday.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON TOMORROW

Mr. HOYER. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to recognize motions for suspension of the rules tomorrow as though clause 1 of rule XV were in place. In other words, I'm asking for authority to have a suspension calendar tomorrow. Absent the unanimous consent, we would simply go to the Rules Committee and get a rule to do that.

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

Mr. BLUNT. Reserving the right to object, Mr. Speaker, I would like to clarify. The only work done between now and the end of the day tomorrow would be the anticipated eight bills, one tonight and seven tomorrow that we had expected to get done this week on the suspension calendar; is that right?

Mr. HOYER. The gentleman is absolutely correct. There are eight suspension bills, the Andean today, and we will do the balance of seven tomorrow. I believe it will be a relatively early day.

Mr. WAMP. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Tennessee.

Mr. WAMP. I just wanted to make our colleagues aware that besides the Smith bill, which I'm pleased to hear the Rules Committee will take time to hear, there is another bipartisan alternative that Mr. HILL of Indiana and myself have offered as well where there is substantial bipartisan support for a third alternative that's not a Democratic or Republican bill, but when we are considering matters of the House, it is truly a bipartisan compromise. And the gentleman is on his feet from Indiana as well, and I thank you for the time.

Mr. HOYER. I yield to my friend.

Mr. HILL. I have been working on this issue for over a year. I filed a bill that would, in my view, be true reform.

Mr. BLUNT. Madam Speaker, I believe I have the time.

The SPEAKER pro tempore (Ms. LORETTA SANCHEZ of California). The gentleman is absolutely correct.

Mr. BLUNT. I would be happy to yield to Mr. HILL.

Mr. HILL. As my friend, the majority leader, knows, I filed a bill last year that, in my view, required real reform on ethics. I campaigned on this issue extensively in the year 2006, and it is a bill that I actually talked about in that election year in 2006, and it fell on friendly ears for people who listened to it.

It is a proposal that would allow former Members of Congress to comprise the ethics commission. They would have full subpoena powers. The Republicans on this commission would be appointed by the Democrats, and the Democrats would be appointed by the Republicans.

This bill is now changing because it is now gaining bipartisan support.

Mr. HOYER. Madam Speaker, I will tell you, Members have expressed great concern that they didn't know about the proposals that were being made. My suggestion on both sides of the aisle is that we listen to these proposals as carefully as you are going to want to discuss them in the future.

Mr. HILL. Madam Speaker, I will try to be brief. What happened today is my friend from Tennessee (Mr. WAMP) had some ideas that were similar to mine, and so we joined forces today to try to make this a bipartisan bill. So it is a third alternative. I hope people will take a look at it. I think it's something that both Republicans and Democrats can support, and I believe that it is a real reform.

Mr. BLUNT. Madam Speaker, I would yield to the gentleman from Ohio.

Mr. BOEHNER. Madam Speaker, I just wanted to take a moment to thank the majority leader for his consideration of the Members on both sides of the aisle that had concerns about the way we were proceeding.

I think all of us have, as I said upstairs in the Rules Committee, have the same objective: to have a fair process that clearly enforces the rules of the House. The American people have the right to expect the highest ethical standards of all of us, and how we achieve that objective is where the debate is. I think all of us have the same goal.